

SHRI MALLIKARJUN : I beg to move that the Bill, as amended, be passed.

MR. CHAIRMAN : The question is :

"That the Bill, as amended, be passed."  
*The motion was adopted.*

17.29 hrs.

**WORKMEN'S COMPENSATION (AMENDMENT) BILL**

MR. CHAIRMAN : Now we take up the next item, namely, the Bill further to amend the Workmen's Compensation Act, 1923, as passed by Rajya Sabha. Shri Veerendra Patil.

The Minister of Labour and Rehabilitation (SHRI VEERENDRA PATIL) : Sir, I beg to move :

"That the Bill further to amend the Workmen's Compensation Act, 1923, as passed by Rajya Sabha, be taken into consideration."

Honourable Members are aware that the Workmen's Compensation Act, 1923, provides for payment of compensation to workmen and their families in case of employment injury (including certain occupational diseases) resulting in disablement or death. The Act at present applies to certain categories of Railway employees and persons drawing wages not exceeding Rs. 1,000/- per month and employed in any of the hazardous employment specified in Schedule II of the Act. Schedule II includes persons employed in factories, mines, plantations, mechanically propelled vehicles, construction work etc. The State Government are empowered to add to the Schedule any class of persons employed in any occupation which they consider hazardous.

With the gradual extension of coverage under the Employees' State Insurance Scheme, the area of application of the Workmen's Compensation Act has shrunk to some extent. The coverage under the Employees' State Insurance Act, 1948 is, however, restricted to factories and certain specified categories of establishment and the W.C. Act continue to prevail in the other areas.

4. The Act was last amended in 1976. We have since finalised proposals for comprehensive amendment of the Act, keeping in view the recommendations of the National Commission of Labour, the Law Commission of India, Labour Laws' Review Committee of the Government of Gujarat and the suggestions received from the State Governments and other interests. The drafting of a comprehensive amending Bill is, however, likely to take some time. Meanwhile, I am placing before you for enactment, a few proposals which are of pressing nature.

5. The National Commission on Labour had recommended inter-alia that the wage limit for coverage under the Act should be removed altogether. The Law Commission of India has also made a similar recommendation. It is, therefore, now proposed to do away with the wage limit for coverage under the Act. This is likely to benefit a large number of workers who are at present drawing wages exceeding Rs. 1000/- per month and are not covered under the Act.

6. Section 4 of the Act at present provides for payment of compensation at the rates specified in Schedule IV of the Act. These rates of compensation were last revised in 1976. There is a demand for its upward revision. Further, the amount of compensation is at present determined without reference to the age of the workmen. This is not considered fair to those who happen to get disabled or die at an early age. It is therefore, now proposed to provide for payment of compensation in terms of percentage of monthly wages linked to the age of workman at the time of his disablement or death. The minimum rates of compensation for permanent total disablement would be Rs. 24,000 as against the existing rate of Rs. 10,080/-. Similarly, the minimum rates of compensation for death would be Rs. 20,000/- as against Rs. 7,200/- as at present.

7. The proposed revised ratios of compensation are based on the rates specified in the ILO Convention concerning the Minimum Standards of Social Security, except that the compensation payable in respect of those drawing wages exceeding Rs. 1,000/- per month is proposed to be restricted to the amount payable on the wages of Rs. 1,000/- per month. The proposed ceiling is mainly intended to ensure that amount of compensation payable under

the Act does not become unduly large, which the employers (particularly the smaller one) may find it difficult to pay. I may add for the information of the Hon'ble Members that, as it is the maximum amount of compensation for permanent disablement will now go up from Rs. 42,000/- to a little over Rs.1 lakh, while the amount of compensation for death will go up from Rs.30,000/- to Rs. 90,000/-. This itself is a substantial increase. Further, the ILO Convention also permits imposition of ceiling of this type. I, therefore, hope that the Hon'ble Members will not object to the proposed ceiling.

8. The Bill also seeks to substitute the existing list of occupational diseases in Schedule III of the Act by a revised list, which has been drawn up keeping in view the revised list of occupational diseases adopted by the ILO in 1980.

9. These are in short the important amendments proposed through this Bill. I hope that the members will welcome the proposed amendment. With these words, I commend the Bill for the consideration of the House.

MR. CHAIRMAN : Motion moved :

"That the Bill further to amend the Workmen's Compensation Act, 1923, as passed by Rajya Sabha, be taken into consideration."

\*SHRI AJIT BAG (Serampore) : Mr. Chairman, Sir, the manner in which this amendment Bill has been brought forth on such an extremely important and serious subject is very much objectionable. In this Bill piecemeal amendments have been effected in a sort of hurried manner. In the present changed circumstances, a comprehensive and self-contained legislation should have been brought before this House. The hon. Minister has himself admitted this. Even then, this incomplete piece of legislation has been brought forth in this hurried fashion. We had hoped that before bringing this type of Bill, the hon. Minister will hold consultations with the various Central Trade Unions and only after accepting that as an indispensable condition this Bill will be finalised. Had he consulted the trade unions, many of the problems would have been solved and the efforts of the Government to pay compensation to the workers properly would have

met with due success. The Minister has assured that he will bring forth a comprehensive Bill in this connection. I hope that he will try to do that at the earliest possible opportunity and before finalisation, he will consult the Central Trade Unions so that the Government's intention to pay compensation to the workers and labourers may be successful and fruitful.

Sir, in the Statement of Objects and Reasons of this Bill it has been stated that "The Act at present applies to railway servants and persons employed in certain hazardous employments specified in Schedule II of the Act."

But in the Financial Memorandum of the Bill it is stated that "The Workmen's compensation Act, 1923 covers a large number of persons employed by Central Government in Railways and in its various departments such as Posts and Telegraphs, Central Public Works Department, ordinance Factories etc. Now, Sir, a doubt lingers as to the categories of workmen who will be actually covered by the provisions of this Bill. Whether the workers and employees of privately owned industries will come under its purview or not? In Schedule II of this bill certain type of jobs have been defined as 'hazardous employment'. But apart from these, what will happen to those people who die or are disabled while working in other places?

If a worker in some engineering industries or working in some factories loses his leg or arms and becomes completely or partially disabled then how will he be compensated and who will compensate him? These things also should have been clarified in the Bill. That is why I say that a comprehensive Bill should have been brought. Much delay has already taken place, even then to avoid the need to bring forward further amendments again and again it would have been better to finalise a comprehensive Bill at an early date.

Sir, in Section 4(1) (a) and (b), the amount of compensation that has been provided for in cases of death and total disablement is illogical and unreasonable. It has been stated therein that in cases of death a minimum compensation of Rs. 20,000 shall be paid and in cases of total disablement a minimum of Rs. 24,000 shall be paid.

\*The original speech was delivered in Bengali.

Section (4) (1) reads

(a) Where death results from the injury

an amount equal to forty per cent of the monthly wages of the deceased workmen multiplied by the relevant factor;

or

an amount of twenty thousand rupees, whichever is more;

(b) reads. When permanent disablement results from the injury;

an amount equal to fifty per cent of the monthly wages of the deceased workmen multiplied by the relevant factor;

or

an amount of twenty-four thousand rupees, which is more;

Now I will give an example to show that these rates of compensation are not logical. Suppose there is a railway accident in which one ordinary passenger and another railway employee both lose their lives. They both die in the same accident.

Now the amount of compensation to be paid to passenger killed in a railway accident has at present been raised to Rs. one lakh. Therefore the family of an ordinary passenger killed in a railway accident gets Rs. one lakh whereas the family of a railway employee killed in the same accident gets only Rs. 20,000 or so regulated by what you have called the 'relevant factor' in this provision. This is an unjust discrimination which should be removed and the minimum compensation payable in cases of death or permanent total disablement should be fixed at Rs. one lakh.

After taking into account the 'relevant factor' explanation provided in the Bill, it is estimated that the amount of compensation payable, may go up to Rs. 70,000 or Rs. 80,000 at the most. This will apply to cases where death takes place at an early age. But in the cases of older workers, the amount of compensation is not likely to exceed Rs. 40,000 or 50,000. Therefore, the 'relevant factor' provisions should be amended. So that the amount of compensation may be near about Rs. one lakh at least. While considering these points, the various trade unions who look after the interests of the workers, should be consulted so that the shortcomings in the Bill can be removed or rectified at the initial stage itself.

Sir, in the Government enterprises, when a worker dies or becomes permanently disabled, one member of his family is provided employment in the same organisation. This system should be made applicable to the private establishments and industries also. I hope the hon. Minister will consider this and make necessary provision in this Bill to extend this benefit to the workers in the private industries also.

Sir, in explanation II of Section 4.1(b) it has been stated that the earlier income ceiling of Rs. 1000/- p.m. for being eligible to get compensation is being removed now so as to extend the benefit to the workmen getting more than Rs.1000/- also. This appears a little funny. Because the benefit sought to be extended to workers getting over Rs.1000/- is being withheld partly through the said explanation II which says, "where the monthly wages of a workman exceed one thousand rupees, his monthly wages for purposes of clause (a) and (b) shall be deemed to be rupees one thousand only." That means, while considering payment of compensation in cases of death or disablement and calculating the amount in terms of the 'relevant factors' the pay ceiling remains at Rs. 1000/-. This means that in the present context of sky-high prices when many workers/employees in private or Government industries get a pay of Rs. 1000/- or more, this benefit in compensation is being given with one hand and snatched away by the other through this explanation II of Section 4(1) (b), so as to deprive the beneficiaries. I therefore urge upon the Government to remove this portion from this Bill, so that all workers may get compensation in proportion to their respective wages.

Now, Sir, I will draw your attention to the problems of immigrant labour. Those who come for work from other States leaving behind their families in their native places. When such labourers die in accidents, their families face a lot of hardship in getting payment of compensation. This is because of the fact that the families live at far off places, they are mostly uneducated and they are required to furnish various papers, documents etc. in order to claim the compensation due to them. They cannot furnish the necessary papers due to such handicaps, and as a result, the employers in many cases deprive the families and do not pay the compensation due to them. Therefore, Sir, some such provision should be made in this Bill whereby the onus of paying compensation to the poor, illiterate family members of such immigrant labour living in distant places should lie with the employers also. Moreover, Sir, the method and procedure of paying compensation is also very time consuming and involves lot of delay. Sometimes 4 or 5 years elapse before compensation is paid. The very purpose of the compensation is defeated. In many cases the dependents of such immigrant labour die of starvation before getting any compensation at all. Therefore, I suggest that pending a final settlement of the amount of compensation in such cases, provision should be made in this Bill for payment of an anticipatory amount by the employer immediately after death or disablement, taking into account the period of employment, age, wages etc. of the concerned worker. I hope the Minister will consider this.

One thing about Contractors' labour, Sir, There is practically no law covering contractors' labour. In their cases, the main responsibility should lie on the principal employer whose work is being done by the contractors' labour. These labourers do not execute the work of the contractors. They are doing the work of the owner. The owner of a big factory, under construction evades his responsibility of paying compensation in the event of death or disablement with the excuse that the contractor is responsible for this. This is not fair. A provision to this effect also, holding the principal employer responsible for payment of compensation should have been included in the Bill. Sir, provision is being made for payment of compensation

in cases of accidents. But more attention should be paid to avoid accidents itself. There are many laws regarding safety measures. But generally these safety measures are not observed, by the employers. The safety measures remain on paper only. The employers collude with the Government officers, inspectors etc. and flout the legal provisions relating to safety measures. The poor workers are compelled to work in dangerous conditions for earning their living. As a result they meet with accidents and are killed or disabled. The employers then conspire to evade their own responsibility. Steps should be taken to ensure that the safety measures are properly observed and the employers are not able to evade their responsibility. Whenever caught, the most stringent action must be taken against the guilty employers and they should be forced to pay compensation. Wherever any officer is found in league with the employers in cases of accidents, he should also be given exemplary punishment.

Sir, I will conclude by saying that the biggest impediment in expeditious payment of compensation is the corrupt bureaucracy. Now the children or wife of a poor worker are mostly illiterate. They do not have influential people to help them. The payment of compensation to the bereaved family is often held up or delayed by the corrupt officers unless a sizeable bribe is offered to them. As I have already said, in many cases the family members die of starvation before getting any compensation. I hope the hon. Minister will look to this. He should provide for severe punishment of the corrupt officers who delay payment of compensation to the poor family of dead or disabled workers and ensure that compensation is paid expeditiously. I hope he would also consider my earlier suggestion of providing employment to at least one member from the family of a dead or disabled worker in private establishments, as is done in Government establishments. With that Sir, I conclude.

SHRI BISHNU PRASAD (Kaliabor) : I rise to support the Bill put forward by the Labour Minister. In our country we had two Labour Commissions. One was formed during the British days and the other one, after independence. The Commission which was constituted after independence was presided over by Dr. P.B. Gajendragadkar, the former Chief Justice of India and suggested

this welfare legislation in 1969. In fact this amendment should have been brought up long back, but still, better late, than never. So, I welcome the amendment brought up, particularly removing the limits of wage limit by amending Section 2 and secondly increase in temporary disablement benefit by inserting a new Section 4.

Sir, workers of the Railways have been kept out of this Bill. They are also prone to accidents and I request the hon. Minister for Labour to include the workers who are working in the Railways.

Also, some restrictions are there, namely, about the amount payable on wages of Rs. 1,000/- per month. This restriction should be removed from the Bill. Another restriction is about the amount of compensation that is paid for temporary disablement. In the case of temporary disablement only after three days a worker is entitled to get 25 per cent of the compensation. This also, the Minister should consider and see, if necessary by another amendment, the worker be paid more relief. Because I feel that this needs reconsideration. They have been contributing to the development of the country. After all, the workers should feel secured. The workers have been contributing to the development of the country in different projects and different fields. So, unless they feel secure they cannot contribute their mite.

Sir, another Clause, Clause 18 provides a fine up to Rs. 500 for violation of the safety regulations. I strongly feel that this should be replaced by a heavier fine or imprisonment. Due to the negligence of the employers, due to the violation of the rules regulations by the employers accidents take place in different factories. Therefore, unless a heavier fine is imposed, unless a heavier legal punishment is imposed the employers will not take proper care to provide safety measures for the workers.

This Act was passed in 1923, during the British days. Therefore, I strongly feel that some more welfare measures, some more provisions should have been there to give reality to this Act. I feel that the amount of compensation which has been provided is very meagre. In the event of death or permanent disability compensation has now been increased from Rs. 20,000 to Rs. 24,000. This is a welcome measure but in

case of private factories or small factories compensation is not given because there is a limit under the Act. The Act itself mentions that there must be at least 20 employees in a factory. In a factory where employment is less than 20 the workers are not entitled to get any relief. In such cases the National Labour Commission has suggested that there should be a central fund and the workers should contribute to that fund and in case of such workers the compensation can be paid from the central fund. But that is not brought in this Bill. Therefore, considering that recommendation of the National Labour Commission I would request the hon. Minister to bring forward some such amendment to give relief to this section of workers.

Actually the National Labour Commission has suggested :

"Safety should become a habit with employers and workers. At present it has assumed the form of a ritual. The employer provides safety devices if he must; the worker uses safety equipment, if at all he does it, to complete a formality. This is particularly so in the case of smaller establishments and unorganised workers."

This fact which was stated long back in 1969 by the National Labour Commission, is serious. This is particularly so in case of small private factories and establishments. Therefore, it is the duty of the concerned Department to see that the workers who work in such factories, get the necessary safety measures so that they can work safely and contribute to the country's development. Therefore, what is necessary and what has been suggested by the National Labour Commission is :

"Effective enforcement is the current need. In the wake of new types of industries coming up and continuing technological change, it may become necessary to write into the law additional safeguards and safety precautions to match new hazards."

Therefore, I would request the Minister to see that a comprehensive Bill is brought forward before the house to give more relief to the workers.

With these words, I again support the Bill.

श्री राजेश कुमार सिंह (फिरोजगढ़) : मान्यवर, जैसा कि माननीय सदस्यों ने कहा है कि आज के हालात देखते हुए एक संपूर्ण बिल लाना चाहिए था। अगर संपूर्ण बिल लाया जाता तो बहुत सी बातें सामने नहीं आती। इन कमियों को पूरा करने के लिए पुनः बिल लाने की आवश्यकता पड़ेगी।

सभापति महोदय, मैं आपके माध्यम से मंत्री महोदय से निवेदन करना चाहता हूँ कि इसमें 20,000 रुपये कंपेंसेशन के बारे में कहा गया है। आज के जमाने में यदि किसी की मृत्यु हो जाए और उसको 20 हजार रुपये देकर संतुष्ट कर दिया जाए तो यह संभव नहीं है। अभी माननीय सदस्य बता रहे थे, उसी संदर्भ में मैं आगे चर्चा करूंगा कि बहुत सी जगह देखा गया है कि उनकी तरफ से काफी नेग्लिजेंस होती है। तो ऐसा कोई प्रावधान नहीं है कि उनके खिलाफ कानूनी कार्यवाही की जाए।

कंपेंसेशन के बारे में भी आपने कुछ ढिलाई दे दी है।

MR. CHAIRMAN: I think, you can continue tomorrow.

18 hrs.

#### HALF-AN HOUR DISCUSSION

##### Financial assistance to Indian construction companies

श्री चर्न दास शास्त्री (करोल बाग) : आदरणीय सभापति जी, मैं आपका हार्दिक आभार प्रकट करता हूँ कि आपने देश के लाखों-करोड़ों लोगों के आसुओं को पूछने के लिए आधे घण्टे की बहस करने का मौका दिया। यह आधे घण्टे की बहस का प्रश्न इसलिए आया कि दुनिया के कोटि-कोटि लोगों ने कल मई दिवस मनाया और प्रजातंत्र का मन्दिर भारत के मजदूरों को अपनी श्रद्धांजलि और श्रद्धा के फूल चढ़ाने के लिए कल बंद रहा। इससे अनुमान लगाया जा सकता है कि भारत की प्रधान मंत्री, मंत्रीगण और संसद दुनिया के मजदूरों के प्रति सहानुभूति

रखते हैं। मैं मुबारकवाद देता हूँ दुनिया और भारत के मजदूरों को क्योंकि उनका भारत में एक गरिमापूर्ण स्थान है। मैं यह कहना चाहता हूँ कि भारत की राष्ट्र-माता इन्दिरा जी ने देश के बंधुआ मजदूरों को मुक्त कर दिया। .....

(अध्यक्षान) अग्रेजों ने इमीग्रेशन एक्ट 1922 में इसलिए बनाया कि यहां से घरों में काम करने वाले मजदूरों को ले जाए ताकि हिन्दुस्तान गुलामी की गंगा में बहता रहे। राष्ट्रपिता बापू ने इस गुलामी की गंगा को हटाने के लिए, भारत की भूमि पर जो लगीटी में रहने वाले लोग हैं, जिनकी हड्डियों के ढाँचे के अंदर भारत का नक्शा नजर आता है। उन लोगों की आवाज बनकर उनको एक नयी शक्ति और नयी प्रेरणा दी थी। इमीग्रेशन एक्ट के तहत भारत से करोड़ों मजदूर ले जाए जाते थे और उनके बच्चों के लिए रोटी-पानी का खर्चा भेज दिया जाता था। अरब कन्टीज में 1962 में जब तेल की दुनिया में रुपया पैदा होने लगा तो उन्होंने विकास की तरफ सोचना शुरू किया। उन्होंने दुनिया की सब कंपनियों और मजदूरों को आमंत्रित किया कि हमारे विकास में योगदान दें क्योंकि उनके पास धन की कमी नहीं थी। इसलिए, आपको मालूम है कि यहां से मैन-पावर सप्लाई करने वाली कंपनियों ने मजदूर भर्जन और कांस्ट्रक्ट लेने शुरू कर दिए। बड़ी गरिमा के साथ मन् 77 तक वह इस तरह से जाते रहे। जब मजदूरों का शोषण होता रहा तो उसको देखकर कुछ बे स्टेट इंटरैस्ट वाली कंपनियां सप्रीम कोर्ट में गईं। वह भारत सरकार के कंट्रोल को हटाना चाहती थीं और मजदूरों के हितों पर आघात करना चाहती थी। लेकिन इन मजदूरों को मुक्ति दिलाने के लिए भारत सरकार ने एक इंकलाबी काम किया और 1983 में एक नया कानून बनाया गया। उस नये कानून के लिए मैं मुक्त कंठ से लेबर मिनिस्टर साहब की प्रशंसा करना चाहता हूँ, और भूरि-भूरि प्रशंसा करना चाहता हूँ कि आपने मजदूरों की गरिमा को बनाए रखने के लिए कदम उठाया। सभापति महोदय, यह प्रश्न बड़ा भावुक प्रश्न है। एक तरफ