CHAPTER IV

ADMINISTRATION OF BENEFITS

The Employees' State Insurance Act provides various types of benefits to the insured persons or as the case may be, to their dependents on the happening of certain contingencies. This chapter deals mainly with the provisions which regulate the various aspects concerning the eligibility, administration, rates, period, payments etc. Broadly speaking the following benefits have been vouchsafed to the insured persons:

1. TYPES OF BENEFITS

(a) Cash Benefits - consisting of

(1) Sickness benefit; Extended sickness benefit and Enhanced sickness benefit for family planning.

(2) Maternity Benefit;

(3) Disablement benefit;

(4) Dependents' benefit; and

(5) Funeral benefit. ¹

(b) Benefits in kind - Medical benefits.

Apart to above statutory benefits, the scheme also provides for the following additional benefits.

¹ ESI (Amendment) Act, 1966 provides for this benefit. Detailed provisions are discussed in this chapter under 'Funeral Benefit'.
(a) artificial limbs
(b) supply of hearing aids, spectacles and dentures.
(c) additional maternity benefit;
(d) family medical care;
(e) remittance of cash benefits by money-order at the cost of Corporation; and
(f) payment of conveyance charges or compensation for loss of wages to insured persons called to appear before a Medical Board or Referee.

Additional benefits have been discussed in this chapter at appropriate places along with the aforesaid statutory benefits.

(a) CASH BENEFITS

The Employee State Insurance Scheme was put into force on February 24, 1952 and the cash benefits began to operate from November 23, 1952. Cash benefits in fact constitute the backbone of the Scheme. Originally, the scheme afforded cash benefits in the event of sickness, maternity, disablement and death due to employment injury. Funeral Benefit has been provided by the Amendment Act of 1966. A sick man does not get well by drugs alone.² The fact that food and shelter are available for him and peace

² Keni, V.P., The Problems of Sickness 1959 p.131
of mind that comes from knowledge that his family's maintenance is secured, are important elements in his recovery. There is thus a close inter-relation between the treatment of an insured person and the certainty of maintenance of his family which manifests itself also in the converse direction. The provision of cash benefits is also necessary for reducing the incidence and duration of sickness.

(b) BENEFIT IN KIND

Medical benefit is the king-pin of the scheme and is provided in kind. Benefits in kind have, during the last thirty years, proved to be more important than their counterpart, the cash benefits. Even for cash benefits medical certificate is essential. For a worker who is ill, medical treatment is essential, and if it is not provided by the fund concerned, he has to incur expenses for that. The proportion of benefit expenditure represented by medical care has risen in recent times from 50 percent to 60 percent and in some countries even to 80 percent. 3

ADMINISTRATION AND DISBURSEMENT

An insured person entitled for benefits under this

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3 I.L.O., Studies & reports, Series M, No.18 p.45
scheme is not eligible to claim similar benefits under the Workman's Compensation Act and the State Maternity Benefit Acts. The cash benefits are administered and disbursed through a network of local miniature/sub-local/pay offices set up by the Corporation in different regions throughout the country. These offices constitute the initial point of contact between the beneficiaries and the Corporation.

'Benefits delayed are benefits denied', taking this view into consideration and for ensuring quick disposal of the payments of benefits, disbursing offices have been established in the vicinity of the industrial areas. Unlike commercial insurance, where claims are awaited, before they are processed, ESIC invites the claims and assists the claimants in fulfilling the requisite formalities in getting his/her legitimate dues quickly, though the effected person may be non-challant.

As noticed above it is obvious that the administration and disbursement of cash benefits is the direct responsibility of the Corporation, while the responsibility for the provision of medical benefit is assumed by State Governments which initially advance funds for the

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4 Annual Report, ESIC.1969-70, p.10
purpose. Thereafter the Corporation reimburses State Governments to the extent of 7/8th of the cost where medical care is also available to families of insured persons and 3/4th of the cost where medical care is provided only for insured persons. A detailed procedure for claiming each of the aforesaid benefits is discussed below:-

1. SICKNESS BENEFIT

For a worker, sickness is the principal risk. It is the origin of physical deficiency and economic misfortunes. Sickness Benefit in a country like India where disease runs rampant in the favourable atmosphere, becomes even more important. For this very reason, it is given first place in the ESI scheme, which uses its best of resources to overcome the effects of sickness and strengthens the power of resistance.\(^5\) When an insured person falls ill, he not only gets free medical aid but some sickness benefit as well. Therefore, 'Sickness Benefit' represents the periodical cash payments to an insured person during a period of certified sickness subject to the fulfilment of the following conditions:-

\(^5\) I.L.O. Approaches to Social Security, p.44
(a) CONTRIBUTORY CONDITION

The contributory condition required to be fulfilled for admissibility of sickness benefit during any benefit period is that weekly contributions should have been paid in respect of an insured person in the corresponding contribution period for not less than 13 weeks. In case of first benefit period weekly contributions should have been paid for at least half the number of weeks in the corresponding contribution period ending in that period.

(b) AMOUNT OF CONTRIBUTIONS?

Contributions payable in respect of an employee comprise of employer's contribution and employee's contribution prescribed in Schedule I of the Act. For purposes of contributions, employees have been divided into nine wage groups and the contribution is on a graded scale as shown in the Table No.XII below. Those in the lowest wage group of less than ₹.2/- per day are exempted from payment of employee's contribution. In the highest wage slab, employee's weekly contribution is ₹.3.75 ps.
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**TABLE XII**

<table>
<thead>
<tr>
<th>Group of employees</th>
<th>Employee's weekly contribution (recoverable from employees)</th>
<th>Employer's weekly contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>(In paisa)</td>
<td>(In paisa)</td>
</tr>
<tr>
<td>1. Below Rs.2/-</td>
<td>Nil</td>
<td>75</td>
</tr>
<tr>
<td>2. Rs.2/- and above but below Rs.3/-</td>
<td>40</td>
<td>90</td>
</tr>
<tr>
<td>3. Rs.3/- and above but below Rs.4/-</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>4. Rs.4/- and above but below Rs.6/-</td>
<td>70</td>
<td>140</td>
</tr>
<tr>
<td>5. Rs.6/- and above but below Rs.8/-</td>
<td>95</td>
<td>190</td>
</tr>
<tr>
<td>6. Rs.8/- and above but below Rs.12/-</td>
<td>125</td>
<td>250</td>
</tr>
<tr>
<td>7. Rs.12/- and above but below Rs.16/-</td>
<td>175</td>
<td>350</td>
</tr>
<tr>
<td>8. Rs.16/- and above but below Rs.24/-</td>
<td>275</td>
<td>550</td>
</tr>
<tr>
<td>9. Rs.24/- and above</td>
<td>375</td>
<td>750</td>
</tr>
</tbody>
</table>

The weekly contributions payable in respect of an employee are fixed at the commencement of each contribution period with reference to the above Table, on the basis of his
average daily wage during the first wage period ending in such contribution period. The rate of weekly contribution so fixed remains unchanged and the employee remains covered under the Scheme throughout that contribution period even if his wages increase beyond ₹1000/- per month, and even where the employee changes his employment during the currency of the contribution period.

(c) CERTIFICATION

The sickness can be certified either by the Insurance Medical Officers attached to the State Insurance dispensaries or by the Insurance Medical practitioners under the panel system. In special circumstances certificates of other doctors may be accepted as an alternative evidence of sickness.

(d) BENEFIT RATE

The method of calculating the sickness benefit rate has been considerably simplified by the Amendment Act of 1966. It enables the claimant to understand the point of commencement of his title and the period of benefit available to him at any time. The daily rate of sickness benefit during any benefit period is the 'standard benefit rate'; as shown in the table below corresponding to the average daily wage

6 Schedule I appended to the ESI (Amendment) Act 1966 has fixed the Standard Benefit Rate for each contributory group of employees.
of a person during the corresponding contribution period, and is roughly half of the daily wage rate. Benefit is paid for Sundays also.

(e) DURATION OF BENEFIT

The E.S.I. Corporation at its meeting held on 23 February, 1977 approved the proposal for enhancement in the duration of sickness benefit from 56 days to 91 days in any two consecutive benefit periods, with effect from 1-5-1977 and adopted the following resolution:

"In pursuance of the provision of Section 99 of the Employees' State Insurance Act, 1948 the Employees' State Insurance Corporation hereby resolves that the duration of Sickness Benefit payable to an insured person in terms of the second provision to Section 49 of the Employees' State Insurance Act may be enhanced from 56 days to 91 days in any two consecutive benefit periods with effect from 1-5-1977".

In view of the above resolution of the Corporation the calculation of sickness benefit admissible to an insured person in respect of claims for spells of sickness on or after 1-5-1977, will be made on the basis of 91 days instead of 56 days, the two consecutive benefit periods for the purpose being the benefit period current on or after 1-5-1977 in which the certified day/days fall and the last preceding benefit period in respect of the same set.
(f) STANDARD BENEFIT RATE

Here, a word of explanation regarding the benefits arising out of the 'Standard Benefit Rate' is necessary. The fixation of 'Standard Rate' has dispensed with the necessity of multiplication, divisions and detailed calculations with reference to the number of contributions paid, weeks of excusal, different contribution rates for different weeks etc. As the value of weekly contributions is uniform for the entire contribution period, the title is determined at a glance.

(g) CHANGE OF EMPLOYMENT

When an insured person leaves or changes employment during the currency of a contribution period, he must obtain Certificate of Rate of contribution from his employer and this Certificate must be furnished by him to his new employer so that contributions continue to be deducted by the new employer at the applicable rate.

(h) RECOVERY OF EXCESS SICKNESS BENEFIT

Where in the opinion of the Corporation, the incidence of sickness among insured persons is excessive due to insanitary working conditions in a factory or on account
of the negligence of the employer to observe the regulations enjoined on him by any enactment, the corporation reserves a right to send a claim to the employer for the amount of extra expenditure incurred by it as sickness benefit. If the claim is not settled by agreement, intervention of appropriate State Government is sought and the claim is settled.

EXTENDED SICKNESS BENEFIT

Extended Sickness Benefit constitutes a part of cash benefits. At the first instance, this benefit was made operative to the insured persons suffering from tuberculosis with effect from 1st June 1956. Gradually other ailments of prolonged nature specified below have now been included under this head.

1. Tuberculosis
2. Leprosy
3. Mental diseases (psychoses)
4. Malignant diseases
5. Paraplegia
6. Hemiplegia
7. Chronic congestive heart failure

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7 Annual Report ESIC, 1956-57 p.18
8 Decided during meeting of the Corporation held on 28-2-76 and in supersession of its earlier Resolution dated 22-3-69 regarding grant of Extended Sickness Benefit.
8. Immature cataract with vision 6/60 or less in the affected eye.

9. Lung Abscess

10. Bronchiectasis

11. Myocardial infarction

12. Dislocation and prolapse of intervertebral disc.


14. Aplastic Anemia

15. Cirrhosis of Liver with ascites

16. Detachment of retina

17. Non-union OR delayed union of fracture

18. Empyema

19. Intra-cranial space occupying lesion

20. Spinal cord compression

21. Chronic (Simple) Primary glaucoma

Apart from the above diseases, the Medical Commissioner can sanction the payment of Extended Sickness Benefit for a maximum period of 124 days or 309 days depending upon the merits of the case on the recommendation of the above authorities, in cases of any rate disease or special circumstances.

MAIN FEATURES

The main features of this benefit are discussed in the
pages that follow:

(a) CONTRIBUTORY CONDITIONS:

The insured person should have been in continuous employment for a minimum period of two years. He should have also fulfilled the contributory conditions for sickness benefit during three of the preceding four contribution periods. This contributory conditions, however, does not apply in the event of disability arising from the administration of drugs and injections.

(b) BENEFIT RATE:

The rate has been revised twice during 1964 and 1976 since the introduction of this benefit in 1956. This was increased to full sickness benefit rate (about 50% of the average daily wage) in 1964. This was further enhanced with effect from 1-4-1976, by 25% more than the full sickness benefit rate (i.e., about 62.5% of average daily wage) rounded to the next higher multiple of 5 paisa applicable when the sickness benefit was last payable.

(c) DURATION OF BENEFIT:

Initially the Extended Sickness Benefit is paid for 124 days which may be extended upto 309 days in chronic

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9 *E.S.I.C. Annual Report 1975-76* p.16
suitable cases by R.D.M.C./Medical Referee/A.M.O./Chief Executive of the E.S.I. Scheme of the State or his nominee. Payment beyond 124 days is made on confirmation from the above authorities. Thus, together with the Sickness Benefit for 91 days, it puts a claimant on a benefit for an aggregate period of 215 days for all specified diseases and 400 days in chronic suitable cases.

From 1-5-77, the Extended Sickness Benefit will be payable to an insured person upto 124 days/309 days, as the case may be, if he is otherwise eligible for it, only after he has exhausted ordinary sickness benefit of 91 days or is ineligible to sickness benefit due to non-fulfilment of contributory conditions in terms of Section 47.

In cases where an insured person who is in receipt of extended Sickness Benefit on 1-5-1977, becomes entitled to ordinary sickness benefit on or after 1-5-1977, the payment of Extended Sickness Benefit will be discontinued from such date to enable payment of ordinary sickness benefit payable upto 91 days at standard sickness benefit rate and the payment of extended Sickness Benefit will be resumed on exhaustion of 91 days or earlier if the insured person becomes not eligible to Sickness Benefit in terms of Section 47, if the spell of extended sickness continues.
ENHANCED SICKNESS BENEFIT FOR FAMILY PLANNING:

This is a cash benefit for the insured persons undergoing sterilisation operation of vasectomy/tubectomy.

(a) CONTRIBUTORY CONDITIONS

These are the same as for claiming sickness benefit.

(b) BENEFIT RATE

The daily rate of this benefit is double the standard benefit rate.

(c) DURATION OF BENEFIT

The benefit is available up to 7 days for vasectomy and up to 14 days for the tubectomy operations. This period can however be extended in cases of post operative complications or sickness arising out of these sterilisation operations. Its duration is not counted towards the total number of 91 days for which the sickness benefit is available during any two consecutive benefit periods.

2. MATERNITY BENEFIT

When The Maternity Benefit Act was passed in 1961, it applied only to those factories, mines and plantations not
governed by the Employees' State Insurance Act. The E.S.I. Act at first applied only to those employees earning less than ₹.500/- per month, but amended in November 1975 to cover employees earning up to ₹.1,000/- per month.

This meant that within the same establishment, women who were earning less than ₹.1,000/- got maternity benefits under the E.S.I. Act whereas women who were earning more than ₹.1,000/- got nothing at all. To correct this anomaly, the Maternity Benefit Act was amended with effect from May 1, 1976, to extend the benefits to women earning more than ₹.1,000/- in establishments covered by the E.S.I. Act.

Maternity benefit is a cash benefit payable to an insured woman for a specified period of abstinence from work for 'Confinement' or 'Miscarriage' or for sickness arising out of pregnancy, confinement, premature birth of child or miscarriage. Criminal abortion or miscarriage does not, however, entitle to benefit.

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9 Confinement' Connotes labour resulting in the issue of a living child or labour after 26 weeks of pregnancy whether the resultant issue is alive or dead.

10 'Miscarriage' means expulsion of the contents of a pregnant uterus at any period prior to or during 26 weeks of pregnancy. Sec 14 of the ESI (Amendment) Act, 1966.
I.L.O. CONVENTION ON MATERNITY BENEFIT:

The 'Child Birth Convention No. 3' adopted by the International Labour Conference in its first session held in Washington in 1919, provides for 12 weeks maternity leave for women workers employed in industrial and commercial undertakings, optional for 6 weeks before and compulsory for 6 weeks after the child birth in the interest of health of her child and herself.  

SALIENT FEATURES:

The following are the salient features and eligibility conditions for the maternity benefit:

(a) ELIGIBILITY CONDITIONS:

If an insured woman has paid at least 13 weeks contribution during the relevant contribution period, she becomes eligible for this benefit. However, in the case of confinement occurring or expected to occur during the first benefit period, contributions for not less than half the number of weeks, of the contribution period ending in that period, should have been paid. Here, a mention may be made that the qualifying conditions for this benefit are similar to that of sickness benefit discussed already in this chapter.

11 I.L.O., Social security-Principles and Problems Arising out of War, Geneva 1951, p. 7
To be entitled to maternity leave, however, a woman must put in not less than 160 days in the 12 months immediately preceding the date of her expected delivery. Only working days are taken into account when calculating these 160 days. Weekly holidays and all leave paid or unpaid are not included. However, if a woman is laid off from work, such periods will be deemed as working days.

(b) Duration of Benefit:

The duration of the benefit varies from one case to another as discussed below:

1. For Confinement

The benefit is paid for a total of 12 weeks of which not more than six should precede the expected date of confinement. If the insured woman dies during her confinement, or within 6 weeks thereafter, leaving behind the living child, the benefit continues to be payable for the whole of the period. But if the child also dies during that period, the benefit is paid upto and including the day of death of the child, to the person nominated by the insured woman in the manner specified in the regulations. Thus, in event of the death of insured woman, the right survives to the nominee for the benefit of the child.
2. FOR MISCARRIAGE

In case of miscarriage the Maternity Benefit is payable for a period of 6 weeks immediately following the date of miscarriage.

3. FOR SICKNESS ARISING OUT OF PREGNANCY, CONFINEMENT, PREMATURE BIRTH OF CHILD OR MISCARRIAGE

In all these cases the benefit is payable for an additional period not exceeding one month.

In all the cases, the benefit is paid only if the insured woman does not work for remuneration during the period for which benefit is claimed. There is no waiting period for this benefit.

(c) BENEFIT RATE

The daily benefit rate,\(^{12}\) as shown in the table below, is double the 'sickness benefit rate\(^ {13}\) and is thus roughly equivalent to the full wages. Benefit is paid for Sundays also.

\(^{12}\) Extract from First Schedule appended to the ESI (Amendment) Act, 1966.

\(^{13}\) Sickness Benefit Rate has been termed as Standard Benefit Rate under the provisions of the ESI (Amendment) Act, 1966.
### TABLE XIII

**DAILY RATE OF MATERNITY BENEFIT**

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Group of employees whose average daily wages are</th>
<th>Corresponding daily Standard Benefit Rate</th>
<th>Corresponding daily rate of Maternity Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>below Rs. 2/-</td>
<td>1=00</td>
<td>2=00</td>
</tr>
<tr>
<td>2.</td>
<td>Rs. 2/- and above but below Rs. 3/-</td>
<td>1=30</td>
<td>2=60</td>
</tr>
<tr>
<td>3.</td>
<td>Rs. 3/- and above but below Rs. 4/-</td>
<td>1=75</td>
<td>3=50</td>
</tr>
<tr>
<td>4.</td>
<td>Rs. 4/- and above but below Rs. 5/-</td>
<td>2=50</td>
<td>5=00</td>
</tr>
<tr>
<td>5.</td>
<td>Rs. 6/- and above but below Rs. 8/-</td>
<td>3=50</td>
<td>7=00</td>
</tr>
<tr>
<td>6.</td>
<td>Rs. 8/- and above but below Rs. 12/-</td>
<td>5=00</td>
<td>10=00</td>
</tr>
<tr>
<td>7.</td>
<td>Rs. 12/- and above but below Rs. 16/-</td>
<td>7=00</td>
<td>14=00</td>
</tr>
<tr>
<td>8.</td>
<td>Rs. 16/- and above but below Rs. 24/-</td>
<td>10=00</td>
<td>20=00</td>
</tr>
<tr>
<td>9.</td>
<td>Rs. 24/- and above.</td>
<td>15=00</td>
<td>30=00</td>
</tr>
</tbody>
</table>
(d) MODE OF CLAIMING THE BENEFIT

The procedure for claiming the maternity benefit is as under:

1. A claim for maternity benefit after confinement or miscarriage is to be submitted to the local office, on a prescribed claim form, personally or by post along with a certificate from the Insurance Medical Officer. A declaration of abstention from work, given in the form, is also to be filled up.

2. To avail of the six weeks leave before her expected delivery, she must give notice in writing, stating the date from which she will be absent from work. With this, she must submit a certificate of pregnancy. (There is a form for both these which she must fill in). The employer has to pay her, or any person she nominates in the form, maternity benefit in advance for this period.

3. For the six weeks leave from the date of delivery, she must send another notice together with a certificate of delivery, after the baby is born. The employer has to pay her, or her nominee, maternity benefit within 48 hours of receiving this notice. The failure to give notice for the subsequent six weeks does not however disentitle a woman from maternity benefits.
4. In the event of death of an insured woman leaving behind the child, her nominee and if there is no such nominee, her legal representative should submit a claim personally or by post to the local office together with a certificate of death of the insured woman.

5. An insured woman claiming maternity benefit for sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, is required to submit her claim in the manner prescribed for sickness benefit which has already been discussed in this chapter under 'Sickness benefit.'

(e) ALTERNATE EVIDENCE IN LIEU OF A CERTIFICATE

Where a claim for maternity benefit is not submitted along with the prescribed certificate referred to above, the ESIC exercises its discretion to accept other evidence in lieu thereof,

(f) ADDITIONAL MATERNITY BENEFITS

These benefits are as under:

1. In case of miscarriage also a woman is entitled to six weeks leave with pay. In this case, too she must give notice together with a certificate of miscarriage.
2. For illness arising out of pregnancy, delivery, premature birth or miscarriage, she is on production of proof, entitled to extra leave with wages up to a maximum period of one month. She has of course, to get a certificate from her doctor in the prescribed form. This leave can be taken at any time during her pregnancy, or can be attached to the six weeks prior to or after delivery or miscarriage.

3. If a woman entitled to maternity leave dies before receiving her dues, the employer has to pay the person nominated by her in the notice, or to her legal representative in case there is no nominee.

If she dies during the six weeks before delivery, maternity benefit is payable only for the days up to and including the day of her death. If she dies during delivery or during the following six weeks, leaving behind a child, the employer has to pay maternity benefit for the entire six weeks; but if the child also dies during this period, then for the days up to and including the death of the child.

4. Earlier some of the State Governments had provided this benefit in the shape of 'Maternity Bonus', if the employer did not provide the services of a qualified midwife free of charge. In U.P., Bihar and Rajasthan the amount of
sub bonus was fixed at ₹.5/- and in Kerala, Madhya Pradesh and Punjab at ₹.10/-. But now after the amendment of Maternity Benefit Act with effect from May 1, 1976 a woman entitled to maternity benefit is also entitled to a medical bonus of ₹.25/- if no pre-natal confinement and postnatal care has been provided for by the employer free of charge.

5. She can ask for light work for the one month preceding the six weeks prior to her delivery or during these six weeks if, for any reasons, she does not avail of her leave.

6. After she comes back from leave, she is entitled to two nursing breaks in a day, till her baby is 15 months old. Each state has its own rules as to the length of this break. (In Maharashtra, it is 15 minutes).

(g) SAFEGUARDS AND PENALTIES

Provisions have been made by the ESIC for protection of women workers from fear of dismissal by the employers to avoid the liability of payment. These provisions are as under:

14 Balfour and Talpade, Maternity Conditions of Mill Workers in India, 1948, p.131
1. It is, in fact, an offence for an employer to knowingly employ a woman during the six weeks immediately following the date of her delivery or miscarriage.

2. An employer cannot reduce her salary on account of light work assigned to her or for breaks taken to nurse her child.

3. A woman cannot be dismissed on grounds of absence arising out of pregnancy, miscarriage, delivery or premature birth. Nor can her employer vary to her disadvantage, any of the conditions of her service.

   In case benefits are improperly withheld, a complaint can be made to the inspectors appointed by the government. The responsibility of enforcement of these provisions lies with the factory inspectors. 15 Whereas in the case of mines it lies with the chief Inspector of Mines. 16

(h) DEPRIVING OF MATERNITY BENEFITS

A woman can, however, be deprived of maternity benefit's if:–

15 Dass B.K. Factory Labour in India, 1960, p.231
16 Ranuka Ray, (Mrs), Women in Mines, 1958, p.123
1. After going on maternity leave, she works in any other establishment during the period she is supposed to be on leave.

2. During the period of her pregnancy, she is dismissed for any prescribed gross misconduct.

(3) DISABILITY BENEFIT

If an insured person is injured in the course of his work and such injury renders him temporarily or permanently disabled, he will get disablement benefit in the form of cash in instalments. Therefore, disablement benefit comprises periodical payments to an insured person suffering from disablement as a result of an 'Employment Injury', while in employment under the Employees' State Insurance Act.

The law relating to Employment injury has been liberalised. Now, an accident arising in the course of employment is presumed also to have arisen out of his employment if there is no evidence to the contrary. Further, an accident brought about by wilful disobedience, negligence

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17 'Employment Injury' means a personal injury to an employee caused by an accident or occupational disease arising out of or in the course of his insurable employment in a factory whether such accident occurs or occupational disease is contracted outside the territorial limits of India E.S.I. Act 1948, Sec 2 (8)
or breach of regulations etc. or an accident happening while travelling in a transport provided by the employer or while meeting an emergency is accepted subject to certain conditions, to have arisen in the course of and out of employment. Injuries suffered while under the influence of drinks and drugs take away the right of the employee to benefit.

The disablement benefit is governed by the nature of disablement. Therefore, before discussing the various provisions governing the disablement benefit, it is imperative to understand the connotation and types of disablement.

(1) TYPES OF Disablement

Disability implies a condition resulting from an employment injury or occupational disease\(^{13}\) which may be:

(a) TEMPORARY i.e., rendering an insured person incapable of work temporarily and necessitating medical treatment;

(b) PERMANENT Permanent disablement may be:

\(^{13}\) 'Occupational Disease' are such diseases as are susceptible of being traced back to their occupational origin. The Third Schedule to the Act enumerates the list of such diseases. This Schedule is reproduced in Appendix 'C'.
1. PERMANENT PARTIAL i.e., reducing the earning capacity of an insured person generally for every employment which he was capable of undertaking at the time of accident;

2. PERMANENT TOTAL i.e. totally depriving the insured person to do all work which he was capable of performing at the time of the accident.

The above classification of disablement leads to three types of disablement benefit which are:

(a) Temporary Disablement Benefit;
(b) Permanent Partial Disablement Benefit; and
(c) Permanent Total Disablement.

(2) Provisions Regarding The Payment:

The salient features and allied aspects of each of the disablement benefits enumerated above are as under:

(a) ELIGIBILITY CONDITIONS:

Unlike sickness and maternity benefits, there are no contributory conditions for the payment of disablement benefit. Protection accrues from the very moment of entry into insurable employment.

(b) DURATION OF BENEFIT:

Temporary Disablement benefit is paid as long as the
temporary disability lasts. There is, however, a waiting period of 3 days excluding the day of accident. Where the incapacity exceeds three days, temporary disablement benefit is paid from the very first day of the incapacity provided this is accompanied by loss of wages. The permanent disablement benefit is paid for the life time of the beneficiary.

(c) BENEFIT RATE:-

The daily benefit rate for permanent total disablement and temporary disablement is 25% more than the standard sickness benefit rates and is roughly equivalent to about 62% of average daily wages. For permanent partial disablement, the rate of benefit is proportionate to the percentage of loss of earning capacity.19 For instance, if an insured person loses three fingers of one hand, this involves 30 percent of the full rate.20 The maximum rate of disablement benefit for one injury or more than one injuries caused by an accident cannot exceed the full rate. The rate of benefit is applicable for Sundays also.

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19 The description of injury and percentage of loss of earning capacity have been depicted in appendix 'D' which is an extract from the Second Schedule appended to the E.S.I. Act.

20 'Full rate' implies, the sickness benefit rate + 25% in each contribution group.
(d) COMMUTATION OF BENEFIT:

At the option of the beneficiary permanent disablement pension can be commuted for a lump sum payment subject to the fulfilment of the following two conditions:

1. The permanent disablement has been finally assessed; and

2. The daily rate of permanent disablement benefit does not exceed Rs. 1/-.

The idea of lump sum, though prima facie attractive, is not desirable since after the amount has been spent, the insured person may yet find himself disabled and without any source of income.

(e) ASSESSMENT OF PERMANENT DISABLEMENT:

Although there is not way of adequately compensating a permanently disabled employee yet some method of determining and assessing the extent of damage caused has to be adopted for the purpose of fixing the scale of compensation for the loss of earnings. This is done by evaluating the lost earning capacity with reference to the general disability for all work. This evaluation is done by
a Medical Board, whose decision can be appealed against to a Medical Appeal Tribunal, presided over by a Judicial Officer, and a further right on appeal to Employees' Insurance Court or directly to Employees' Insurance Court. Loss of wages and expenditure on conveyance caused by attendance before the Medical Board are compensated by the Corporation in accordance with rates fixed for the purpose.

(f) REVIEW:-

Where the assessment of loss of earning capacity by the Medical Board is not of a final character, the beneficiary has to appear again before Medical Board for a review of the assessment.

(g) MODE OF CLAIMING DISABLEMENT BENEFIT:-

An accident report is to be lodged with the appropriate local office within 48 hours of the happening of accident and the procedure to be followed differs for different types of disablements as under:-

1. TEMPORARY DISABLEMENT:-

In case of temporary disablement:-

(a) Notice of injury is to be given either orally or
in writing, personally or through an agent, to the employer, foreman or duty supervisor. The particulars of the injury are entered in the 'Accident Book' kept in the factory, personally or by any other person.

(b) A medical certificate of incapacity is obtained from the Insurance Medical Officer and the claim form is filled up and submitted to the local office along with the medical certificate.

(c) A final certificate obtained from the Insurance Medical Officer is submitted to the local office before resumption of duty.

2. PERMANENT Disablement:–

In case of permanent disablement:–

(a) He should make an application to the Regional Office for reference of his case to the Medical Board.

(b) Where loss of earning capacity has been assessed and communicated to the insured person, he should submit the claim in appropriate form to the local office.

(c) After the claim has been admitted the beneficiary will continue to submit, at six-monthly intervals (with the
claim for June and December every year) a life certificate in appropriate form duly attested by the prescribed authority.

4. **DEPENDENTS BENEFIT**

Dependents benefit means timely help for the dependents of an insured person who unfortunately dies as a result of an employment injury. The death of the breadwinner is the greatest calamity that can befall a family. This unfortunate event at once sinks the family below the poverty line and hence flows a train of hardship. The women, are thrown in factories, while they should have been in home and the children on the streets when they should have been at School.\(^{21}\)

The only rational way to compensate the survivors for the death of their breadwinner is to pay them a pension. Under the provisions of the Employees' State Insurance Act Dependents' Benefit is payable in the shape of periodical pension to the eligible dependents of the deceased. Before discussing the broad provisions which govern this benefit it

is necessary to clarify the expression 'eligible Dependents', which means any of the followings:

(1) A widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother;

(2) If wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of 18 years and is infirm:

(3) If wholly or in part dependent on the earnings of the insured person at the time of his death:

   (a) a parent other than a widowed mother;

   (b) a minor illegitimate son, as unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor;

   (c) a minor brother or an unmarried sister or a widowed sister if a minor;

   (d) a widowed daughter-in-law;

   (e) a minor child of a pre-deceased son;

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22 Sec.2(6A) of the E.S.I.Amendment Act, 1966 defines the term.
(f) a minor child of a pre-deceased daughter where no parent of the child is alive; or

(g) a parental grand parent if no parent of the insured person is alive.

It is obvious from the above that a legitimate son or a legitimate or adopted unmarried daughter, who is infirm also ranks as a dependent, provided he/she was dependent on the earnings of the insured person at the time of his death; even though he/she may be above the age of 18 years.

SALIENT FEATURES:

The main features, governing the eligibility, period of benefit scale of payment etc., regarding the dependents' benefit are as follows:

(a) ELIGIBILITY:

The contributory conditions required to be fulfilled for admissibility of Dependents Benefit are mutatis-mutandies to that of disablement benefit, already discussed in detail under the disablement benefit.

(b) RATE OF BENEFIT:

As in the case of 'Disablement Benefit Rate' the rate
of dependents' Benefit (called the full rate) has been fixed at 25% more than the sickness benefit rate.

(c) DURATION AND DISTRIBUTION OF BENEFITS:

The duration of benefit and the mode of its distribution for different categories of dependents are as under:

(a) the widow/widows are entitled during life or until remarriage;

(b) the legitimate or adopted son until the age of 18 years or if legitimate son is infirm, till infirmity lasts; and

(c) the legitimate or adopted daughter until the age of 18 years or until marriage; whichever is earlier; or if infirm, till infirmity lasts and she continues to be unmarried.

In the absence of any widow or legitimate child, the benefit is payable to a parent or grandparent for life, to any other male dependent until age of 18 years or to an unmarried or widowed female dependent until 18 years of age.

The total divisible benefit is equivalent to the temporary disablement benefit rate (roughly 62% or the daily
wages). The widows share is 3/5 of the benefit and the legitimate or adopted son and daughter each are entitled to 2/5 share of the benefit. If the aggregate of benefit so determined exceeds the full rate then the share of the respective beneficiaries is proportionately reduced.

For example, if the deceased leaves behind a widow, 2 eligible sons and 2 eligible daughters, the total benefit would be distributed among them as under:

(a) Widow  3/11 of the daily benefit rate.
(b) Each eligible son  2/11
(c) Each eligible daughter  2/11

(d) MODE OF CLAIMING THE BENEFITS:

In order to establish a title to Dependents' Benefit, the following documents are submitted to the local office:

1. Claim in the appropriate form
2. Evidence of death being due to employment injury.
3. Proof of relationship to the deceased supporting eligibility of the claimant as a dependent.
4. Evidence of the age of the claimant.23

23 Certified copy of the official record of Birth, Baptismal Register, School record, Original Horoscope etc, bear testimony to the age.
5. Certificate of infirmity from Medical Referee or any other prescribed authority.  

After the claim to dependents' benefit has been admitted, the beneficiary is required to submit at six monthly intervals (with the claim for June and December) a declaration, that he is alive and has not married/ remarried, attained the prescribed age, continued to be infirm, as the case may be, duly attested by the prescribed authority.

(e) RESPONSIBILITY OF THE EMPLOYERS:–

If an employment injury results in the death of an insured person at the place of employment, the employer:–

1. Should immediately report to the nearest local office and E.S.I. Dispensary or any other institution where the employee was getting medical benefit under the scheme;

2. The body of the insured person has been examined before disposal by an Insurance Medical Officer and if considered necessary, the employer will also arrange for the autopsy.

24 In case, the legitimate infirm son or legitimate or adopted unmarried infirm daughter, on the day of death was fully dependent on the deceased.
(f) REVIEW OF DEPENDENTS' BENEFIT:

Dependents' Benefit once warded can be reviewed by the Corporation any time under the following circumstances.

1. If it is satisfied on fresh evidence that the earlier decision was due to non-disclosure or misrepresentation of material facts.

2. On birth/death/marriage/re-marriage/cesser of infirmity/attainment of 18 years of age by a claimant.

The review, if any, is made after giving due notice by registered post to each of the dependents, stating therein the reasons for the proposed review and giving them an opportunity to submit the objections. As a result of such review the appropriate Regional Office may, commence, continue, increase, reduce or discount the share of the dependents.

5. FUNERAL BENEFIT

It consists of a lump sum cash payment towards the expenditure on the funeral of the deceased insured person.

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25 Appropriate Regional Office is authorised to review the cases of dependents benefit.

26 The E.S.I. Amendment Act, 1966 provides for the Funeral Benefit which became operative since 28-2-1968.
SALIENT FEATURES:

The following are the broad provisions governing this benefit:

(a) SCALE OF BENEFIT:

The lump sum payment of Funeral Benefit is equal to an actual expenditure, which cannot exceed one hundred rupees, towards the funeral of the deceased insured person.

(b) CONTRIBUTORY CONDITIONS:

No contributory condition is required for this benefit. The only condition for admissibility of this Benefit is that the deceased person should have been an insured person at the time of his death. The Funeral Benefit is thus payable in respect of an insured person, in receipt of permanent Disablement Benefit, even if he may not be employed at the time of his death in factory covered under the ESI Act.

(c) RECEPIENTS:

The benefit is payable to any of the following.

1. The eldest surviving member of the family of the
deceased insured person.

2. Where, however, the insured person did not have a family or if he was not living with his family at the time of his death, the benefit is payable to the person who actually incurs the expenditure on the funeral of the deceased insured person.

(d) MODE OF CLAIMING DEATH BENEFIT:

To establish title to the benefit, is a prime factor. The claimant shall submit the claim at the local office of the deceased insured person, personally or by post, together with the following documents:

1. Death Certificate as proof of death of the insured person issued by the Insurance Medical Officer/Insurance Medical Practitioner or such other Medical Officer of a hospital or other institution who attended the insured person at the time of death or examined the body after the death; 27

2. A declaration of the claimant; either

(a) That he is the eldest surviving member of the family of the deceased and incurred expenditure on his funeral; or

27 Death certificate issued by cremation/burial or by Municipal authorities or certified copy of village etc.death records may also be accepted as evidence of death.
(b) In case the claimant is other than the eldest surviving member of the family, that the deceased did not have a family or was not living with his family at the time of his death and that the claimant actually incurred expenditure on the funeral of the deceased insured person.

The declaration should be countersigned by an Officer of the Revenue, Judicial or Magisterial Departments of Government, or a Municipal Commissioner, or a Workmen's Compensation Commissioner, or Head of Gram Panchayat under the official seal of the Panchayat, or the employer of the deceased insured person, or a member of the Regional Board/Local Committee, or an official of Trade Union, or an Insurance Medical Officer/Insurance Medical Practitioner.

If the appropriate Local Office is satisfied as to the bonafides of the claimant or regarding the genuineness of the facts, relaxation may be given in the matter of documentary evidence.

(c) TIME - LIMIT:-

The Corporation in its meeting held on 14-2-70 authorised the Director General to extend the period of 3 months for submission of a claim for Funeral Benefit upto
2 years instead of one year as resolved by the Corporation at its meeting held on 22-3-1969. The claimant after the submission of the claim in proper form should expect to receive the payment within 15 days. In actual practice the claim for funeral benefit is given priority over all other items.28

BENEFIT IN KIND: - MEDICAL BENEFIT:-

Medical care is the basic necessity of human being and to receive the same has been recognised as his fundamental right.29 Health is most precious asset of an individual and it is possibly the only asset of a wage earner. In fact the pecuniary compensation, which aims at shielding the patient from the most immediate material worries, only subsists as a supplementary factor side by side with medical assistance.30

The most important departure that the E.S.I. Scheme makes from other social security schemes in India is

28 Originally the time limit was fixed 3 months for claiming the payments.


30 Ibid, p.660
compulsory organisation of medical services for the benefit of the insured persons.\footnote{Hasan, N. 'The Social Security System of India, 1972, p.178} Availability of medical benefits is not subject to any contribution conditions. It covers the contingencies of sickness, maternity and employment injury. It encompasses medical treatment for and attendance on insured persons and their families, where this facility is extended to the families.

\textbf{SALIENT FEATURES}

The following are the main features of the medical benefit:

(a) \textbf{SCALE OF BENEFIT:} – The medical benefit consists of the following:

1. Outdoor treatment to sick insured persons at the dispensaries established for this purpose by the Corporation or the State Governments;

2. Free domiciliary visits to the insured persons or their families as the case may be;

3. Free hospitalisation including free maintenance in the hospital;
4. Specialist care and necessary special investigations and laboratory tests free of charge;

5. Free supply of all necessary drugs and dressings;

6. Skilled supervision at child birth and simple ante-natal and post-natal care for women;

7. Free ambulance services; and

8. Immunisation against the common infectious diseases.

Apart from these statutory provisions, other qualitative and quantitative improvements in medical services have also been made from time to time. Some of these are:

1. Supply of artificial limbs free of cost, including payment of incidental charges on account of transport, stoppage and travelling expenses for travelling to Army Limb Fitting Centre, Poona and back for the insured person as well as for his attendant, if attendant is considered necessary;

2. Supply of spectacles free of charge, to insured persons who sustain impairment of eyesight due to
employment injury or occupational disease;

3. Supply of dentures to insured persons who lose their teeth as a result of employment injury.

4. Supply of hearing aids, free of cost, to insured persons who suffer loss of hearing due to employment injury;

5. Supply of hand-driven tricycles to insured persons who suffer loss of movement in lower limbs due to employment injury, if recommended by Medical Board;

6. Confinement charges to insured women and wives of insured persons in connection with confinement outside the hospital;

7. Payment of conveyance charges for ambulatory cases, if the hospital is at a distance of more than 8 Kms. and for travelling to out-station for visit to the specialists;

8. Compensation for loss of wages if the insured person is required to appear before the Medical Referee;

9. Arrangement for the supply of spectacles to insured persons on 'no-profit-no loss' basis.
It has to be noted that no reimbursement is allowed for the cost of medicines purchased from the market by the beneficiary. However, now a regulation has been framed for the reimbursement of certain medical expenses which the insured person may be needing urgently but which may not be available at the dispensary or clinic to which he is attached.

In the treatment of the insured persons, the doctors can prescribe from a given list of medicines. There is another list out of which drugs and medicines can be prescribed by the specialist if the case is referred to them. The medicine for inclusion in these lists are, however, chosen for their cheapness. If the drug needed by the patient falls outside the list of prescribed medicines, the doctor can prescribe an alternative drug. He may also refer the case to a specialist. This delays the availability of medicines and hence recovery unnecessarily. Moreover, the fact that the only inexpensive medicines are included in the list has a psychological effect on the patients and hence it prolongs the process of recovery. The E S I S Review committee felt that the most expensive medicines are not necessarily the most effective ones also. Sometimes the same medicine is manufactured by different firms and priced differently. Therefore, it may resolve the difficulty if the firms are
directed to brand the medicines by their pharmacopoeal names only. Since the E.S.I. Scheme is quite a substantial purchaser of medicines, it may not be difficult or un-economic to do so. The firms may be asked to charge only a reasonable price for such medicines. Moreover, they suggested that the general list should be abolished and the doctors should be given more freedom in prescribing medicines that they think more effective. The fear of over prescribing or prescribing only expensive medicines may be ruled out as no doctor would unnecessarily play with the health of the patients for the sheer fun of it. The E.S.I.S. Review Committee recommended that in lieu of the general and specialist lists there should be only one list which should be revised reasonably frequently.

(b) ELIGIBILITY AND DURATION:

The following are the important provisions in this respect:

1. An insured person is entitled to this benefit from the moment when he becomes insurable under the Employees' State Insurance Scheme.

2. Members of his family become eligible 13 weeks thereafter.
3. An insured person is entitled to medical benefit while continuing in insurable employment and also for 13 weeks thereafter.

4. Persons in regular insurable employment i.e. those who have paid at least 12 weekly contributions in a contribution period of 26 weeks, are entitled to medical benefit for a further period of about nine months from the date they cease to make contributions to the Scheme.

5. Persons suffering from chronic ailments of long duration are eligible to extended medical care for one year over and above their normal period of entitlement, provided they have been in continuous employment for two years or more.\textsuperscript{32}

6. A person receiving medical benefit for temporary disablement continues to remain entitled to it so long as he is in receipt of cash benefit for temporary disablement, even if he is otherwise not eligible for the same.

7. A person becomes disentitled to medical benefit while undergoing in-patient treatment under the scheme, however, he may be allowed on compassionate grounds till

\textsuperscript{32} A list of such diseases has been mentioned on page 463 and 464 of this thesis.
the end of such treatment.

8. The dependent parents of insured persons are also entitled to medical care.

9. Reimbursement is made to an insured woman and to the wives of insured persons in respect of confinement occurring at a place where medical facilities under the Scheme are not available.

10. The facilities for specialist advice, consultations and treatment are also provided to the insured persons and their families in the various branches of medicines.

2. **ORGANISATION OF MEDICAL SERVICES**

The provisions of medical benefits is the responsibility of the State Governments. The E.S.I. Corporation has to defray an agreed share of expenses incurred by the State Government towards the cost of medical services to the insured persons and their family members. The State Share, it has been stated earlier, is one-fourth in the cost of such services to the insured persons, and one-eighth of the cost of the Medical Services to the members of the families of insured persons.
E.S.I. Act lays down that the Corporation may provide such services with the approval of the State Government concerned by establishing such hospitals, dispensaries and other medical and surgical services as the Corporation may think necessary for the benefit of the insured persons. In most of the States, medical services are provided by the State Government at the dispensaries and hospitals opened and operated by themselves. In the Union Territory of Delhi, an agreement has been reached between the Delhi Administration and the E.S.I. Corporation whereby medical services are provided directly and administered by the E.S.I. Corporation on behalf of the Administration.

PANEL AND SERVICE SYSTEMS:

Outdoor medical treatment to the beneficiaries is organised through a panel of doctors or through salaried doctors. Under the panel system, a number of qualified medical practitioners are approved to be included in the list of panel doctors by the Allocation Committee. A panel doctor has to maintain his own consulting room and

33 A detailed comparative study of the Panel and Service systems has been made by Hassan, N, in 'Social Security in the Framework of Economic Development' 1965 p.207-210 and 'Social Security System of India, 1972 p. 182-185
dispensary of a certain minimum standard. The insured person can choose his doctor from amongst the panel doctors. He is then allotted to that doctor. In the beginning, a panel doctor could have 2,000 insured persons on his list. It was subsequently reduced to 1000 to ensure better care and doctor-patient relationship while the doctor also attends to his private practice. Private practice was permitted to be carried on by the doctor on his own. In the areas where the families of the insured persons are also covered for medical benefits, the panel doctor is allowed to have 750 'family Units' on his list. The special and costly medicines are dispensed through a panel of approved chemists who are paid directly by the Scheme. Ordinary medicines are given by the panel doctor himself from an approved list of medicines. If the panel doctor thinks it necessary, he directs the insured person to visit a diagnostic centre for pathological and other tests to be completed there. For the services rendered by the panel doctors, they are paid a capitation fee which is a payment per patient on the list of the doctor. The capitation fee is different for different areas. It is higher in Bombay and Calcutta and lower at smaller centres.

In the beginning panel system was adopted under the pressure of circumstances. It has been replaced by services
system in many areas. However, it continues to operate in areas like Calcutta, Bombay and partly in Coimbatore Ahmedabad, Poona and Sholapur. The situation is continuing because of lack of space for construction of hospitals and dispensaries and other administrative difficulties. However, there is a growing tendency to adopt service system. Panel system has certain advantages to recommend itself in the special circumstances. In choice of panel doctors experience and clinical facilities already possessed by them may be given due weight. Moreover, it has been argued that because of continued contact, there is a better opportunity to develop good doctor-patient relationship. Moreover, it has a practical appeal. Construction of dispensaries in scattered areas where the scheme is running may become uneconomical. From the patients' point of view, once the dispensary is located at a particular place, he has to reach there for medical treatment irrespective of distance. Under the panel system, the insured person has a freedom of choice. He can choose the doctor who practices at a nearer place and who enjoys reputation for good treatment.

The panel system is criticised, on the other hand for many of its shortcomings. It is alleged that the panel
doctor pays more attention to his private practice than for the covered people. Moreover, the panel doctors are paid on the basis of the number of insured persons taken in by them. This tempts the doctor to inflate his list of insured persons without considering whether he can treat them and give them as much care and time as needed. This results into a deterioration in the quality of service given by the doctors.  

SERVICE SYSTEM

Another system of organising out-door medical service is service system. Under this system, separate dispensaries are set up exclusively for the benefit of the insured persons and their families. These dispensaries are manned by whole time medical officers who are the employees of the State Government. These posts are transferable as between the E.S.I. dispensaries and the State dispensaries. Private practice is not allowed to these doctors. In order to compensate for the loss of private practice, the doctors are paid non-practising allowance. Moreover, in order to make these posts more attractive, the E.S.I. Corporation decided to pay an

E.S.I.C. Allowance at the rate of Rs. 100/- per month to the doctors working in the E.S.I. dispensaries. This allowance is entirely the responsibility of the Corporation and the State Government does not share this cost. Routine tests such as blood, urine, sputum, stool etc. are carried on in the dispensary itself. However, the patient may be sent to a diagnostic centre or hospital for special checks.

Although treatment is provided through the allopathic system of medicine it has been provided that if a substantial number of workers require treatment through the indigenous system, ayurvedic or unani, the request should be conceded and the required arrangements made accordingly. Indigenous system has been provided in Bombay, Kanpur, Bangalore, Hyderabad and in some areas of Ahmedabad.

Service system is amenable to better control than the panel system. Service doctors are the employees of the State Government. If they are not found to be efficient, or if the insured persons are not in favour of retaining a particular doctor, he may be easily transferred. Moreover, State personnel may be posted even at a smaller centres. Thus, even the small dispensaries may be manned by qualified personnel. Another advantage claimed for this system of medicine is that dispensaries and paramedical staff are
provided by the State Government. Therefore, it is possible to enforce certain standards in those matter and greater uniformity can thus be achieved. Moreover, under this system, diagnostic facilities are available in the dispensary itself. It saves the time and expenses of the insured person and speeds up recovery of the patient.

Besides, it has been claimed that laxity in certification of sickness, etc., is amenable to better control under the service system than under the panel system. Service system also makes it possible to ensure perennial supply of medicines as the same can be stored in required quantities at the dispensaries themselves. This removes a great difficulty that the patients are presently experiencing in getting, in particular, the costly medicines and specialists' cares.

On the other hand, service system has also been criticised on various scores. It is alleged that only raw and inexperienced doctors are posted in the E.S.I. dispensaries. This results in inferior service to the insured persons. It is also said that even the service doctors are not entirely free from the viles of lax certification. After comparing the panel and Service Systems we may conclude that service system seems to be
more favoured than the panel system. As such it should be discontinued as soon as it is possible to set up dispensaries by whole time doctors.

3. EXTENSION OF MEDICAL CARE TO THE FAMILIES OF INSURED PERSONS:

A persistent demand for the extension of medical care to the families of the insured persons has been voiced ever since the scheme was first implemented in Delhi and Kanpur in 1952. This question was also examined in some detail in the meeting of the Standing Committee of the Corporation, in December, 1952. After peripherally examining the pros and cons of the matter it was decided that the issue requires a detailed examination, with a view to provide adequate resources, in consultation with the Central Government, the State Governments and Planning Commission. The Central Government appointed a valuer to report on the resources of the Corporation. The valuer's interim report indicated that if the Corporation could be assured on an amount equal to what it would receive under Schedule I of the Act, it would be in a position to meet the cost of medical care to the families of the insured persons.

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35 Minutes of the Meeting of the Medical Benefit Council, 21 December, 1952.
The Government of India agreed to take steps to assure the level of income envisaged, and the Corporation hurriedly decided to extend it to any State which was prepared to do so. As the State Governments share the cost of medical care with the Corporation in an agreed ratio, the States had to consider the repercussions on their finances. As quite a few of them found it difficult to make this provision, the Corporation agreed to reduce their liability from one-fourth to one-eighth on the extension of medical care to families. This arrangement has been in prevalence during the Third Five Year Plan period and the Corporation had decided to continue it even during the Fourth Plan period.

In 1955, after three years of experience, the Corporation decided to extend medical benefits to the families of insured persons on a restricted scale. The proposal was later on placed before the Labour Minister's Conference in 1958 and it was decided that families of

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36 The Corporation bears 7/8th of the cost of medical care where it is available to the families of insured persons and 3/4th of the cost where medical care is provided only for insured persons.
insured persons should also be given medical facilities under the Scheme and hospitalisation should be provided to them as soon as possible. The State Government of Mysore was the first to go ahead with this far-sighted measure when the Scheme was introduced in Bangalore on the 26th July 1958. In due course of time other State Governments followed suit. The progress made in this direction in different States is observed to vary. At present the family members of the insured in certain centres are provided only out-door care at the General Practitioner's level (restricted medical care). In certain other areas, the care provided includes consultation of specialists (extended medical care); and in certain other areas, the family members are entitled for 'full medical care' including in-patient treatment. The Table below gives the data about the relative positions in different States in the matter as on 31-3-76.
### TABLE XIV

**TYPE OF MEDICAL CARE TO FAMILIES (I.P.) UNITS AS ON 31-3-76**

<table>
<thead>
<tr>
<th>Sr No.</th>
<th>Name of the State</th>
<th>Restricted care</th>
<th>Expanded care</th>
<th>Full care</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Andhra Pradesh</td>
<td>-</td>
<td>47,800</td>
<td>1,75,200</td>
</tr>
<tr>
<td>2.</td>
<td>Assam</td>
<td>-</td>
<td>25,650</td>
<td>(24,200)</td>
</tr>
<tr>
<td>3.</td>
<td>Bihar</td>
<td>-</td>
<td>1,04,000</td>
<td>(93,000)</td>
</tr>
<tr>
<td>4.</td>
<td>Chandigarh</td>
<td>-</td>
<td>9,000</td>
<td>(8,000)</td>
</tr>
<tr>
<td>5.</td>
<td>Delhi</td>
<td>-</td>
<td>-</td>
<td>2,06,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(1,80,000)</td>
</tr>
<tr>
<td>6.</td>
<td>Gujarat</td>
<td>-</td>
<td>1,60,350</td>
<td>4,09,650</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1,43,500)</td>
<td>(3,56,500)</td>
</tr>
<tr>
<td>7.</td>
<td>Haryana</td>
<td>-</td>
<td>1,41,300</td>
<td>22,200</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1,30,500)</td>
<td>(20,000)</td>
</tr>
<tr>
<td>8.</td>
<td>Karnataka</td>
<td>-</td>
<td>77,600</td>
<td>2,08,400</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(72,950)</td>
<td>(1,96,050)</td>
</tr>
<tr>
<td>9.</td>
<td>Kerala</td>
<td>-</td>
<td>-</td>
<td>2,63,600</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>(2,48,700)</td>
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<tr>
<td></td>
<td>Mahe</td>
<td>-</td>
<td>1,400</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1,300)</td>
<td></td>
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<tr>
<td>10.</td>
<td>Madhya Pradesh</td>
<td>-</td>
<td>89,750</td>
<td>59,250</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>(84,000)</td>
<td>(55,500)</td>
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</tbody>
</table>
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**TYPE OF MEDICAL CARE TO FAMILIES (I.P.) UNITS AS ON 31-3-76**

<table>
<thead>
<tr>
<th>Srl No.</th>
<th>Name of the State</th>
<th>Restricted care</th>
<th>Expanded care</th>
<th>Full care care</th>
</tr>
</thead>
<tbody>
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<td><strong>Contd.</strong></td>
<td></td>
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</tr>
<tr>
<td>11.</td>
<td>Maharashtra:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bombay Area</td>
<td>-</td>
<td>11,37,800</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(10,20,000)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Goa</td>
<td>-</td>
<td>11,200</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(10,000)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nagpur Area</td>
<td>-</td>
<td>51,450</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(49,300)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poonaarea</td>
<td>-</td>
<td>55,100</td>
<td>1,21,850</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(52,000)</td>
<td>(1,15,000)</td>
</tr>
<tr>
<td>12.</td>
<td>Orissa</td>
<td>-</td>
<td>72,300</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(64,500)</td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Pondicherry</td>
<td>-</td>
<td>15,500</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(14,500)</td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>Punjab</td>
<td>-</td>
<td>-</td>
<td>1,50,200</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(1,44,500)</td>
</tr>
<tr>
<td>15.</td>
<td>Rajasthan</td>
<td>-</td>
<td>24,950</td>
<td>37,550</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(17,000)</td>
<td>(89,000)</td>
</tr>
<tr>
<td>16.</td>
<td>Tamil Nadu</td>
<td>-</td>
<td>85,750</td>
<td>3,19,250</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1,05,500)</td>
<td>(2,74,500)</td>
</tr>
<tr>
<td>17.</td>
<td>Utta Pradesh</td>
<td>2,32,850</td>
<td>-</td>
<td>2,37,150</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2,18,000)</td>
<td></td>
<td>(2,22,000)</td>
</tr>
<tr>
<td>18.</td>
<td>West Bengal</td>
<td>3,74,150</td>
<td>2,51,850</td>
<td>3,64,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3,51,000)</td>
<td>(2,17,500)</td>
<td>(3,41,500)</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>6,07,000</td>
<td>23,42,750</td>
<td>25,34,300</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(5,69,000)</td>
<td>(21,51,600)</td>
<td>(24,17,900)</td>
</tr>
</tbody>
</table>

**NOTE:** The figures appearing in brackets denote employees families units.
The extension of medical benefit to the families has been a major step towards improvement in the quantum of medical benefits to a large section of working population, though other qualitative and quantitative improvements have also been effected in the standard of medical care under the Scheme.

A Summary Table of all these benefits discussed above is given at Appendix

4. EVALUATION

The foregoing discussion reveals that the prime need of a sick or injured person is the alleviation of his physical suffering by proper medical care. Dr N. Hasan writes:

"Disease and illness cause temporary but tremendous economic loss and they cause diminution in the well being of the community. There starts a vicious circle of poverty, breeding disease which leads to poverty again in its turn." 38

The cash benefits supplement his income when he is confined to bed. The E.S.I. Scheme provides both the types of

benefits, when an insured person falls ill, he is entitled for both medical care and cash benefits. Under the E.S.I. Act, the responsibility of providing medical care to the insured person and their families has been placed on the State Governments, expenditure incurred for which is subsequently reimbursed by the Corporation in an agreed ratio.

Cash benefits are paid at 50% of the rate of average daily wages except in case of maternity and enhanced sickness benefit. However, since biological disability raises the expenses of the insured Persons, possibilities should be explored of improving the rates of such benefits.

Medical benefits, needs much to be desired. While the extention of medical benefits to the families of Insured Persons is a very desirable step and has gone a long way in ameliorating their conditions, scarcity of effective drugs, practitioners obligations to prescribe listed drugs only, shortage of beds, inadequacy of specialist services and absence of rehabilitation arrangements are some of the issues which merit attention of the Corporation.