

# A Study on Occupational Disease and Remedies under Labour Legislations

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## Abstract

*This paper explores the persistent challenges faced by Indian workers suffering from occupational diseases in accessing compensation under the Employees' Compensation Act, 1923. Despite its historical significance as one of the earliest social security legislations, the Act has not evolved to accommodate the changing nature of occupational hazards in modern industries. The outdated Schedule III excludes many contemporary diseases such as mental health disorders, repetitive strain injuries, and conditions linked to prolonged exposure to technology or chemicals. The paper highlights the burden of proof unfairly placed on victims, limited awareness among workers—especially in the informal sector—and systemic procedural hurdles. A comparative international analysis underscores India's lag in recognizing emerging occupational diseases, especially when contrasted with adaptive frameworks like ILO Convention No. 121 and EU Directives. Further, the paper examines gaps in national enforcement, underreporting in occupational health statistics, and the inadequacy of compensation. It concludes by advocating for a dynamic and inclusive legislative overhaul, strengthened data systems, wider coverage for informal workers, and better awareness mechanisms. The study emphasizes the constitutional and human rights imperative to provide just, humane, and safe working conditions for all Indian workers.*

## Keywords

*Occupational Diseases, Employees' Compensation Act, Workers' Rights, Industrial Health Hazards,*

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## INTRODUCTION

The development of modern industrial economies has led to occupational diseases becoming an important public health challenge because they emerge from long-term workplace exposure to factors that create risks. Companies expose workers to various occupational diseases that include respiratory conditions from dust breathing and physical strain injuries and cancers affecting by hazardous material exposures. The Victims affected by occupational diseases in India maintain considerable barriers to obtain proper and timely compensation through the Employees' Compensation Act, 1923. As the Workmen's Compensation Act this legislation became one of the first governmental attempts to establish worker compensation during employment. The Employees' Compensation Act of 1923 continues without full adjustment to contemporary industrial risks that emerged in the last century.<sup>1</sup>

The major concern arises from the restricted occupancy of certified occupational diseases in Schedule III of the Act. Modern work-related health problems that stem from occupational stress and prolonged computer use fail to receive sufficient legal protection under Australian law which hinders victims from establishing clear links between their occupations and health risks. An employee must prove medical association between his employment activities and disease conditions while carrying the majority of the responsibility for compensation. Manufacturing diseases with long latency periods such as respiratory conditions or cancers creates substantial challenges because workers find it hard to generate evidence that connects their employment to their final illness diagnosis.<sup>2</sup>

Workers face considerable difficulty because they remain unaware of both their workplace rights as well as the procedures for receiving compensation. Informal sector employment and contractual agreements at present encompass the majority of Indian workers as they do not benefit from traditional compensation

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<sup>1</sup> Saha, Rajat Kumar. "Occupational health in India." (2018) *Annals of global health* 84, no. 3 330.

<sup>2</sup> Nite, Dhiraj Kumar. "Classifying Occupational Hazards Narratives of Danger, Precariousness, and Safety in Indian Mines, 1895–1970." (2025) *International Review of Social History* 1-28.

programs.

The formal sector experiences delayed compensation and claim rejections because of procedural complications and bureaucracies together with inadequate medical records. Most workers stay away from seeking compensation due to the high costs as well as spending significant time on their legal pursuit primarily because they must face dominant corporate employers and their complex legal system without sufficient legal representation.

The Employees' Compensation Act, 1923 aimed to protect workers yet the existing social conditions reveal significant differences between these objectives and actual workplace outcomes. Systemic barriers found within compensation must be resolved because this effort provides justice to workplace disease victims while protecting the constitutional promise for worker health and welfare.

### **DEFINITION AND SCOPE OF OCCUPATIONAL DISEASES UNDER THE EMPLOYEES' COMPENSATION ACT, 1923**

Workers' compensation places utmost importance on occupational diseases as defined legal entities. The Employees' Compensation Act of 1923 defines "occupational disease" through Section 2(i) by establishing that such diseases become legally recognized when the government classifies them as connecting to occupational conditions. The legal definition stands as the essential factor to determine if workers qualify for disease-related compensation benefits during their work duties. Workers who develop diseases because of their employment environment and work requirements fall under the definition of occupational diseases.<sup>3</sup>

The legal definition of disorders arising from work environments serves as guidance for claim establishment yet facing major difficulties during practical applications. The main problem with the Act relates to its restricted and outdated definition of occupational diseases. The illnesses specified in the schedule of the Act constitute a limited subset of diseases affecting workers since the list excludes many illnesses observed in certain occupations. The restricted disease scope defines a significant gap because the Act does not cover either non-communicable illnesses or those needing long periods to manifest like cancer and respiratory or neurological diseases. Workers find it difficult to receive compensation because their diseases do not appear on the list of prescribed diseases even though their occupation likely played a role in disease development.<sup>4</sup>

### **APPLICATION OF THE DEFINITION IN THE INDIAN CONTEXT**

The Indian regulations about occupational diseases establish limited coverage compared to worldwide standards. The Employees' Compensation Act from 1923 recognizes occupational diseases through Schedule III as described in its last amendment from 1994. The listed diseases in Schedule III principally affect workers exposed for extended times to toxic chemicals and harsh environments that usually occur in mining industrial facilities. Medical conditions including silicosis and asbestosis and chemical poisoning exist in the list because experts confirm their relationship with particular occupational locations. The current Act fails to protect workers from various important occupational health conditions.<sup>5</sup>

Workers who handle dust together with chemicals and harmful substances within construction or textile operations face elevated risks from long-term respiratory conditions that might turn into COPD or lung cancer. The Act does not recognize these occupational diseases even though they stem from workplace hazards which denies work-related compensation benefits to afflicted employees.

Excessive legal delays occur because workers need to prove their occupational diseases stemmed directly

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<sup>3</sup> Sehgal, Khushi, and Shubhangi Das. "Significance of Compensatory Jurisprudence Under The Employees Compensation Act, 1923." (2023) *IJLS* 9 42.

<sup>4</sup> Saini, Debi S. "Labour law in India Structure and working." pp. 60-94. (Routledge, 2008).

<sup>5</sup> Rai D, "Employees Compensation Act, 1923 Overview and Analysis" (*iPleaders*, November 25, 2019) <<https://blog.ipleaders.in/employees-compensation-act-1923-amazing-facts-to-know-about-it/>> accessed April 23, 2025

from unsafe workplace conditions during compensation qualification assessments.<sup>6</sup>

Various diseases that occur due to unregulated work environments using new technologies or advanced methods fail to meet the requirements of occupational diseases. Workers in information technology (IT) or call centers—which are expanding in India—are at high risk for mental strain and ergonomic complications that can cause repetitive strain injuries (RSI) and visual problems together with stress-related mental health complications. These conditions continue to increase in numbers yet Indian law does not identify them as occupational diseases. The lack of legal recognition creates serious problems for workers because they become vulnerable to their medical problems both physically and financially unable to seek proper compensation.

Correcting the employees' compensation system under the Act demands thorough changes because occupational diseases have evolved into complex conditions in modern work environments. State legislature must prioritize extending legal recognition to new occupational diseases which include mental health disorders from work and both fatigue syndrome and cancer types caused by work substance exposure. These diseases do not fit under the criteria of traditional industrial diseases yet cause similar serious health issues for workers so their exclusion from the Act results in inadequate legal safeguards<sup>7</sup>

### INTERNATIONAL FRAMEWORK AND COMPARISON

The international systems handle occupational diseases through a broader and flexible framework. The International Labour Organization (ILO) through Convention No. 121 defines occupational diseases in a wider scope under its framework. The ILO advocates that each nation must build complete occupational disease lists that extend from physical and chemical risks to biological along with ergonomic elements. This method recognizes both the emerging workplace challenges due to technological developments and changing workplaces and their corresponding new hazards. The ILO performs regular reviews of its occupational disease list which now incorporates three modern illness categories: those affecting computer workers and mental health and nanomaterial-caused diseases. India's definition through the Employees' Compensation Act functions inflexibly to restrict workers' ability to claim compensation for new workplace disorders that arise from their working environments.<sup>8</sup>

The European Union's Directive on the Protection of Workers from Risks Related to Exposure to Carcinogens or Mutagens at Work (Directive 2004/37/EC) delivers a full framework to handle occupational diseases regarding exposure to hazardous substances. Under Directive 2004/37/EC the EU member states must establish a more extensive range of recognized diseases that arise from harmful exposures such as asbestos and benzene and specific neurological and psychological conditions. The European framework establishes preventive procedures to protect workers from disease development while the Indian method shows insufficient attention to pre-disease protection.<sup>9</sup>

Indian law needs to perform a complete review of its occupational disease definitions because contemporary workplaces generate fresh medical risks that need legal protection.

Changes in various industries along with emerging risks require Indian labor laws to adapt accordingly. The schedule of diseases under Employees' Compensation Act should receive regular updates to include mental health disorders as well as ergonomic diseases and illnesses resulting from digital technology

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<sup>6</sup> Aig T, "Workers Compensation for Occupational Disease" (*Tata AIG General Insurance Company Limited*, January 15, 2025) <<https://www.tataaig.com/knowledge-center/workmen-compensation-insurance/workers-compensation-for-occupational-disease>> accessed April 23, 2025

<sup>7</sup> Bose A, "Aims and Objectives of the Employees Compensation Act and the Duties of Employers towards Employees - iPleaders" (*iPleaders*, August 7, 2021) <<https://blog.ipleaders.in/aims-objectives-employees-compensation-act-duties-employers-towards-employees/>> accessed April 23, 2025

<sup>8</sup> Kim, Eun-A., and Seong-Kyu Kang. "Historical review of the List of Occupational Diseases recommended by the International Labour organization (ILO)." *Annals of occupational and environmental medicine* 25 (2013) 1-10.

<sup>9</sup> Mandrioli, Daniele, Vivi Schlünssen, Balazs Adam, Robert A. Cohen, Claudio Colosio, Weihong Chen, Axel Fischer et al. "WHO/ILO work-related burden of disease and injury protocol for systematic reviews of occupational exposure to dusts and/or fibres and of the effect of occupational exposure to dusts and/or fibres on pneumoconiosis." (2018) *Environment international* 119 174-185.

exposure with specific mention of repetitive strain injuries and carpal tunnel syndrome since these conditions increasingly trouble workers in the expanding IT sector. Modern compensation laws need adjustments due to the emerging risks faced by contingent workers who perform delivery and driving roles because these occupational risks frequently lack proper coverage under current compensation systems. Expanding compensation eligibility should include the coverage of diseases that become apparent only years after employee exposure to harmful conditions. People working with harmful compounds like asbestos or lead develop health problems which can stay hidden for numerous years before showing up. Workplace disease diagnosis that occurs over a period of time creates difficulties for workers to link the illness to their occupational environment thus reducing their success in obtaining workplace compensation.<sup>10</sup>

### OCCUPATIONAL HEALTH LEGISLATION IN INDIA

Occupational health and safety in India is governed by a complex framework of legislation aimed at protecting the physical and mental well-being of workers across various sectors. Currently, there are around sixteen statutes that regulate aspects such as working hours, employment conditions, and safety at the workplace. Among them, two principal enactments—the Factories Act, 1948 and the Mines Act, 1952—form the cornerstone of occupational health and safety legislation. These laws, along with accompanying rules and guidelines issued under their authority, set out comprehensive provisions for ensuring safe working conditions, prevention of occupational diseases, and the health surveillance of employees.

The **Factories Act, 1948**, which applies to premises employing ten or more workers with power, or twenty or more without power, was significantly amended in 1987 to incorporate specific provisions concerning hazardous processes. Chapter IV of the Act deals with the health of workers and lays down norms relating to cleanliness (Section 11), disposal of waste and effluents (Section 12), ventilation and temperature (Section 13), dust and fume control (Section 14), artificial humidification (Section 15), and other health-related measures. The amendment introduced Sections 41A to 41H under Chapter IVA, dedicated to hazardous processes. These provisions mandate the compulsory disclosure of information by occupiers, pre-employment and periodic medical examinations, appointment of safety officers (Section 40B), and constitution of safety committees. The Factories Act also mandates that workers exposed to hazardous substances must undergo periodic medical checks and be informed about the risks involved.<sup>11</sup>

The **Mines Act, 1952**, along with the regulations made thereunder—such as the Mines Rules, 1955 and the Coal Mines Regulations, 2017—provides for the health, safety, and welfare of persons employed in mines. It imposes obligations on mine owners to provide adequate ventilation, dust suppression systems, and protective equipment. Sections 20 to 25 of the Act relate specifically to medical examinations, first-aid, and the provision of rest shelters. Notably, it also empowers the **Directorate General of Mines Safety (DGMS)** to enforce safety standards and investigate accidents.<sup>12</sup>

Occupational health in India is administered jointly by the **Ministry of Labour and Employment** and the **Ministry of Health and Family Welfare**. The former, through its departments in states and union territories, is primarily responsible for enforcing labour laws and workplace safety norms. The **Directorate General Factory Advice Service & Labour Institutes (DGFASLI)** provides technical support in the field of occupational health and safety in factories and ports. The DGMS performs a similar role in the mining sector.

On the other hand, the Ministry of Health and Family Welfare is tasked with providing healthcare services to workers, including the setting up of dispensaries, hospitals, and conducting health awareness programmes. Despite these legislative measures, the practical enforcement of occupational health standards remains uneven, particularly in unorganised sectors. There is a pressing need to harmonise existing laws and expand the legal framework to cover emerging industries and modern occupational

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<sup>10</sup> Labour, ILO Child, and Forced Marriage. "International Labour Organization." (Walk Free Foundation 2004).

<sup>11</sup> Saha, Rajat Kumar. "Occupational health in India." (2018) *Annals of global health* 84, no. 3 330.

<sup>12</sup> Mandal, Asish Kumar. "Strategies and policies deteriorate occupational health situation in India A review based on social determinant framework." (2009) *IJOEM* 13, no. 3 113-120.

risks, thereby ensuring comprehensive protection for all categories of workers in India.<sup>13</sup>

### CONSTITUTIONAL PROVISIONS AND OCCUPATIONAL HEALTH IN INDIA

The Constitution of India lays a strong foundation for the protection of workers' rights, particularly concerning their health, safety, and overall well-being. These constitutional mandates reflect the commitment of the Indian state to uphold social justice and human dignity in the workplace. Among the various provisions, Articles 24, 39(e) and (f), and 42 stand out for their direct relevance to occupational health and labour welfare. While these provisions fall under the Directive Principles of State Policy and Fundamental Rights, they collectively impose a moral and constitutional obligation on the State to ensure safe and humane working conditions for all citizens, particularly those engaged in manual or industrial labour.<sup>14</sup>

Article 24 of the Constitution prohibits the employment of children below the age of 14 years in any factory or mine or in any other hazardous employment. This fundamental right is aimed at safeguarding children from the physical and psychological harm that results from early entry into hazardous and exploitative labour conditions. In alignment with this constitutional mandate, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, as amended in 2016, prohibits the employment of children below 14 years in all occupations and processes, and adolescents (aged 14–18) in hazardous occupations. The Factories Act, 1948 also complements this by laying down restrictions on the employment of young persons and mandating medical fitness certificates for their employment.<sup>15</sup>

Article 39(e) and (f) under the Directive Principles of State Policy directs the State to ensure that the health and strength of workers, both men and women, are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. It further emphasizes the protection of children's health and development, advocating for opportunities and facilities to enable them to grow in a healthy manner and in conditions of freedom and dignity. These provisions underscore the importance of designing work policies and environments that are not exploitative, particularly in sectors involving hazardous labour, and are echoed in statutory laws such as the Mines Act, 1952 and the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, which mandate specific welfare and safety measures.

Article 42 mandates that the State shall make provision for securing just and humane conditions of work and for maternity relief. This provision forms the constitutional basis for numerous labour welfare laws, including the Maternity Benefit Act, 1961, which ensures paid maternity leave and protection from dismissal during maternity, and the Factories Act, 1948, which prescribes safe working conditions, rest intervals, and welfare amenities. It has also informed judicial interpretations, wherein the Supreme Court has held that the right to health and humane working conditions is an essential component of the right to life under Article 21.<sup>16</sup>

These constitutional provisions collectively reflect the vision of a welfare state where workers are not only seen as instruments of productivity but as human beings entitled to dignity, safety, and health.

They establish the groundwork for India's occupational health legislation and continue to inspire reforms aimed at improving the working conditions in both the formal and informal sectors.

### OCCUPATIONAL HEALTH STATISTICS IN INDIA: A CRITICAL ANALYSIS

Occupational health in India presents a complex and concerning landscape, characterized by significant underreporting, inadequate data collection, and systemic challenges. With a workforce exceeding 500 million, a substantial portion remains outside the purview of formal occupational health and safety (OHS) regulations, particularly those in the informal sector. Epidemiological estimates indicate approximately 36,700 annual fatalities, 18.3 million injuries, and 1.85 million cases of occupational diseases in India. These figures underscore the urgent need for comprehensive data collection and effective implementation

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<sup>13</sup> *ibid*

<sup>14</sup> Viswanath, Abhinav. "Critical Analysis of the Various Facets of Right to Health under Article 21 of the Constitution." (2023) *Indian J. Integrated Rsch. L.* 3 1.

<sup>15</sup> Mohanty, Aparajita, and Saksham Kumar. "Need for a National Health Legislation in India Constitutional Reform." (2021) *J. Legal Ethical & Regul. Isses* 24 1.

<sup>16</sup> Tyagi, Sarika, and Vaibhav Goel Bhartiya. "Right to health light of Constitution of India." (2024).

of OHS measures.<sup>17</sup>

Data from the Directorate General Factory Advice Service & Labour Institutes (DGFASLI) reveals that between 2017 and 2020, India reported an average of 1,109 deaths and over 4,000 injuries annually in registered factories. However, these statistics likely underrepresent the true extent of occupational hazards, as they exclude the vast informal sector, which employs about 90% of the workforce. The lack of comprehensive data hampers the development of targeted interventions and policies to address occupational health risks effectively.<sup>18</sup>

The informal sector's exclusion from formal OHS frameworks exacerbates the situation. Workers in this sector often lack access to basic health services, protective equipment, and awareness of occupational hazards. This gap in coverage not only endangers workers' health but also impedes the country's economic productivity. Moreover, the absence of a centralized registry for occupational diseases and injuries further complicates efforts to monitor and mitigate workplace health risks.

Recent initiatives by the Employees' State Insurance Corporation (ESIC) aim to address some of these challenges. The establishment of Occupational Disease Centers (ODCs) seeks to provide specialized healthcare services, including diagnosis, treatment, and rehabilitation for occupational diseases. These centers also focus on research and training to enhance occupational health awareness among workers and employers. While these efforts are commendable, their reach remains limited, and a more extensive, integrated approach is necessary to effect meaningful change. India's occupational health scenario necessitates urgent attention and action. Strengthening data collection mechanisms, expanding OHS coverage to the informal sector, and fostering collaboration between government agencies, employers, and workers are critical steps toward ensuring safer and healthier workplaces. By addressing these systemic issues, India can move toward a more equitable and productive labour environment.

#### **NATIONAL POLICY ON OCCUPATIONAL SAFETY, HEALTH AND ENVIRONMENT: A LEGAL OVERVIEW**

In February 2009, the Ministry of Labour and Employment, Government of India, formally adopted a comprehensive framework aimed at reinforcing the standards of "occupational safety, health, and environmental (OSHE) safeguards within Indian workplaces. This policy initiative was a significant step toward institutionalising a preventive and protective work culture, recognising the fundamental rights of all workers to a safe and health-compliant work setting. The core vision of the policy lies in promoting holistic workplace safety norms across all sectors, with shared responsibilities among employers, employees, and regulatory authorities. The policy not only enunciates general principles for the protection of workforce well-being but also sets out procedural and operational mechanisms for achieving its objectives. It seeks to establish a statutory and administrative ecosystem backed by sufficient technical infrastructure, capable human resources, and robust monitoring systems.

Furthermore, the policy encourages both tangible and intangible incentives to encourage compliance. These may include tax benefits, recognition schemes, or enhanced professional development avenues for entities and individuals who uphold occupational safety standards.<sup>19</sup>

Central to the policy is the formulation of an implementation action plan that specifies eight key strategic domains for intervention. These include: effective enforcement of existing occupational health laws; formulation and periodic review of national-level standards; ensuring systematic adherence to established norms; expanding outreach and sensitisation campaigns; fostering a research-friendly ecosystem; institutionalising structured skill-building programmes related to OSHE; and establishing transparent systems for data collection and analysis. The final objective is to create a knowledge-driven, risk-sensitive

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<sup>17</sup> Mohanaselvan, T., S. P. Singh, Adarsh Kumar, H. L. Kushwaha, Susheel Kumar Sarkar, and Pratibha Joshi. "Mechanization Level and Occupational Health Hazards in Sugarcane Cultivation in India." (2024) *Sugar Tech* 26, no. 2 432-445.

<sup>18</sup> Samanta, Sasmita, and Jyotiranjana Gochhayat. "Critique on occupational safety and health in construction sector An Indian perspective." (2023) *Materials Today Proceedings* 80 3016-3021.

<sup>19</sup> Karan, Anup, Himanshu Negandhi, Suhaib Hussain, Tomas Zapata, Dilip Mairembam, Hilde De Graeve, James Buchan, and Sanjay Zodpey. "Size, composition and distribution of health workforce in India why, and where to invest?." (2021) *Human resources for health* 19 1-14.

culture within India's vast and diverse labour market. An integral component of this framework is the principle of tripartism, whereby the central government undertakes policy implementation in close collaboration with representatives from workers' unions, employers' associations, and civil society. This collective approach strengthens accountability and fosters a participatory culture in policy execution. Moreover, the government has expressed a commitment to leveraging technical, financial, and human resources across public and private sectors to ensure the policy achieves measurable results.<sup>20</sup>

As per the guidelines, the national policy promotes goal-setting by all stakeholders and calls for demonstrable commitment through institutional mechanisms. These include the establishment of dedicated OSHE committees, mandatory safety audits, health impact assessments, and capacity-building through certified training modules. In doing so, the policy integrates health and safety goals with the larger developmental agenda of the nation, affirming that economic growth must not come at the cost of human welfare.

To ensure that the policy remains effective and relevant in the face of changing industrial landscapes and emerging occupational hazards, a periodic review mechanism has been embedded within the framework. An initial situational analysis was conducted prior to policy formulation to ascertain the state of workplace safety and environmental compliance across sectors. It was also decided that follow-up evaluations would take place at five-year intervals, allowing for mid-course corrections and policy recalibration based on real-time feedback and new data.

Support for policy development and subsequent review was drawn from multiple government publications and expert committee recommendations, particularly those made by the working groups on occupational safety and health under India's Eleventh and Twelfth Five-Year Plans. These reports provided detailed insights into sector-wise vulnerabilities and helped in designing policy instruments tailored to the needs of high-risk occupations, including those in construction, mining, and manufacturing.

Quantitative data emerging during the period from 2003 to 2007 highlighted several trends that underpinned the urgency for a national OSHE policy. For instance, there was a substantial increase in the number of registered factories, rising from approximately 4.92 million to 8.02 million workers in daily employment—a surge of nearly 46%. While this expansion reflected industrial growth, it also brought to the fore the pressing need for enhanced safety mechanisms. Interestingly, while the overall number of non-fatal injuries witnessed a slight reduction of about 7%, the number of fatal incidents escalated from 525 to 821. This anomaly indicated that while minor injuries may have been addressed more effectively, systemic issues leading to serious accidents had not been adequately tackled.<sup>21</sup>

In the context of port operations—an area often vulnerable to operational hazards—the number of reported accidents showed a marked decline. The number of such incidents fell from 191 in 2003 to 158 in 2007, reflecting an approximate reduction of 17%. More encouraging was the decrease in fatal accidents within ports during the same timeline, which dropped from 29 to 23—a decline of nearly 20%. These figures, though positive, were still insufficient to draw firm conclusions in the absence of more consistent and current five-year review data.

Despite the ambitious scope of the policy, a significant challenge remains in the form of weak documentation and reporting mechanisms, especially from sectors operating in the informal economy. Large swathes of India's labour force still work in environments where basic occupational safety standards are absent, and even where regulations exist, enforcement is often sporadic and under-resourced.

#### **NATIONAL PROGRAMME FOR CONTROL AND TREATMENT OF OCCUPATIONAL DISEASES**

The National Programme for Control and Treatment of Occupational Diseases (NPC&TOD) was initiated by the Ministry of Health and Family Welfare, Government of India, in 1998–99, recognizing the significant burden of occupational diseases on the workforce. This programme aims to prevent,

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<sup>20</sup> Chelak, Khushbu, and Swarupa Chakole. "The role of social determinants of health in promoting health equality a narrative review." (2023) *Cureus* 15, no. 1.

<sup>21</sup> Coppée, Georges H. "International Cooperation in Occupational Health The Role of International Organizations." (1995) *IJOEH* 1, no. 2 200-210.

control, and treat occupational diseases prevalent among workers across various industries. The National Institute of Occupational Health (NIOH) in Ahmedabad, under the Indian Council of Medical Research (ICMR), serves as the nodal agency for implementing this programme.

Occupational diseases in India encompass a wide range of health issues, including occupational lung diseases (such as silicosis and asbestosis), occupational cancers, dermatoses, infections, toxicological conditions, and mental disorders. These conditions arise from various etiological factors like chemical exposures (dust, gases, acids, alkalis, metals), physical agents (noise, heat, radiation), biological agents, ergonomic stressors, and psychosocial factors.

**The NPC&TOD has outlined several key research and intervention projects to address these occupational health challenges:**

1. **Silicosis and Silico-tuberculosis in the Agate Industry:** Focused on prevention, control, and treatment strategies for workers in the agate industry, who are at high risk due to silica dust exposure.
2. **Occupational Health of Tobacco Harvesters:** Investigating health problems among tobacco harvesters and developing preventive measures.
3. **Hazardous Processes and Chemicals:** Creating databases, documentation, and disseminating information on hazardous processes and chemicals to inform safety protocols.
4. **Capacity Building:** Enhancing research, education, and training capabilities at the National Institute of Occupational Health to better address occupational health issues.
5. **Health Risk Assessment in Cottage Industries:** Developing intervention programmes for cottage industries with high silicosis risk, aiming to mitigate health hazards.
6. **Occupational Health Hazards among Salt Workers:** Implementing prevention and control measures for salt workers in the remote desert areas of Gujarat and Western Rajasthan.

Despite these initiatives, the programme faces several challenges. Occupational health has historically received low priority in India's public health agenda, leading to inadequate focus and resource allocation. There is a need for greater collaboration across sectors to effectively address occupational health issues. Additionally, enforcement of occupational safety standards remains weak, and there is a lack of comprehensive data on occupational diseases, hindering effective policy-making and intervention. To enhance the effectiveness of the NPC&TOD, it is crucial to integrate occupational health more prominently into national health policies and programmes.

This includes strengthening the enforcement of existing occupational safety laws, improving surveillance and data collection on occupational diseases, and increasing awareness and education among workers and employers about occupational health risks and prevention strategies. Furthermore, expanding the reach of occupational health services to cover informal and unorganized sectors, where a significant portion of the workforce is employed, is essential for comprehensive occupational health coverage.

#### **NATIONAL LIST OF OCCUPATIONAL DISEASES IN INDIA**

In India, the recognition and compensation for occupational diseases are primarily governed by the Employees' Compensation Act, 1923 (formerly known as the Workmen's Compensation Act). A pivotal component of this Act is Schedule III, which enumerates specific occupational diseases deemed to arise out of and in the course of employment. This schedule serves as a legal benchmark for determining employer liability and facilitating compensation claims for affected workers.

Schedule III is systematically divided into three parts—A, B, and C—each delineating diseases associated with particular occupational exposures and stipulating the conditions under which compensation is applicable.

**Part A** encompasses diseases that are considered occupational hazards due to specific work environments. For instance, it includes infectious and parasitic diseases contracted in occupations with a particular risk of contamination, such as health or laboratory work, veterinary work, and handling animals or animal carcasses. Additionally, it lists diseases caused by work in compressed air environments.

**Part B** addresses diseases that require a minimum period of exposure before being deemed compensable. This includes conditions like poisoning by lead or its toxic compounds, phosphorus, mercury, and manganese, as well as diseases caused by nitrous fumes and carbon disulphide. The Act specifies that for these diseases, the employee must have been employed in the relevant occupation for a continuous period of not less than six months.

**Part C** covers diseases that may develop over a longer duration and are associated with prolonged exposure. This includes conditions such as silicosis, asbestosis, and bagassosis. The Central Government is empowered to specify the continuous period of employment required for these diseases to be considered occupational and thus compensable.

The legal framework stipulates that if an employee contracts a disease listed in Schedule III under the specified conditions, it is presumed to be an injury by accident arising out of employment, thereby entitling the employee to compensation. This presumption eases the burden of proof on the employee, facilitating access to compensation.

However, the current list in Schedule III has been critiqued for not encompassing the full spectrum of occupational diseases prevalent in modern work environments. Emerging occupational health issues, such as repetitive strain injuries, mental health disorders due to workplace stress, and diseases resulting from exposure to new industrial chemicals, are not adequately represented. This gap underscores the need for periodic revision of the schedule to reflect contemporary occupational health challenges.

Furthermore, the enforcement of these provisions faces challenges, including lack of awareness among workers about their rights, inadequate reporting mechanisms, and limited access to occupational health services. To enhance the efficacy of the Employees' Compensation Act, it is imperative to update Schedule III regularly, strengthen enforcement mechanisms, and improve awareness and access to occupational health care. While Schedule III of the Employees' Compensation Act, 1923, provides a foundational framework for recognizing and compensating occupational diseases in India, there is a pressing need to modernize and expand this list to encompass the evolving landscape of occupational health risks. Such reforms would ensure comprehensive protection for workers and uphold their right to a safe and healthy working environment.<sup>22</sup>

The Workmen's Compensation Act, 1923, has four chapters and the following schedules: Schedule I, Parts 1 (list of injuries deemed to result in permanent total disablement) and 2 (list of injuries deemed to result in permanent partial disablement), Schedule II (list of persons who are included in the definition of workmen) and Schedule III (list of occupational diseases) [9]. As per Chapter II, Workmen's Compensation, clause 3, Employer's liability for compensation, (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter.

If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified as an occupational disease related to that employment or if a workman has been employed for a period of not less than six months in any employment specified in Part B of Schedule III contracts any disease specified in Part C of Schedule III for such period as the Central Government may specify, the disease shall be recognised as injury by accident and the accident shall be deemed to have arisen in the course of the employment.<sup>23</sup>

Amount of compensation (1) Subject to the provisions of this Act the amount of compensation shall be as follows namely: where death results from the injury an amount equal to fifty per cent of the monthly wages of the deceased workman multiplied by the relevant factor; or an amount of fifty thousand rupees whichever is more; where permanent total disablement results from the injury an amount equal to sixty per cent of 5 monthly wages of the injured workman multiplied by the relevant factor; or an amount of sixty thousand rupees whichever is more.

#### **DETAILED ANALYSIS OF THE EMPLOYEES' COMPENSATION ACT, 1923 AND ITS REGULATION IN RELATION TO OCCUPATIONAL DISEASES**

The **Employees' Compensation Act, 1923** (formerly known as the Workmen's Compensation Act, 1923) is a crucial piece of legislation that provides for the compensation of employees who suffer from injuries or diseases sustained during the course of their employment. Originally enacted to safeguard workers' rights, the Act continues to play an important role in protecting employees across various sectors. The law outlines the rights of employees who suffer occupational injuries or diseases and aims to ensure that

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<sup>22</sup> LaDou, Joseph. "International occupational health." (2003) *IJHEH* 206, no. 4-5 303-313.

<sup>23</sup> Zanko, Michael, and Patrick Dawson. "Occupational health and safety management in organizations A review." (2012) *IJMR* 14, no. 3 328-344.

they are provided with financial support in case of incapacity, permanent disability, or death due to such work-related conditions.

The **Employees' Compensation Act, 1923**, under Section 3, mandates that an employer shall be liable to pay compensation if an employee suffers a personal injury by accident arising out of and in the course of employment. Section 2(1)(n) defines 'personal injury' as including an injury caused by a disease arising from employment. The Act applies to all industries, from manufacturing to construction, mining, and even some parts of the informal sector. The key purpose of the Act is to provide financial support to workers who have been injured or who suffer from diseases directly linked to their work environment.

#### **Occupational Disease under the Employees' Compensation Act, 1923**

The Act recognizes the unique nature of occupational diseases, which are ailments that arise due to the conditions of work in certain industries. These diseases may have a latent period, making it difficult for employees to immediately connect their health problems to their job. The Act defines 'occupational diseases' through its regulations, under the **Employees' Compensation (Amendment) Act, 2010**, which includes a list of diseases specifically linked to hazardous occupations.

However, the statutory recognition of occupational diseases under the Act is limited, and certain diseases that are not explicitly mentioned may be excluded, leaving workers without compensation in some cases.<sup>24</sup> Occupational diseases typically include conditions like respiratory disorders (due to exposure to dust, asbestos, or chemicals), cancers, skin diseases, and neurological disorders, among others. These diseases, unlike injuries, often take years to develop, which creates a unique challenge for workers seeking compensation.

Under **Section 3(1) of the Employees' Compensation Act, 1923**, the employer is liable to pay compensation in the event of a worker contracting an occupational disease, provided that the disease is one that is listed in the statutory regulations. If the disease is not listed, employees may still need to demonstrate a direct link between the disease and the nature of the employment, which can often be a complex and cumbersome process. In such cases, the **burden of proof** lies heavily on the worker, who may need to present substantial medical evidence to support their claim.<sup>25</sup>

The Employees' Compensation Act includes specific provisions related to occupational diseases under Section 3(2), where the Act stipulates the nature of diseases that are work-related and establishes compensation mechanisms. According to the Employees' Compensation (Amendment) Act, 2010, the Occupational Diseases List was expanded, providing better recognition of diseases caused by exposure to industrial hazards. However, the list of diseases recognized under the law is still limited. Many diseases that arise from modern or emerging industries are not yet covered under the Act.

For instance, diseases such as lung cancer, chronic obstructive pulmonary disease (COPD), and other respiratory ailments are often found in industries like mining, construction, textiles, and chemicals. However, these diseases are only compensable under the Act if they are listed in the statutory regulations. If a disease is not on the list, workers face difficulty in proving that their disease was caused by the nature of their work.

This limited scope of regulation leaves many workers unprotected, especially those involved in industries with newer or less recognized occupational risks, such as IT sector employees exposed to prolonged screen time or workers in biotechnology industries who may suffer from unforeseen health complications.

The compensation provisions under the Employees' Compensation Act are aimed at providing financial support to workers who suffer from workplace injuries or diseases. The amount of compensation depends on the severity of the injury, the nature of the disease, and the wages of the affected employee.

#### **In cases of occupational diseases, the following compensation amounts are provided:**

1. **Death (Resulting from an Occupational Disease):** If the worker dies as a result of an occupational disease, the dependent family members are entitled to compensation. The compensation is calculated based on the wages of the deceased employee and the number of dependents.

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<sup>24</sup> Vijayaraghavan, L. "Labor Standards and the Workmen's Compensation Act A Study of Indian Law and Cases." (2009) *ICFAI Journal of Employment Law* 7, no. 1.

<sup>25</sup> Virat, Srishti, and Budh Ankur. "The Employee's Compensation Act, 1923 & Code on Social Security." (2023) *Issue 3 Int'l JL Mgmt. & Human.* 6 785.

2. **Permanent Total Disablement (Due to Occupational Disease):** If the worker suffers from an occupational disease that results in permanent total disablement, the compensation is calculated based on the wages of the worker and the percentage of disablement.
3. **Temporary Total Disablement (Due to Occupational Disease):** If the worker is temporarily disabled due to an occupational disease, compensation is provided as a percentage of the wages of the worker, based on the duration of disablement.
4. **Permanent Partial Disablement (Due to Occupational Disease):** If the worker suffers permanent partial disablement due to an occupational disease, compensation is provided based on the percentage of disability and the wages of the worker.

**Table:** Types of Compensation and the Amount under the Act

Type of Compensation	Amount of Compensation
Death	50% of the monthly wages, with a minimum of ₹120,000, plus additional for dependents
Permanent Total Disablement	60% of monthly wages multiplied by the number of years of the worker's expected life, subject to a maximum of ₹1,20,000
Temporary Total Disablement	25% of the monthly wages, for a period of disablement or up to 3 years
Permanent Partial Disablement	Percentage of total disablement multiplied by the compensation for total disablement
Total Maximum Compensation	₹1,20,000 (for death and permanent total disablement)

#### INTERNATIONAL PERSPECTIVE ON OCCUPATIONAL DISEASE COMPENSATION

On the international front, the 'International Labour Organization' (ILO) has been a driving force in establishing frameworks that ensure fair compensation for workers suffering from occupational diseases and injuries. The ILO Convention No. 121 on Employment Injuries Benefits serves as one of the cornerstones of international labour standards concerning the protection of workers in case of work-related health issues, including both injuries and occupational diseases. This convention provides a structured approach to ensure that workers who face health issues due to their work environment are not left financially vulnerable. The Convention calls for the provision of adequate compensation to cover not only the immediate medical expenses but also the rehabilitation and income loss due to the incapacity caused by work-related injuries or diseases.<sup>26</sup>

Convention No. 121 emphasizes that compensation must be comprehensive, addressing all aspects of a worker's recovery process. This includes covering the cost of medical treatment, providing for the worker during their temporary or permanent disablement, and ensuring that any income lost due to an inability to work is compensated. The Convention also advocates for providing benefits to the families of workers who suffer permanent impairment or who die as a result of work-related diseases or injuries. By promoting a comprehensive compensation system, the ILO seeks to alleviate the financial burden faced by workers and their families, particularly in the context of long-term or life-threatening occupational diseases that may require ongoing treatment and support.<sup>27</sup>

The core principle underlying the ILO's stance is the social protection of workers. The ILO's Social Protection Floors Recommendation (No. 202) also ties into this objective, calling for governments to ensure that social protection systems, including those related to occupational disease compensation, cover a wide array of contingencies, such as health risks, accidents, and long-term disability. This not only supports the immediate needs of workers who have been diagnosed with an occupational disease but also

<sup>26</sup> Emile Tompa et al, "Economic burden of work injuries and diseases a framework and application in five European Union countries" (2020) 20 BMC Public Health <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-020-10050-7>.

<sup>27</sup> Michael G Faure, "Compensation for Occupational Diseases and the Importance of Prevention A Law and Economics Perspective" (2007) 9(2) European Journal of Social Security 115 <https://journals.sagepub.com/doi/10.1177/138826270700900202>.

facilitates their reintegration into the workforce when possible.

The ILO's approach emphasizes not just financial compensation but also the provision of rehabilitation services, including vocational training and psychological support, to help workers regain their quality of life after suffering from work-related illnesses.

In the European Union (EU), the approach to occupational disease compensation is aligned with ILO standards, but with additional emphasis on preventative measures and workplace safety. The Directive 89/391/EEC, known as the Framework Directive on Safety and Health at Work, sets out the obligations of employers to provide a safe and healthy working environment. This directive lays down measures to prevent workers from being exposed to health risks in the first place, which could lead to occupational diseases such as respiratory illnesses, cancers, or musculoskeletal disorders. The directive encourages risk assessments and the adoption of safety measures tailored to different work environments to minimize the potential for occupational diseases.<sup>28</sup>

The EU's legal framework on occupational diseases is comprehensive and focuses on the primary prevention of workplace hazards. It places the responsibility on employers to take appropriate actions to protect workers from unsafe conditions, including the use of safety equipment, regular medical checks, and the implementation of health and safety programs. The EU laws also promote worker participation, allowing employees to have a voice in health and safety matters in their workplace. These measures aim to reduce the incidence of occupational diseases, and when diseases do occur, the EU ensures that workers receive timely and adequate compensation.<sup>29</sup>

Both the ILO and the EU recognize the interconnectedness of preventing occupational diseases and providing appropriate compensation. They advocate for preventative health measures in workplaces to protect workers from exposure to harmful substances or unsafe working conditions, as well as comprehensive compensation schemes for those who are impacted. However, while the ILO Convention No. 121 focuses primarily on the compensation aspect, the EU directives balance between prevention and compensation, emphasizing that employers have a duty to safeguard the health and safety of their workers from the outset.

## CONCLUSION

Occupational diseases pose a serious yet often overlooked threat to the health, dignity, and economic stability of India's vast workforce. Despite the existence of the Employees' Compensation Act, 1923, which was a pioneering step towards ensuring social security for injured or ill workers, the legislation today remains inadequately equipped to address the multifaceted and evolving nature of occupational health hazards. The outdated and narrow scope of Schedule III fails to recognize several modern work-related ailments such as mental health disorders, ergonomic injuries, and cancers from long-term exposure to industrial toxins or digital strain. As a result, a significant number of affected workers are denied rightful compensation due to the law's inability to reflect contemporary industrial realities.

The challenges are compounded by procedural delays, lack of awareness, burdensome proof requirements, and the exclusion of informal sector workers from compensation frameworks. This reflects a systemic disconnect between legislative intent and implementation. Furthermore, international frameworks such as the ILO Convention No. 121 and EU directives highlight India's relative lag in updating its occupational disease recognition and compensation standards.

To rectify this, urgent legislative reform is essential. This includes revising Schedule III to include emerging occupational diseases, simplifying compensation procedures, extending legal protections to informal sector workers, and strengthening awareness campaigns.

Moreover, improved data collection, establishment of dedicated occupational health centers, and inter-

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<sup>28</sup> "Disparities in occupational health services an international comparative study" (2023) *Journal of Occupational Medicine and Toxicology* <https://occup-med.biomedcentral.com/articles/10.1186/s12995-023-00386-2>.

<sup>29</sup> "Workers" experiences with compensated sick leave due to musculoskeletal disorder a qualitative study" (2014) 26 *Annals of Occupational and Environmental Medicine* 33 <https://aoemj.biomedcentral.com/articles/10.1186/s40557-014-0033-0>.

ministerial coordination are necessary to ensure timely diagnosis, treatment, and redressal.

Ultimately, protecting workers from occupational diseases and ensuring fair compensation is not only a legal obligation but a constitutional mandate under Articles 21, 39, and 42, which guarantee the right to health, just working conditions, and human dignity. Failing to modernize and enforce these rights perpetuates social injustice. A responsive and inclusive occupational health framework is critical to building a safer, healthier, and more equitable workforce for India's future.

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