UNIT – IV

Social Security
Employees' Compensation & ESI Acts

Concept • EC Act, 1923 • ESI Act, 1948 • Comparative Analysis

Including Landmark Supreme Court Judgments

OVERVIEW

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Concept and Importance of Social Security

Social security is the protection that society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner.

Importance:
• Protects workers against contingencies that interrupt earning capacity
• Promotes social justice and reduces inequality
• Contributes to industrial peace and productivity
• Fulfils the Directive Principles of State Policy (Arts. 38, 39, 41, 42, 43)

Influence of ILO: ILO Conventions and Recommendations have shaped Indian social security legislation, especially regarding employment injury, sickness and maternity benefits.

Constitutional Mandate for Social Security

Relevant Directive Principles:

- Article 38 – State to secure a social order for the promotion of welfare of the people
- Article 39 – Adequate means of livelihood, equal pay, protection of health and strength of workers
- Article 41 – Right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement
- Article 42 – Just and humane conditions of work and maternity relief
- Article 43 – Living wage and conditions of work ensuring a decent standard of life

These provisions form the constitutional foundation for the Employees' Compensation Act, ESI Act, Maternity Benefit Act, EPF Act and other social security legislations.

Employees' Compensation Act, 1923 – Overview & Definitions

Originally the Workmen's Compensation Act, 1923. Renamed in 2009.

Key Definitions:
• Employee (S. 2(1)(dd)) – Wide definition covering persons employed in factories, mines, plantations, construction, etc., and certain other categories.
• Employer – Includes any body of persons, managing agent, legal representative of deceased employer, and (in relation to a person employed on a ship) the owner of the ship.
• Dependent – Widow, minor legitimate or adopted son, unmarried daughter, widowed mother, and certain other relatives wholly or partly dependent.
• Partial / Total Disablement – Temporary or permanent reduction in earning capacity (Schedule I lists injuries deemed to result in permanent partial / total disablement).

Employer’s Liability for Compensation

Employer is liable to pay compensation if personal injury is caused to an employee by accident arising out of and in the course of employment.

Conditions:
- Personal injury
- Caused by accident
- Arising out of employment (causal connection)
- In the course of employment (time, place and circumstances)

Exceptions (no liability):
- Injury does not result in total or partial disablement for more than three days
- Accident is due to influence of drink or drugs
- Wilful disobedience of safety orders / removal of safety devices
- Wilful disregard of safety rules (in certain cases)

Occupational diseases listed in Schedule III are also treated as injuries by accident.

Computation of Compensation

Amount of compensation depends on the nature of injury and monthly wages:

• Death: 50% of monthly wages × relevant factor (or minimum specified)
• Permanent Total Disablement: 60% of monthly wages × relevant factor (or minimum)
• Permanent Partial Disablement: Percentage of the compensation payable for permanent total disablement (as per Schedule I or loss of earning capacity)
• Temporary Disablement: Half-monthly payments of 25% of monthly wages

Relevant factor is prescribed in Schedule IV based on completed years of age of the employee.

There is a ceiling on monthly wages for calculation purposes (periodically revised).

Commissioner – Jurisdiction, Powers & Procedure

Commissioner is appointed by the State Government under S. 20.

Jurisdiction: To decide questions relating to liability of any person to pay compensation, the amount or duration of compensation, and related matters.

Powers:
- Powers of a Civil Court for taking evidence, enforcing attendance, compelling production of documents
- Can appoint medical assessors
- Can transfer cases

Procedure: Application in prescribed form. Summary procedure. Commissioner's order is enforceable as a Civil Court decree.

Appeal lies to the High Court on substantial questions of law (S. 30).

Employees' State Insurance Act, 1948 – Overview

The ESI Act provides for certain benefits to employees in case of sickness, maternity and employment injury and makes provision for certain other matters.

It is a contributory social insurance scheme administered by the Employees' State Insurance Corporation (ESIC).

Applicability: Factories and establishments employing 10 or more persons (threshold varies). Wage ceiling for coverage is periodically revised by the Central Government.

Key Definitions:
- Employment injury – Personal injury caused by accident or occupational disease arising out of and in the course of employment
- Contribution – Sum payable by the employer and employee under the Act
- Dependent, employee, principal employer, immediate employer – defined comprehensively

Contributions and Benefits under ESI Act

Contributions

Employer’s contribution and employee’s contribution are paid into the ESI Fund.

Rates are prescribed by the Central Government (currently employer 3.25%, employee 0.75% of wages approximately – subject to revision).

Principal employer is responsible for payment of both shares (can recover employee’s share from wages).

Benefits Available

- Sickness Benefit
- Maternity Benefit
- Disablement Benefit (temporary & permanent)
- Dependants’ Benefit (on death due to employment injury)
- Medical Benefit
- Funeral Expenses
- Other benefits as may be provided

Benefits are paid from the ESI Fund and are not dependent on the fault of the employer.

Administrative Mechanism under ESI Act

ESI Corporation

Body corporate. Administers the scheme. Consists of representatives of Central & State Governments, employers, employees, medical profession and Parliament.

Standing Committee

Executive body of the Corporation. Administers the affairs subject to general superintendence of the Corporation.

Medical Benefit Council

Advises on medical benefits, certification, and related medical matters. Includes medical experts and representatives.

ESI Courts

Constituted by State Governments to decide disputes and claims under the Act (Ss. 74–83).

ESI Courts – Jurisdiction and Powers

ESI Courts decide:
• Whether a person is an employee / whether an employer is liable to pay contribution
• Rate of wages / contribution
• Right to any benefit and the amount
• Any other dispute arising under the Act

Claims for benefits, recovery of benefits wrongly paid, and damages / interest on delayed contributions are also adjudicated.

Powers: Same powers as a Civil Court for summoning witnesses, discovery, etc. Proceedings are summary in nature.

Appeal: From order of ESI Court to the High Court (on substantial question of law) or to the Employees' Insurance Court of Appeal where constituted.

Comparative Analysis – EC Act & ESI Act

• EC Act is a liability statute based on employer’s faultless liability for employment injury. ESI Act is a social insurance scheme based on contributions.

• Under ESI, benefits are paid from a common fund; under EC Act, the employer (or insurer) pays compensation directly.

• S. 53 of ESI Act bars an insured person from claiming compensation under the EC Act (or other law) for the same employment injury – prevents double recovery.

• ESI covers sickness, maternity and employment injury; EC Act is confined to employment injury / occupational disease.

• Coverage under ESI is based on wage ceiling and establishment size; EC Act has broader occupational coverage without wage ceiling for many categories.

Landmark: Western India Plywood Ltd. v. P. Ashokan – Scope of S. 53 bar explained.

Landmark Judgments – Social Security

Regional Director, ESIC v. Francis De Costa (1996)

Accident during commute – not automatically “arising out of and in the course of employment” unless incidental to employment.

Daivshala v. Oriental Insurance (2025)

Supreme Court expanded scope – commuting accidents can be covered under EC Act in light of S. 51E of ESI Act (pari materia).

Western India Plywood Ltd. v. P. Ashokan

S. 53 of ESI Act bars claim under EC Act for the same employment injury – prevents double benefit.

ESIC v. C.C. Santhakumar

Principles governing recovery of contributions and damages for delayed payment.

Procedure for Claiming Compensation under EC Act

1. Notice of accident to employer (as soon as practicable).
2. Claim application to the Commissioner in the prescribed form within two years of the occurrence of the accident (or from the date of death).
3. Commissioner may condone delay for sufficient cause.
4. Employer may deposit compensation with the Commissioner.
5. Commissioner holds inquiry, may examine the employee medically, and passes order determining liability and amount.
6. Compensation is paid to the employee or distributed among dependants.
7. Appeal to High Court on substantial question of law within 60 days.

EC Act vs ESI Act – Key Differences

Aspect	EC Act, 1923	ESI Act, 1948
Nature	Employer liability	Social insurance
Funding	Employer / Insurer	Contributory Fund
Coverage	Employment injury	Sickness + Maternity + Injury
Double Claim	Possible (unless barred)	S. 53 bars EC claim
Adjudication	Commissioner	ESI Court
Wage Ceiling	Limited for calculation	Coverage linked to wage limit

Importance of Social Security Legislation

- Provides income security and medical care during contingencies
- Reduces dependence on family and informal support systems
- Encourages formal employment by creating a safety net
- Contributes to social cohesion and reduces poverty
- Supports the constitutional vision of a welfare State
- Complements other labour laws (Factories Act, Maternity Benefit Act, EPF, Gratuity, etc.)

Challenges remain: coverage of unorganised sector, adequacy of benefits, administrative efficiency, and coordination between different social security schemes. The Code on Social Security, 2020 attempts to consolidate and expand coverage.

Key Takeaways – Unit IV

- Social security is a constitutional and international obligation aimed at protecting workers against life contingencies.
- EC Act imposes no-fault liability on the employer for employment injury and occupational diseases.
- ESI Act is a contributory social insurance scheme covering sickness, maternity and employment injury.
- S. 53 of the ESI Act bars double recovery under the EC Act for the same employment injury.
- Both statutes have specialised adjudicatory forums – Commissioner under EC Act and ESI Courts under ESI Act.
- Recent judicial trends have expanded the concept of “arising out of and in the course of employment” to include certain commuting accidents.

Quick Reference – Important Sections

EC Act – Liability	S. 3
EC Act – Amount of Compensation	S. 4 & Schedules
EC Act – Commissioner	Ss. 19–30
ESI Act – Contributions	Ss. 38–45
ESI Act – Benefits	Ss. 46–59
ESI Act – Corporation & Bodies	Ss. 3–25
ESI Act – ESI Courts	Ss. 74–83
Bar on Double Claim	S. 53 ESI Act

End of Unit – IV

Social Security • EC Act, 1923 • ESI Act, 1948

Proceed to Unit-V: Payment of Wages Act & Factories Act