

Quadrant II –Notes

Paper Code:LAB0602_LAB0711

Module Name: Employees' Compensation Act 1923:

**Liability of the employer
to pay compensation**

Liability of the employer to pay compensation is dependent upon four conditions. Until and unless these conditions are fulfilled, employer cannot be made liable to pay compensation. i.e., Personal injury must have been caused to the employee, such injury must have been caused by an accident, accident must have arisen out of and in the course of employment, injury must have resulted either in the death of the employee or in its total or partial disablement for a period exceeding 3 days. Then only employer can be made liable to pay compensation to employee.

There are certain conditions under which an employer cannot be made liable to pay compensation, If the injury did not result in total or partial disablement of the employee for a period exceeding three days. employee was at the time of accident under the influence of drinks or drugs. Secondly, employee wilfully disobeyed an order expressly given for the purpose of securing safety of employees. Thirdly, employee having known that certain safety guards are specifically provided for the purpose of securing the safety of employees, wilfully disregarded or removed the same.

Employer's liability in case of occupational diseases under sub-section (2) of Section 3. The list of occupational diseases is contained in schedule III of the Act. Schedule III is divided into 3 parts i.e., A, B, and C. The disease contracted must be an occupational disease peculiar to the employment specified in schedule III, further, to support any claim for compensation in case of occupational disease in part A. No specified period of employment is necessary.

Part A of Schedule III. it says that the employer shall be liable to pay compensation for any injury resulting from an occupational disease mentioned in part A of the Schedule III. contracting of an occupational disease after discontinuance of service, then in such no compensation shall be payable to him.

in case of contracting of any disease mention in Part B of Schedule III the employer shall be liable if an employee, while in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Part B of Schedule III.

if an employee was in the service of one or more employer in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each such employment and if he contracts any disease, specified therein as an occupational disease peculiar to that employment. in such a case where an employee contracts an occupational disease after discontinuance of his service, the employer shall be liable for a compensation.

Section 3(2-A) where there are more than one employers, sub-section (2-A) of Section 3 authorizes the Commissioner to fix up the extent of responsibility of different employers in respect of amount of compensation payable to an employee.

Section 3(3) says that the Central Government or the State Government after giving notification in the Official Gazette, not less than three months' notice of its intention so to do, may by a like notification add any description of employment to the employments specified in schedule III.

Section 3 (4) the employer is liable to pay compensation only if the disease can be directly attributed to a specific injury by accident arising out of and in the course of his employment. Exception to this rule are cases covered by sub=section (2), (2-A) and sub-section 3 of Section 3.