SUPPLEMENTARY AMENDMENT
THE WORKMEN'S COMPENSATION
(AMENDMENT) ACT, 2009
[Act. No. 45 of 2009]

[22nd December, 2009]

An Act further to amend the Workmen's Compensation Act, 1923

Be it enacted by Parliament in the Sixtieth Year of the Republic of India

as follows:—

Statement of Objects and Reasons.—The Workmen's Compensation Act, 1923 provides for payment of compensation to the workmen and their dependents in the case of injury by industrial accidents including certain occupational diseases arising out of and in the course of employment resulting in death or disablement. This Act applies to certain railway servants and persons employed in hazardous employments such as factories, mines, plantations, mechanically propelled vehicles, construction work, etc., specified in Sch. II of the Act. However, the Act is not applicable to the employees who are covered under the Employees' State Insurance Act, 1948.

2. The Second National Commission on Labour set up in the year 2002 had made certain recommendations relating to amendment of the Workmen's Compensation Act, 1923. The recommendations of the Commission have been examined in consultation with the concerned Ministries/Departments/State Governments and Union Territory Administrations.

3. Based on the recommendations of the Second National Commission on Labour, the Workmen's Compensation (Amendment) Bill, 2008 was introduced in the Lok Sabha on 20th October, 2008 which was referred to the Department Related Parliamentary Standing Committee on Labour. The Standing Committee submitted its report on the 19th December, 2008 wherein the Committee has made certain recommendations. However, the Workmen's Compensation (Amendment) Bill, 2008 lapsed due to dissolution of the 14th Lok Sabha.

4. The Central Government has decided to introduce the Workmen's Compensation (Amendment) Bill, 2009, on the lines of the Workmen's Compensation (Amendment) Bill, 2008 introduced in the 14th Lok Sabha incorporating therein certain recommendations of the Standing Committee proposing to amend the Workmen's Compensation Act, 1923, which inter alia makes provision,—

(a) For amendment in long title and the provisions of the aforesaid Act so as to substitute "Workman" by the "employee";

(b) For enhancement of the minimum rates of compensation payable to a worker from eighty thousand rupees to one lakh twenty thousand rupees for death and from ninety thousand rupees to one lakh forty thousand rupees for permanent disability and to empower the Central Government to enhance the minimum rates of said compensation from time to time;

(c) To confer power upon the Central Government to specify the

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(xxiii)
monthly wages in relation to an employee for the purposes of the aforesaid compensation;

(d) For enhancement of the funeral expenses from two thousand five hundred rupees to five thousand rupees and to empower the Central Government to enhance the same from time to time;

(e) For the re-imbursement of actual medical expenditure incurred for treatment of injuries caused during the course of employment;

(f) For widening of the eligibility criteria for appointment of Commissioner to make a Gazetted Officer of not less than five years of service, having educational qualifications and experience in personnel management, human resource development and industrial development, to be eligible to become a Commissioner;

(g) For disposal of cases relating to compensation by the Commissioner within a period of three months from the date of reference and to intimate the decision in respect thereof within the said period to the employee; and

(h) For increasing coverage by omission of the restrictive clauses in Sch. II of the Act and inclusion of additional hazardous activities.

5. The Bill seeks to achieve the above objects.

1. Short title and commencement.—(1) This Act may be called the Workmen's Compensation (Amendment) Act, 2009.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of long title.—In the long title to the Workmen's Compensation Act, 1923 (8 of 1923) (hereinafter referred to as the principal Act), for the word "workmen", the word "employees" shall be substituted.

3. Amendment of preamble.—In the principal Act, in the preamble for the word "workmen", the word "employees" shall be substituted.

4. Amendment of Sec. 1.—In Sec. 1 of the principal Act, in sub-section (1), for the word "Workmen's", the word "Employee's" shall be substituted.

5. Substitution of references to certain expressions by certain other expressions.—Throughout the principal Act, for the words "workman" and "workmen", wherever they occur, the words "employee" and "employees" shall respectively be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

6. Amendment of Sec. 2.—In Sec. 2 of the principal Act, in sub-section (1),—

(i) After Cl. (d), the following clause shall be inserted, namely:—

(dd) "employee" means a person, who is—

(i) a railway servant as defined in Cl. (34) of Sec. 2 of the Railways Act, 1989 (24 of 1989), not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Sch. II; or

1. W.e.f. 18th January, 2010.
(ii) a master, seaman or other member of the crew of a ship.

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Sch. II and the ship, aircraft or motor vehicle, or company, as the case may be is registered in India; or

(iii) employed in any such capacity as is specified in Sch. II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them:

(ii) Clause (n) shall be omitted.

7. Amendment of Sec. 4.—In Sec. 4 of the principal Act,

(a) In sub-section (1),—

(i) in Cl. (a), for the words "eighty thousand rupees", the words "one lakh and twenty thousand rupees" shall be substituted;

(ii) in Cl. (b), for the words "ninety thousand rupees", the words "one lakh and forty thousand rupees" shall be substituted:

(iii) after Cl. (b), the following proviso shall be inserted, namely—

"PROVIDED THAT the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount of compensation mentioned in Cls. (a) and (b);

(iv) after Cl. (b), Explanation II shall be omitted;

(b) After sub-section (1-A), the following sub-section shall be inserted, namely:—

"(1-B) The Central Government may, by notification in the Official Gazette, specify, for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary."

(c) After sub-section (2), the following sub-section shall be inserted, namely—

(2-A) The employee shall be reimbursed the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment."

(d) In sub-section (4),
(A) for the words "two thousand and five-hundred rupees". the words "not less than five thousand rupees" shall be substituted;

(B) the following proviso shall be inserted, namely:—

"PROVIDED THAT the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount specified in this sub-section."

8. Amendment of Sec. 20.—In Sec. 20 of the principal Act, in sub-section (1), after the words "appoint any person", the words "who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or a pleader or is or has been a Gazetted officer for not less than five years having educational qualifications and experience in personnel management, human resource development and industrial relations" shall be inserted.

9. Insertion of new Sec. 25-A.—After Sec. 25 of the principal Act, the following section shall be inserted, namely:—

"25-A. Time limit for disposal of cases relating to compensation.—The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period of the employee."

10. Amendment of Sch. II.—In Sch. II to the principal Act,—

(i) For the word, figures, brackets and letter "Sec. 2(1)(nl'", wherever they occur, the word, figures, brackets and letters "Section 2 (1) (dii)" shall be substituted;

(ii) In item (i), for the words "employed, otherwise than in a clerical capacity or on a railway", the words "employed in railways" shall be substituted;

(iii) In item (ii), the words "otherwise than in a clerical capacity" shall be omitted;

(iv) In item (v), the words "other than clerical work" shall be omitted;

(v) in item (eei), the words "Wherein or within the precincts whereof twenty or more persons are so employed shall be omitted;

(vi) In item (vi),—

(a) Clause (b) shall be omitted;

(b) In Cl. (c), the words, brackets and letter "or sub-clause (b)" shall be omitted;

(vii) In item (x), the words "otherwise than in a clerical capacity" shall be omitted;

(viii) In item (xiv), the words "otherwise than in a clerical capacity" shall be omitted;

(ix) In item (xvii), the words "in which on any one day of the preceding twelve months more than twenty-five persons have been employed" shall be omitted;

(x) For item (xviii), the following item shall be substituted. namely:—
(xviii) employed on any estate which is maintained for the
purpose of growing cardamom cinchona, coffee, rubber or tea;
or;

In item (xix), the words "otherwise than in a clerical capacity"
shall be omitted;

In item (xxvii),—

(a) in Cl. (a), the words "and in which on any one day of the
preceding twelve months ten or more persons have been
so employed" shall be omitted;

(b) In Cl.(b), the words "in which on any one day of the
preceding twelve months fifty or more persons have been
so employed" shall be omitted;

xiii In item (xxx), the words "otherwise than a clerical capacity"
shall be omitted;

xiv) In items (xl) and (xli), the words "in which on any one day of the
preceding twelve months more than twenty-five persons have
been employed" shall be omitted;

(xv) The Explanation occurring after item (xliv) at the end shall be
omitted.