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A detailed study of liability of employer and right of workmen under workmen compensation Act, 1923

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Abstract
This research attempts to define the word "accident arising out of and in the course of employment" as used in Section 3(l) of the Workmen's Compensation Act of 1923, which lays the groundwork for compensable injuries. In the field of social security legislation, the research will attempt to assess legislative provisions, legal judgments, and other legal materials in terms of their impact on the maintenance of social requirements and needs. The current debate also concerns whether injuries received by an employee on his way to or from work fall within the meaning of the terms "arise out of," and "in the course of" employment as used in workmen's compensation laws. This research work, titled "A detailed study of employer liability and workmen's rights under the Workmen Compensation Act, 1923" has been completed utilizing descriptive, interpretative, analytical, and comparative methodologies. For the legal study, the researcher used a doctrinal approach.

Keywords: Arise out of, workmen compensation Act, employer's liability, in the course of, Compensation

Introduction
Compensation entails, in its most literal definition, something done or provided to make up for losses, troubles, and so on. In any society, an employee must be safeguarded against certain potential risks that his or her job exposes him or her to and that he or she cannot provide with his or her own resources or capabilities. "This guarantee usually comes as compensation; it is a guarantee against job hazards. The Compensation Act of the employee, 1923 was one of the initial acts to provide for employee compensation. The principle which governs compensation was put down seen in the case of *Danjee* v. *Maung Hia Seen* [1]. "
Furthermore, compensation under labour law should not be equated to damages awarded in tort cases, because no compensation is available in tort cases for "*volenti non-fit injuria*," "*inevitable accident*," "contributory negligence," or "employee negligence." In addition, "the major goal of payment of damage was explained in the case of *Raj Kumar vs. Ajay Kumar* [2] as to compensate the actual loss incurred because of any wrongdoing to the degree that money may be paid in a just, reasonable and fairway."
Any form of supposition about the nature of impairment and its effects, on the other hand, maybe unavoidably unavoidable by the Court or Tribunal, which must objectively examine damages while excluding all assumptions or imagination. It has also been determined that a person's physical harm and losses as a result of an injury must be compensated. It means that the person must be compensated for his inability to live a normal life and to take advantage of the same regular amenities that he had before the injury, as well as for his loss of wages.
The Indian government realized in 1921 that, despite universal support for the basic principle of worker compensation, India was the only civilized nation without such legislation, and a proposal for compensation legislation was proposed. The plan was endorsed by the majority of municipal governments, as well as business and employee groups.
The Employees Compensation Act of 1923 was amended in 2009, and the Workmen's Compensation Act of 1923 was renamed the Employees Compensation Act of 1923. The major purpose of this Act, which is based on the British model, is to ensure that employees receive adequate employer remuneration for the risks of employment they experience. The Act's paragraph 3 specifies the conditions under which an employer is obligated to provide pay to an employee. First and foremost, the employee must have experienced personal damage. Personal injuries can encompass not just physical harm, but also mental harm or unusual circumstances. In "*Indian News Chronicle v. Ms. Lazarus* [3], an employee was killed by pneumonia as a consequence of the frequent transfer from heating to a refrigeration plant.

It was held that the effect of the temperature changes was not physical damage, but stress. Personal injury was considered in this case much beyond physical injury. In this connection, it is also crucial to highlight that an employer may be held responsible for occupational illnesses."

Following that, an accident must occur, resulting in an injury. An accident can refer to any unanticipated event or occurrence produced by an act that was not foreseeable. Unintentionality is the most important part of this. In the case of the "*Sungarbai v. Ordinance Factory* [4], accidents were claimed not only an exterior incident, but also can occur inside a person, and accident and injury, as was the case for heart failure, are considered to coincide in such times."

Thirdly, "the accident caused by the employee should arise out of and in the course of employment. As with *Ravuri Kotayya vs. Dasari Nagavardhanamma* [5], it had been agreed that the employee had to do his responsibilities and his duties had to make him appear there and, more significantly, there must have been a direct relationship between the act and his tasks, and that act must not be remote."

Judicial Interpretation of the Scope of the Phrase "Accident Arising Out of Employment"

The phrase "accident arising out of employment refers to work as an immediate cause or origins of the event without any dispute. The problem comes when an attempt is made to see whether or not an accident that results in the harm of a worker under certain circumstances or a specific circumstance, is the result of a worker's employment or otherwise. Once it has been found that the worker's job is the cause of the accident, the accident is arising out of employment. Once the cause of an injury is established by the worker's job, the accident is one resulting out of employment." Although there is no general theory for determining whether or not an accident happens as a result of employment, these variables can usually be considered.

Causal Connection

The word "out of" establishes and emphasizes a cause-and-effect relationship between employment and the accident. The first, which is the worker's employment, is the cause, while the second, which is the accident, is the result. When the accident's cause and work are linked, the accident is attributed to the workplace. This causal relationship could take numerous forms. It could be direct, physical, and close, but it's more likely to be indirect, abstract, and distant.

Direct and Indirect Causes

It is not necessary for the immediate and tangible reason to constantly be present. Depending on the circumstances, even the indirect and abstract cause may be sufficient. "*Upton v. G. C. Ry Co.* [6] is an operator who, while entering a train and maintaining his regular task when moving from one terminal to another terminal, slid into the railway platform, where the cause of the damage was both direct as well as physical. A series of decisions have evolved from work, even because of the indirect causal link between the jobs and accidents."

In the instance of the *Upton case* [7], A foreman worker was despatched by the employer to repair a watercourse by railway from point A to point B. After his shift, the foreman headed to the station in B to catch the train back to location A. He slid and fell hurriedly on the railroad as the train arrived because the day was rainy and windy. As a result of his injuries, he passed away. Even though his job and the accident had a clear causal connection, because his employees were not directly adjoined by the threat of an accident on the platform, but were, on the other hand, public in common, the House of Lords maintained that the accident was caused by their work.

The Indian high courts, for the most part, shared this viewpoint. The appellant used Vinayak for carpentry in *Trustees Port Bombay v. Tamunabai* [8]. He worked at a table that was similar to other tables that would be used by other workers. One day, as he walked to his workshop and sat at his table to do his job, a bomb went off. As a result of the incident, As a result of the incident, Vinayak was injured. He was taken to the hospital and died the same night. He had been hurt. The commissioner found in favor of the plaintiff, and compensation was awarded. "Mr. Justice Dixit of the High Court in Bombay believed on appeal that the phrase out of communicated, based on a stringent and literal reading, the concept that some type of link must be shown between employability and harm, but held: *the words, 'arising out of his employment are wide enough to cover a case, where there may not necessarily be a direct connection between the injury caused as a result of an accident and the employment of the workman. And there may be circumstances attending the employment, which would go to show that the workman received a personal injury as a result of the accident arising out of his employment* [9]."

Proximate or Remote Causes

If an employer is the most likely cause of an accident, it is asserted that the accident occurred as a result of the workers' employment (the further causes are not to be taken into account at all). "The High Court of Bombay went further in the implementation of the proximate cause concept *in Bagubai v. Central Railway*. A workman used by the railway as a mukadam was only able to reach the station from his quarter via the train station compound. At night at midnight, as he just left his section to join his duties, some unidentified individual attacked him. Chief Justice Chagla noted the following: it is clear that there must be a causal connexion between the accident and the employment in order that the Court can say that the accident arose out of the employment of the deceased. It is equally clear that the cause contemplated is the proximate cause and not any remote [10]."

Injuries Inherent to Employment

The accident that occurs outside of the workplace involves injuries that are either inherent or incidental to the job. According to Chief Justice Chagla of the Bombay High Court, a worker's risk of injury must not be personal to him, rather his profession must be incidental [13]. "And as per Judge Macklin of the Bombay High Court: *for an accident to arise out of any particular employment the risk of such an accident must to a greater or lesser degree have been inherent in the employment before the accident occurred* [12]."

Time and Place

The importance of time and place of work in determining "accident arising out of employment" has been

demonstrated in some cases. In *Tamunabai, Port Bombay v. Mr. Justice Dixit*, for example, the phrase "employment" was discovered, which was wide enough to encompass both time and location.

However, this should no longer be taken into account, as most workplace accidents occur within a worker's normal working hours and are easily addressed as a result of his employment. The notion that all incidents that occur at the time and place of employment are caused by jobs is not admissible as a legal proposal we also cannot conclude that an accident that does not happen at the worker's workplace or at his preferred time is not an accident caused by his work. "Lord Parmoor's following comment shows the full breadth of the relevance of time and place: *it appears to me to be reasonably clear, and in accordance with the ordinary natural meaning of the language of the statute to hold, that if the conditions of his employment oblige a workman to work in a particular building or position which exposes him at the time and on the occasion of the accident to the injury for which compensation is claimed, then, although the accident is not consequent on and has no causal relation to the work on which the workman is employed, such accident arises out of his employment, as incident, not to the character of the work but to the dangers and risks of the particular building or position in which by the conditions of his employment he is obliged to work* [13]."

Doctrine of *Added Peril*

Workers are periodically hired to perform tasks in ways that are either unjustified or likely to raise the risk of the job. If there is only one way to conduct a work and the employee is wounded while doing it, both "in the course of" and "out of" the injury will be declared to have occurred. On the other hand, if the task may be completed in a number of ways, the worker should choose the least hazardous option. That is, if the worker suffers harm as a result of the higher risk, he should have no right to pick a riskier strategy, putting his job in jeopardy, and then claiming compensation. "When a worker takes responsibility in his own right at the time of the accident, he is not considered to have been hired or entitled to perform the accident. In *Plumb case* Lord Dunedin ruled the job is not an accident if the worker takes on the responsibilities he is not allowed to carry out at the time of the accident [14]. The theory of further threat was ruled defense in respect of *Devidayal Ralyaram v. Secretary of State* [15] as well as the employer was not responsible for compensation."

Concept of "*In the Course of Employment*"

The phrase "in the course of the work" refers to the work that the worker is supposed to undertake and is related to it. The reach of the sentence "in the course of employment" is determined by the notional extension doctrine. In theory, a worker's job begins when he arrives at the job site and ends when he leaves. It is prohibited to travel to and from work. However, according to the concept of notional extension, legitimate expansions of time and place of employment may exist, and a worker may be considered to have entered or exited his employer's premises during his job. Time and space have been theoretically extended for entering and exiting the workplace. The scope of this extension is unavoidably limited by the facts of a specific case. Time and space have been theoretically extended for entering and exiting the workplace. The scope of this extension is unavoidably limited by the facts of a specific case.

"The general manager of B. E. S. T. Undertaking Bombay v. Mary Agnes [16], owned a number of busses and hired personnel, even including bus drivers, for the operation of that service. The public utility transport service is managed by the Municipal Corporation. The late driver completed the day's job. After leaving the coach at the depot, he took another coach to his home. The bus hit a parked truck. Bus. After the incident, he had been threatened and wounded on the road. He died in hospital thereafter. His widow requested compensation from the Court of Justice. The Supreme Court noted that the company offers a bus to pick all drivers from their homes in light of the large distances to be traveled by the employees and so that they might arrive at their stores on time as well as take them home after day's work. This facility is offered as a right, as service efficiency requires it. The Court noted the following:"

"The employment does not necessarily end when the down tool signal is given or when the workman leaves the actual workshop where he is working. There is a notional extension at both the entry and exit by time and space. The scope of such extension must necessarily depend on the circumstances of a given case. The doctrine of notional extension of employment developed in the context of specific workshops, factories or harbors, equally applies to such a bus service which provided to employees to get to the job on time and reach their home without further strain contributing to their overall efficiency. The bus service is used as a privilege and matter of right. Their workplace gets notionally extended by virtue of this service [17]. *"*

The Supreme Court ruled that any accident involving a driver riding the bus to the plant or warehouse constituted an accident while on the work.

Conclusion

The time and place of work, as well as the worker's duty to determine that the accident occurred "in the course of his employment," have all been factored into judicial judgments. If a worker is injured while performing his tasks in a certain area, there is no problem; but, a problem may arise if all of the factors, such as time, place, and duty, do not match. It was suggested that the duty should not be viewed as a key part in the strict sense for the following reasons: The Workers Compensation Act, 1923 became the first piece of social law to relieve wounded workers. Millions of workers will be orphaned if the requirement becomes a deciding factor, and the purpose of the legislation will be deregulated. Second, the legislative provisions of the Workmen's Compensation Act of 1923 stipulate that unless the defining clause is construed liberally, the employees will face increased difficulties and risk. It was suggested that the duty should not be viewed as a key part in the strict sense for the following reasons: The Workers Compensation Act, 1923 became the first piece of social law. Thirdly, the two Acts' programme is designed to cover empolistic harm, illness benefits, disability benefits, retired person benefits, medical benefits, funeral benefits, and accidental compensation. Furthermore, the Act distinguishes between partial disability, entire temporary disability, and permanent disability. If the emphasis is placed on the concept of duty, the importance and purpose of the social law system are ruled out.

Furthermore, in a number of cases, the courts held the two considerations of time and location to be significant in this regard. The historical growth of social security legislation, as well as the definitions of the terms “arising out” and “in the course of employment,” clearly demonstrate that the primary goal of the Worker's Compensation Act, 1923 was to provide safety aid to injured workers.

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