

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1951.

[Act No. LII OF 1951.]

It is hereby enacted as follows :—

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1951.

(2) It shall come into force on such date as the President of the Union may, by notification, appoint in that behalf ; but the provisions of section 2 relating to owners of, and persons engaged in plying for hire with, any vehicle or vessel the use of which is obtained from the owner thereof under any contract other than a hire purchase agreement shall not have effect until such date which shall not be sooner than one year from the date of commencement of this Act, as the President of the Union may, by notification, appoint in that behalf.

2. In section 2 of the Workmen's Compensation Act, hereinafter referred to as the said Act,—

(i) in clause (d) of sub-section (1)—

(a) in item (i) for the word "wife" the word "widow" shall be substituted ;

(b) in item (ii) for the word "husband" the word "widower" shall be substituted and after the words and comma "a minor child of a deceased son," the words and comma "a minor child of a deceased daughter where no parent of the child is alive," shall be inserted ;

(ii) in clause (e) of sub-section (1), after the words "while the workman is working for him" the following shall be inserted :—

"and also includes the owner of any vehicle or vessel the use of which is obtained from the owner thereof for the purpose of plying for hire with the said vehicle or vessel under any contract other than a hire purchase agreement in consideration of the payment of a fixed sum or a share in the earnings or otherwise"

(iii) after clause (f) of sub-section (1), the following shall be inserted as clause (ff), namely :—

"(ff) 'outworker' means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles ;"

(iv) for clause (n) of sub-section (1), the following shall be substituted, namely :—

"(n) 'workman' means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour,

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clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing ; and also includes a person engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under any contract (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise, but does not include—

- (a) any person employed otherwise than by way of manual labour whose wages exceeds four hundred rupees per month ; or
- (b) a person employed in agriculture, that is to say, the cultivation of crops other than those grown on any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ; or
- (c) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club ; or
- (d) any person working in the capacity of a member of the naval, military or air forces of the Union of Burma ;
or
- (e) a member of a police force ; or
- (f) an outworker ; or
- (g) a member of the employer's family dwelling in his house.

Explanation.—For the purposes of this sub-section ' member of a family ' means wife or husband, father, mother, grandfather, grand-mother, step-father, step-mother, son, daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister, ” ;

- (v) the following *shall be inserted as* sub-section (2), namely :—
“ (2) Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them. ” ;
- (vi) the existing sub-section (2) *shall be renumbered as* sub-section (3) ;
- (vii) the existing sub-section (3) *shall be deleted.*

3. In section 3 of the said Act,—

- (i) in the proviso to sub-section (1), clause (a) and the letter and bracket (b) *shall be deleted* ;
- (ii) in sub-section (2) the expression “ If a workman employed in any employment involving the handling of wool, hair, bristles, or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax, contracts the disease of anthrax,

or " shall be deleted, for the word " if " the word " If " shall be substituted and after the words " specified in " the words " List A of " shall be inserted ;

(iii) after sub-section (2), the following shall be inserted as sub-section (3), namely :—

" (3) If a workman contracts any disease specified in List B of Schedule III, and it is certified by a qualified medical practitioner that the disease is directly due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of disablement, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section, and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment aforesaid :

Provided that the compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due."

(iv) the existing sub-section (3) shall be renumbered as sub-section (4) and in sub-section (4) as renumbered, after the word " specified in " the words " List A of " shall be inserted ;

(v) after sub-section (4) as renumbered and amended, the following shall be inserted as sub-section (5), namely :—

" (5) The President, after giving, by notification, not less than three months' notice of his intention to do so, may, by a like notification, add any diseases to the occupational diseases specified in List B of Schedule III, and the provisions of sub-section (3) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases." ; and

(vi) the existing sub-sections (4) and (5) shall be renumbered as sub-sections (6) and (7) respectively.

4 In sub-section (1) of section 4 of the said Act,—

(i) for item (i) of clause A, the following shall be substituted :—

" (i) in the case of an adult, a sum equal to 36 times the workman's monthly wages calculated in accordance with this Act :

Provided that the minimum and the maximum payment in such a case shall be Rs. 2,160 and Rs. 7,200 respectively, and " ;

(ii) for item (i) of clause B, the following shall be substituted :—

" (i) in the case of an adult, a sum equal to 36 times 140 per cent of the workman's monthly wages calculated in accordance with this Act :

Provided that the minimum and the maximum payment in such a case shall be Rs. 3,024 and Rs. 10,080 respectively, and " ;

(iii) in clause D,—

(a) the words "after the expiry of a waiting period of seven days" *shall be deleted* and for item (i) the following *shall be substituted* :—

"(i) in the case of an adult—of a sum equivalent to one-third of the workman's monthly wages calculated in accordance with this Act, and"; and

(b) for the period (.) at the end of clause (b) of the proviso, a semi-colon and the word "; and" *shall be substituted* and *thereafter* the following *shall be inserted as* clause (c), namely :—

"(c) no compensation shall be payable in respect of the first four days of the disablement if the period of the workman's disablement is ten days or less."

5. In sub-section (1) of section 5 of the said Act, for the words "For the purposes of this Act the monthly wages of a worker shall be" the following *shall be substituted* :—

"In this Act and for the purposes thereof, the expression 'monthly wages' means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and"

6. In sub-section (1) of section 10 of the said Act, for the word "six" wherever it occurs the word "twelve" *shall be substituted*.

7. In section 11 of the said Act,—

(i) sub-section (1) *shall be renumbered as* sub-section (1) (a) and the following *shall be inserted as* clause (b) of the same sub-section, namely :—

"(b) If the Commissioner considers it necessary for the settlement of any question arising in any proceedings under this Act, he may require a workman who has given notice of an accident, to submit himself for examination by a medical practitioner, and the cost of such medical examination, if any, shall be payable by the employer :"; and

(ii) in sub-section (5), for the comma (,) after the words "in respect of the period of suspension" a period (.) *shall be substituted* and the expression "and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues." *shall be deleted*.

8. In Schedule I to the said Act, for the figure "10" shown in the second column respectively *against* the words "Loss of one phalanx of thumb" and "Loss of index finger" mentioned in the first column, the figure "15" *shall be substituted* respectively.

9. Schedule II to the said Act *shall be deleted*.

10. For Schedule III to the said Act, the following shall be substituted, namely :—

“SCHEDULE III.

(See section 3.)

LIST OF OCCUPATIONAL DISEASES.

List A.

Occupational Disease.	Employment.
Anthrax	Handling of wool, hair, bristles, animal carcasses or parts of such carcasses, or the loading, unloading or transport of any merchandise, or any work in connection with animals infected with anthrax.
Lead poisoning or its sequelæ	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ	Any process involving the use of arsenic or its preparations or compounds.
Poisoning by benzene and its homologues or the sequelæ of such poisoning.	Handling benzene or any of its homologues; and any process in the manufacture, or involving the use of benzene or any of its homologues.
Poisoning by nitro- and amido-derivatives of benzene and its homologues (trinitrotoluene, anillin and others) or the sequelæ.	Handling any nitro- or amido-derivative of benzene or any of its homologues, or any process in the manufacture, or involving the use, thereof.
Poisoning by nitrous fumes or its sequelæ.	Any process in which nitrous fumes are involved.
Dope poisoning (that is, poisoning by any substance used as or in conjunction with a solvent for acetate of cellulose) or its sequelæ.	Any process involving the use of any substance used as or in conjunction with a solvent for acetate of cellulose.
Poisoning by carbon bisulphide or its sequelæ.	Any process involving the use of carbon bisulphide or its preparations or compounds.
Poisoning by nickel carbonyl or its sequelæ.	Any process in which nickel carbonyl gas is involved.
Epitheliomatous cancer or ulceration of the skin due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of those substances.	Handling or use of tar, pitch, bitumen, mineral oil or paraffin or any compound, product or residue of any of those substances.
Ulceration of the corneal surface of the eye due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of those substances.	Handling or use of tar, pitch, bitumen, mineral oil or paraffin or any compound, product or residue of any of those substances.

Occupational Disease	Employment.
Chrome ulceration or its sequelæ ...	Any process involving the use of Chromic acid or bichromate of ammonium, potassium, or sodium, or their preparations.
Compressed air illness or its sequelæ ...	Any process carried on in compressed air.
Cataract in glassworkers ...	Any process in the manufacture of glass involving exposure to the glare of molten glass.
Cataract caused by exposure to rays from molten or red-hot metal.	Any process normally involving exposure to rays from molten or red-hot metal in the manufacture of iron or steel, including reheating and rolling iron or steel.
Subcutaneous cellulitis of the hand (beat hand).	Mining.
Subcutaneous cellulitis, or acute bursitis over the elbow (beat elbow).	Mining.
Inflammation of the synovial lining of the wrist joint and tendon sheaths.	Mining.
Glanders ...	Care of any equine animal suffering from glanders, handling the carcass of such animal.
Telegraphist's cramp ...	Use of telegraphic instruments.

List B.

Dermatitis produced by dust or liquids.
 Ulceration of the skin produced by dust or liquids.
 Ulceration of the mucous membrane of the nose or mouth produced by dust.
 Writer's cramp.
 Twister's cramp caused by twisting of cotton or woollen (including worsted) yarns.
 Inflammation, ulceration malignant disease of the skin and subcutaneous tissues, due to exposure to X-Rays or radio-active substances."

11. Schedule IV to the said Act *shall be deleted.*