CHAPTER I

HISTORICAL PERSPECTIVE OF SOCIAL SECURITY

1. Emergence of Industrial Proletariat in India:

The original of the Indian industrial working class is primarily an offshoot of the Industrial Revolution which has put into motion giant machines, which cannot be run by family labour, and, therefore, large number of workers have to be employed in factories. With technological progress the working class grew in numbers and divided itself into several skills and occupations. Modern industrial order has created a class of persons who have hardly anything else except their brain and brawn to depend upon for their livelihood. This utter dependence of the industrial worker on his bodily fitness, for his living, has rendered his position very precarious.¹

(a) Industrial structure before British Regime:

The industrial structure of the country before she came under the yoke of British rule, was based on cottage and small scale industries of high artistic order.²

¹N.S. BUCHNAN, The Development of Capitalist Enterprise of India, New York, 1954, p.171

²The Indian Industrial Commission Report, 1916-18, p.6
Small units were in vogue both in rural and urban centres. Thus, India was dotted with industries before the advent of British rule. There was no distinct industrial proletariat and consequently the country did not face the labour problems inherent in modern industrial system. The artisan carried on his craft in his village home and supplemented the earnings of his workshop by those of his fields. Very often agriculture was his mainstay and the industrial work only a subsidiary occupation. Agriculture and industry went hand in hand and helped each other in times of stringency. Thus in the era of domestic economy, work and life went together. The Indian economic scene presented a number of isolated villages, each a relatively self-sufficient unit, in which about 90 percent of the population lived; a group of towns, mainly non-industrial in character, and an underdeveloped system of internal communications which restricted trade, both as regards the kinds of goods exchanged and the distance over which trade was effected.  

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3C.B. Kumar Development of Industrial Relations in India Orient Longmans, 1961, p.1
(b) **Industrial structure under British Regime:**

The predominance of an agricultural economy and the peculiar characteristics of the Indian Village community were undoubtedly the two basic elements which contributed to the slow growth of large scale industries in India. However, the industrial development in India has been dilatory and uneven under the yoke of British Empire. The little growth that occurred in the industrial field was largely due to exigencies of the two global conflicts. The First World War had a profound influence on industrial development in India and there was an appreciable increase in the ranks of Industrial workers. As a natural consequence, labour problems engaged the attention of the public and the Government. In India, in 1911, prior to the First World War, the number of industrial establishments employing more than 50 persons and using power stood at about 7,000 with a working force of 2.1 million. After the First World War came to an end the large scale industries received certain impetus and consequently the number of industrial establishments rose to

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4 Govt. of India, Ministry of Labour, Employment and Rehabilitation, 123rd Report, Estimates Committee, Fourth Lok Sabha, New Delhi, 1969-70, p.2
11,000 employing a working force of about 2.6 million.\(^5\)

The decades between 1921-41 saw a steady rise in factory employment. With the outbreak of Second World War, however, the industrial development again received a considerable fillip. After the second global conflict, the total factory employment in the country was estimated to the tune of 3.5 million.\(^6\)

(c) Post - Independence era: The Indian industrial landscape has changed perceptibly in the last three decades since India became independent. With the rapid development of the industrial sector of our economy during the post-independence era through planned efforts, a stable industrial labour force has been growing rapidly. The industrial base of the economy could now be considered fairly well-developed. Simultaneously, the industrial structure has been greatly diversified and strengthened.

\(^5\)Govt of India, Census Report (1921), Vol.I, Part I, p.266

\(^6\)Govt of India, Main Report, the Labour Investigation Committee, 1946, p.7
In addition to the traditional large scale industries a number of new industries such as textiles, minerals and food beverages have been established.

The Rege Committee observed in 1946 that the working class had become more established and organised. Its ties with the villages have been loosened. Stabilisation of labour force in principal industrial cities, therefore, is a matter of compulsion rather than of choice. A worker these days is far more urban in taste and outlook than his predecessor. The idyllic notion of a 'village nexus' which found favour with the Whitely Commission, even though it hindered the workers' commitment to industry, has receded to the background owing to the positive measures undertaken in the interest of industrial labour is elaborated elsewhere. When employers began offering incentives for regularity and productivity, even rural migrants reduced the frequency and duration of their visits to villages.

(d) **Worker in his setting** :- In older industries a second or even third generation of workers has emerged. A self generating working class with its roots in the industrial environment in which a worker is born and bred is growing in

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7Govt of India, *Main Report of the Labour Investigation Committee*, 1946, p.68
strength. The industrial worker of to-day has acquired a dignity not known to his predecessor. "He is no longer the unskilled coolie of the days gone by, engaged in an unending struggle to eke out his existence, neglected by society except for his labour, and with very limited aspirations." He has now a personality of his own. He shares the benefits, however, which a welfare state with a vast population and inadequate resources can offer, and some more. In the days since Independence, there has been an appreciable rise in his wages. Several new amenities are a part of his working life both because of legislation and also because the conditions of the new industries require the provision of these facilities. With the changing industrial landscape of the country, growth of new industrial townships and dispersal of activities, a process of industrial 'culturisation' of working class has set in.

2. Need for economic security for industrial working class: - Economic security has been the chief quest of man in all ages. The history of human civilisation is mostly a


record of the efforts that man has made, individually and in association with others, to achieve this objective. People may disagree about what constitutes a happy life, but no one ever denies that economic security is the first condition for it. Man, no doubt, does not live by bread alone, but he cannot live without it either. Security of living comes next only to security of life. In fact without the former the latter is hardly of any significance.  

Freedom from want is the very basis of all those human rights which are related to higher values of life. "It is rather ironic to speak of the right to give expression to his opinion and to practise his religion of a starving man, who fears for his own security and for that of his dependents and who does not know what the morrow will bring". For the multitude of people freedom in fact means freedom from want.

(a)  **International Labour Conference and Economic Protection:** In 1944, the International Labour Conference pleaded for economic protection for the Industrial workers

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10 The relative importance of the two is brought out by a common utterance of the workers, current perhaps all over the country; "Hit me on the back if you will, but not on the stomach".  

all over the world. The conference urged that the sphere of protection of income security should be progressively enlarged in order to ensure that every worker having dependents should have at least the means of subsistence in every common contingency that may cause the involuntary loss of his earnings or make them insufficient for the necessities of family. When the United Nations adopted the "Universal Declaration of Human Rights; it was emphatically stressed that" everyone has a right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or any other lack of livelihood in circumstances beyond his control."¹²

(b) Economic Condition of Wage Earners—No doubt industrialisation is the backbone of modern economy, but simultaneously it has brought in its wake a number of problems in all the countries economically advanced or backward. The first effect of industrialisation is the

uprooting of large masses of people from a static and rural environment and almost "Transplanting" and 'Exposing' them to a dynamic urban environment. The worker loses his mooring, all the security that it gives and gets lost in a community, alien to him and his way of life. The new community where he comes to work has not by and large, developed sufficient facilities. His wages are barely enough for his living from day-to-day. The facts of living anonymous life, isolated and uncared for, generate a very high incidence of restlessness and have an unsettling effect on the human mind. 13

Besides the almost totally alien environment, the worker is exposed to several new hazards of unemployment, sickness and industrial injuries. When the 'Industrial Revolution' set in, it was thought that it would bring in its train peace, progress and prosperity for the wage earner. At the close of Industrial Revolution in the 19th Century his appalling misery, the un-believable long hours of work, insufficient wages and pitiable conditions of work were all neglected by a large number of contemporary economists. 14

13 P.C. Srivastava, Social Security in India, Lokbharti, 1964, p.33

14 R.Palme Dutta, India to day, 1959 p.356
As a consequence, the industrialisation of the country has not proved an unmixed blessing for the wage earner. Some body turned the key on him and for 14 hours he had not even the right to whistle, it was like entering the airless and laughterless life of a prison.\textsuperscript{15} This discussion of the sad economic plight of the wage earner necessitated an elaborate system of economic security.

(a) \textit{Change in the institutional pattern:—} In India the need of economic security is increasing on account of the rapid changes in the pattern of the joint family system and other basic social institutions which have so far been taking care of their members when they are faced with problems resulting in the discontinuation or curtailment of their incomes. In India where we have accepted the 'Socialistic Pattern'\textsuperscript{16} of economy as our immediate objective through economic planning, a comprehensive and coordinated scheme of economic security, as a humble beginning towards complete social security, is a sine-qua-non.

\textsuperscript{15} H. S. Kirkaldy \textit{The Spirit of Industrial Relations}, 1955, p. 77

\textsuperscript{16} In Dec. 1954, Indian Parliament adopted a resolution which contained that the objective of our economic policy should be the setting of a 'Socialistic Pattern of Society'.
In a socialist economy, striving for the greatest happiness of the greatest number, it is imperative to evolve a system which assures adequate income for every one who can work, and aims at reducing the concentration of incomes, wealth and economic power in a few hands. This is implicit in India's acceptance of the 'Socialistic Pattern of Society' as one of the major objectives of her social policy. After centuries of abhorred thraldom under foreign yoke, our desideratum naturally is the social protection against all forms of economic insecurity for each citizen irrespective of sex, caste and religion.\textsuperscript{17}

In India, which has embarked upon a vast programme of industrialisation, the need for providing economic security to industrial workers forms an integral part of the policy of the Government. Basically speaking, the idea is to guarantee the security of income whenever normal income ceases and in addition, to provide medical care and financial help to the families.\textsuperscript{18}

\textsuperscript{17} Even in a socialistic economy individual differences may arise but they are of a different nature. Under the Soviet system, a worker and a manager do not belong to the opposing classes, both of them are workers of one and the same enterprise.

\textsuperscript{18} V. Jagadadhan, Social Insurance in India Amsterdam, International Educational Publishing House Ltd., 1954 p.5
The growth of individualism and the influence of modern civilisation led towards disintegration of the joint family system, leaving the problem of economic security to be solved by the society. Today among the most insistent demands of man is the cry for a sufficient measure of economic security from 'the Womb to the Tomb'.

(d) **Social action and problem of economic insecurity:**—

A feature of the economic hazards to which people are ordinarily exposed is that one cannot provide adequate protection for himself against them by his individual efforts, and foresight alone. The timeless quest for security has created a number of social measures institutions to provide protection to the needy individuals. These institutions devices took different forms in different countries. In some countries the mutual aid obligations were rooted in social customs and conventions, while in others they took the form of raising a common fund for the assistance of the needy. With the growth of social consciousness the sphere of such social action has widened.

3. **Economic Security in ancient India:**— The attempt to conceive imaginatively a better ordering of human society

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replacing the destructive and cruel chaos in which mankind has hitherto floundered is by no means peculiar to our own age. Ever since Plato dreamt of his 'Republic', Aristotle of his 'Ideal State', Thomas Moore of his 'Utopia', Lenin of his classless 'Socialist State' and Mahatama Gandhi of his 'Ram-Rajya', man has been yearning to create a new economic and social order nearer to his heart's desire. The great hope, that has inspired and stirred his creative vision, is to build a world where life would be fuller, richer and freer than it has hitherto been possible.²⁰

Thus it is very fascinating to find that even in ancient India the idea of economic security for the workers was well developed. The Vedas and the ancient scriptures enjoined people to live in the joint family which was the most effective agency for providing economic security in old age, infirmity and unemployment.²¹ In the past, institutions like joint family, community Panchayats, orphanges and widow homes, giving of alms, individual charity and philanthropy

²⁰M.M.Mehta, Economics of Social Security (Universal), Allahabad, 1951 p.4

²¹K.M.Saran, Labour in Ancient India, p.12
were instrumental in affording protection to the masses without means and capacity to work.\textsuperscript{22}

4. **Economic Security in Modern India**: Dr. H. Hasan a reputed authority on Social Security, writes:--

"The modern concept of social security as measures of cash and medical relief organised for the benefit of the victims of economic and biological contingencies is, however, a child of factory industrialism. Through the techniques of social assistance, the modern societies provide income security and restorative medical services during the spells of sickness, child birth, industrial accidents and occupational diseases, invalidity, old age, death of the chief bread-winner and unemployment." \textsuperscript{23}

(a) **Concept of a Welfare State**: There was a time when the entry of the state even in the field of education was resented as an encroachment on individual liberties. But any how it was tolerated in the hope that the State would remain in the field only till the public acquired a taste for education and would then gracefully withdraw. It is a far cry from those days to the present when every social measure is expected to be of a self-propagating kind. The Indian

\textsuperscript{22}B. Shiva Rao, *The Industrial Worker in India*, 1958, p.233

Constitution, according to the chapter on the Directive Principles of State Policy, aims at the evolution of a Welfare State. The assumption is that the community, acting through the State, undertakes the responsibility of providing the means whereby all its members can reach minimum standards of health, their capacity in the social and cultural heritage. 24

The policy of laissez-faire under the influence of which the State refused to intervene in the economic life of her citizens has long been abandoned. Her role and functions are no more confined to the maintenance of law and order and defending the country against foreign invasions. Increased number of social services and economic activities have come within the State's orbit and there is practically no field where she cannot enter. Economic security is a vital part of social welfare and the problem of social security comes next to national defence. Accordingly, the socio-economic policies of the country have been directed, during recent years, towards making provision for social security services on an increasingly large scale.

(b) Social Security before 1948:— A broad study of this can be made under the following heads:

1. Early struggle
2. Workmen's Compensation Act, 1923
3. Maternity Benefit Legislation, 1929
4. The Royal Commission Scheme, 1931
5. The Bombay Textile Labour Committee Scheme, 1940
6. The Labour Department Scheme, 1942
7. Adarkars Scheme, 1944
8. Stack and Rao Scheme, 1945

1. Early Struggle:— It is a far cry from the situation which obtained in early twenties to the present day when a fairly extensive system of social insurance covering a variety of contingencies is functioning. Before 1948 there was no provision for assistance for even common hazards of the life of a wage earner. There was no provision for medical care if a worker fell ill or was otherwise disabled. During the periods of interruption in income due to unemployment, sickness, disability, maternity, old age or death, no compensation was paid. Even in the event of disability caused by 'Employment Injury', no relief was available.\(^{25}\)

The only statutory provision that existed was the Fatal Accident Act, 1885, under which the heirs of a worker,

\(^{25}\) S.G. Panandicar *Industrial Labour in India*, 1956, p. 136
who died in industrial accidents could claim compensation if it could be established that the accident was caused by the personal negligence of the factory owner. Non-fatal injuries were not compensable. As a result of all these defects, the Act remained a dead letter and was seldom invoked. In 1910, the workers of Bombay set up a demand for compensation. With the growing power of Indian workers after the First World War, the demand became more urgent and there was a wave of strikes in the country in the early twenties.

As a natural consequence, labour problems engaged the attention of the public and the Government. As a first step, provision was made in the factories Act giving power to a criminal court to order the whole or part of the fine imposed in case of offence causing bodily injury or death, to be paid as a compensation to the injured person or in case of his death, to his legal representative. But this provision did not give much relief to the workers.

2. **Workmen's Compensation Act, 1923**—We have just examined the manner in which workers could recover damages from their employers in respect of accidents before the


27 Govt of India, Indian Factories(Amendment) Act, 1922
introduction of Workmen's Compensation Act in 1923. Proposals for a Workmen's Compensation Scheme were first published by the Government of India in 1921 and met with general support. In July 1922, a special committee consisting of the representatives of employers and workers was set up to consider the matter. The Committee met in Simla and prepared the framework of the Scheme. The conclusions arrived at by this Committee were embodied, with minor modifications, in the Workmen's Compensation Bill introduced in the Legislative Assembly in 1923. After its consideration by a joint select committee the Bill was subsequently passed with a number of minor amendments in the same year. It came into effect on 1st July, 1923.

Viewed from the point of view of the essential principles of social insurance, this piece of legislation may be regarded in many ways as the forerunner of social insurance measures in this country.

Broad Provisions:— The Workmen's Compensation Act 1923 which covered about four million workers extended to the whole of India except Jammu and Kashmir. The employments

28 S. D. Punekar Social Insurance for Industrial Workers in India, Oxford University Press 1950, p.82
covered included, inter alia railway, manufacturing industries, mines, shipping and the building industry. The State Governments were empowered to extend the application of the Act to other classes of persons whose occupations were considered as hazardous. 29 It has undergone several amendments, with a view to widening the scope, coverage and quantum of compensation payable during a period of about five decades. It may, however, be added that this Act is currently applicable only in the areas where the Employee's State Insurance Scheme is not in force. The rate of compensation varies according to the monthly wages of workers. 30 The liability to pay compensation is entirely that of the employer and there is no obligation on the part of the employee to insure his liability.

**Short comings of the Scheme:** Although the Scheme has been hailed for its protection of industrial employees against the risk of employment injuries, many short-comings of the scheme have come to light during the 46 years of its operation.

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29 Govt. of India, *The Workmen's Compensation Act, 1923* p. 2

30 The rate varies from a minimum of Rs. 1400/- to a maximum of Rs. 14,000/- in case of persons in the lowest and highest wage groups respectively.
Some of the weaknesses of the scheme are discussed below:-

(a) Lack of provision for medical care: It makes no provision for any kind of medical care nor does it provide for the rehabilitation of the worker in case he is retrenched from work because of the loss of his earning capacity.

(b) Unilateral liability: The responsibility for payment of compensation rests entirely with the employer. Neither the workman himself contributes anything towards the cost of compensation nor does the State share any such responsibility.

(c) Lack of financial structure: The scheme of Workmen's Compensation has no financial structure of its own.

(d) Delay in the settlement of claims: It takes time before the claims for compensation are settled because the award of claim is not automatic; the victim has to make a claim. Moreover, the workers, being generally illiterate, donot understand the legal and administrative machinery which is some what complicated.

(e) Inadequacy of payments: The amount of compensation paid under the scheme is very meagre and does not suffice for the worker to tide over the difficulties created by the contingency.
(f) Lump Sum Payment: Lump sum payment in case of death and permanent disablement is not a suitable method to provide income protection against a social contingency. The amount so received is likely to be frittered away by the recipient.

(g) Lack of Compensation for loss of employment due to partial disablement resulting from employment injuries is another anomaly under the scheme. In spite of above shortcomings, the Act has provided valuable protection to certain classes of workers against hazards of industrial accidents.

3. Maternity benefit legislation: After the Workmen's Compensation Act of 1923, the next major step in the direction of Social Security in the country was the introduction of Maternity Benefit Legislation. The Workmen's Compensation Act was an All-India Legislation, while maternity benefits legislation was framed and administered by State Governments. The Presidency of Bombay was the first to pass the Maternity Benefit Act in 1929. The example of Bombay was soon followed by a similar legislation by the Central Provinces. The Royal Commission on labour expressed appreciation of these measures and advocated a scheme of compulsory insurance.

31 Balfour and Talpade, Maternity Conditions of Mill Workers in India, 1962, p.19
to provide maternity benefits to women workers. The Mines Maternity Benefit Act was passed in 1941 for the benefit of women employees in mines. With the passage of the E.S.I. Act, 1948, Maternity Benefits became the responsibility of the E.S.I. Corporation and the State Acts were being applied to residuary employment areas till the Maternity Benefit Act 1961 was passed. This act applied only to those factories, mines and plantations not governed by the E.S.I. Act. The E.S.I. Act at first applied only to those employees earning less than Rs.500/- per month, but was amended in November 1975 to cover employees earning up to Rs.1000/- per month. This meant that within the same establishment, women who were earning less than Rs.1000/- got maternity benefits under the E.S.I. Act whereas women who were earning more than Rs.1000/- 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 Rs.1000/- in establishments covered by the E.S.I. Act.

32 The Report of the Royal Commission on Labour, 1929, p.37
Main features of Maternity Benefit Act:— The administration of the Act in all the States is the responsibility of the factory inspectorates, whereas in the coal mines the Coal Mines Welfare Commissioner is in charge of it. The Director General of Mines Safety is in charge of mines other than coal. The Maternity Benefits Act places on the employers the responsibility for providing the benefits except where the E.S.I. Corporation has taken it over. The Acts provide for payment of cash maternity benefit for certain periods before and after confinement, the grant of leave and other facilities to women employees.33

The working of these Acts brought to the notice that the legislation has led to a tendency among some employers not to employ married women and even to discharge women workers on signs of pregnancy. With the passage of the Central Maternity Benefit Act 1961, the States are gradually adopting the Central Act. Since the inception of E.S.I. Scheme, a uniform pattern of benefits is being followed, both with regard to the quantum and duration.

33 Some of the State Acts include additional benefits such as free medical aid, maternity bonus, provision of creches and additional rest intervals.
4. **The Royal Commission Scheme, 1931:** A Royal Commission on labour was appointed in 1929. In its report of 1931, stressing the need for health insurance for workers it observed:

"The question of making provision for workers during sickness, even if it had not been previously raised by government would have been forced on us by what we found in every industrial centre. Of the great need of the workers for something of this kind, there can be no doubt. By common consent the incidence of sickness is substantially higher than in western countries; the medical facilities are much less adequate and the wages generally paid make it impossible for most workers to get through more than a very short period of illness without borrowing. Indeed, sickness is an important contributory cause of indebtedness with all that debt entails under existing conditions; for often at this time of greatest need, the worker may find himself destitute of resources, unable to take proper measures to restore his health and difficulties regarding even the means of subsistence. The situation calls for the exploration of all methods that may lead to the alleviation of existing hardships." 34

Though the Commission realised that the difficulties in the way of a health insurance scheme for the workers were many and formidable, it proposed a tentative scheme. The main features of this scheme were:

1. The scheme was to operate on the basis of single establishments (where they were large enough) and small establishments might be combined for the purpose.

(ii) The responsibility for the medical and the cash benefit was to be separated; the former was to be undertaken by the government possibly on a non-contributory basis and the latter through employers on the basis of contributions made by themselves and the workers.

(iii) In regard to sickness allowance, the employers were to deduct a certain percentage of wages, to credit this to a fund, and to add thereto contributions of an equal amount and more in the case of poorly paid workers.

(iv) Those workers who had contributed to the fund for the qualifying period (one year) were to be granted leave provided they were certified as sick.

(v) The maximum period of sick leave was fixed at one month in the year though the period of leave was not required to bear a strict relation to the duration of illness.

(vi) Provision was made for refund to those workers who had left employment after subscribing to the fund but before being covered by the insurance.

(vii) The worker was to be entitled to a proportion of his wages to be paid by the employer from the fund during the period of the sickness.
(viii) Increasing or decreasing the period of sick leave in accordance with the increase or decrease in the balance of the fund after adequate provision for emergencies, and

(ix) The responsibility of looking after the supervision and audit of the funds was to rest with the State.

The Commission also discussed the problem of provision against old age and recommended that until such time as a general scheme of old age pensions or provident funds for the industrial workers was instituted, the government should try to encourage employers to inaugurate schemes of this nature.

Though these suggestions could have helped in embarking upon a scheme of provision against sickness and old age no action was taken on the recommendations of the Royal Commission.

5. The Bombay Textile Labour Committee Scheme, 1940:— As a result of the general awakening during the second world war, the pace of social insurance movement was accelerated in India. Accordingly, the second important step in the direction of sickness insurance was taken in 1940 by
the Government of Bombay when the Bombay Textile Labour
Enquiry Committee formulated a scheme whose main features
were that:

(i) it was contributory but restricted to permanent
workers in the cotton textile factories in Bombay and
Ahmedabad,

(ii) it accepted the flat rate basis of contributions
and benefits as against the percentage basis,

(iii) it was to be under the control of a Central
Board of Management consisting of representatives of the
Government, local bodies, employers' and workers' interests
and of the medical profession,

(iv) the expenditure in connection with the Board and
its establishment was to be borne by the provincial

(v) the beneficiaries were to be given medical
benefit, cash benefit and additional benefits. The cash
benefit was to be given at a flat rate not exceeding 75 per
cent of the insured person's average daily wage during the
preceding quarter,

(vi) the duration of cash benefit was to be 6 months
from the fourth day,
(vii) the workers' share of contributions was to be deducted from their wages by the employers who were to be held responsible for the payment for the total contribution of all the insured workers employed in their factories, and

(viii) cash benefit could be granted to a worker leaving his ordinary place of residence if the Board of Management was satisfied about his continued sickness.

The monthly contribution rates worked out on a tentative basis were as follows:

**Table I**

<table>
<thead>
<tr>
<th>Insured Worker</th>
<th>Employer</th>
<th>Government</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male - Rs.5</td>
<td>Rs.10</td>
<td>Anna 1</td>
<td>Re.1</td>
</tr>
<tr>
<td>Female - Rs.5</td>
<td>Rs.10</td>
<td>Anna 1</td>
<td>Re.1</td>
</tr>
</tbody>
</table>

This contribution scale was subject to the condition that the contribution by the insured worker was in no case to exceed 5 per cent of his average monthly income during the preceding quarter.
The Committee recommended the panel system for medical attendance and urged that the insured worker should begin getting the medical benefit immediately on his being admitted to the scheme and on his entry in the list of the panel doctor without any waiting or qualifying period.

The cash benefits suggested by the Committee were as follows:

**TABLE II**

<table>
<thead>
<tr>
<th>Period</th>
<th>Daily cash benefit from the fourth day of incapacity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Men</td>
</tr>
<tr>
<td>(a) During first 6 months after entering insurance</td>
<td>Nil</td>
</tr>
<tr>
<td>(b) After completing 6 months' insurance period and payment of six monthly contributions but before completing 24 months' insurance period.</td>
<td>As.6</td>
</tr>
<tr>
<td>(c) After completing 24 months' insurance period and payment of 24 monthly contributions</td>
<td>As.10</td>
</tr>
</tbody>
</table>
This scheme was an important step forward in the direction of comprehensive sickness insurance plans in as much as it suggested non-separation of cash and medical benefits, setting up of a single and unified fund under central management and recommended contributions from the state. Unfortunately, the government could not implement it.

The conference of Labour Ministers held in 1940 discussed the question of health insurance for the industrial workers and decided that the views of the employers' and employees' organisations should be elicted.

At a conference of the employers, the principle of health insurance was accepted provided:

(i) the state, the employers and the workers contributed to the cost,

(ii) the legislation was on an all-India basis,

(iii) it was made applicable to all important industries and government undertakings, both central and provincial and

(iv) similar legislation was concurrently enacted in all the Indian states.

The workers' organisations also favoured the principle of compulsory contribution but urged that in view of the low
wages of the workers, their contribution should be nominal.

The matter came up for discussion before the second conference of Labour Ministers held in 1941, where it was decided that instead of contributing to the health insurance fund, the government should consider the proposal of standing guarantee to ensure the solvency of the fund.

6. **The Labour Department Scheme, 1942** :- The Labour Department of the Government of India prepared a tentative scheme of health insurance and placed it before the conference of Labour Ministers held in 1942. The main features of the scheme were:

(i) All the factories were required to appoint a medical officer and to provide for satisfactory medical treatment of the workers at the factory.

(ii) The scheme was to apply to permanent employees whose pay was not more than Rs.100 a month and whose names were on the registers of the factory for more than six months after the introduction of the scheme.

(iii) The amount of benefit was half the daily wages subject to a minimum of 8 annas a day or three-fourth of daily salary whichever was less and a maximum of annas twelve.

(iv) The duration of the benefit was of 15 days.
(v) The workers' contributions were:

(a) those drawing less than 13 annas daily - Nil

(b) those drawing more than 13 annas daily - 9 pies for each complete Rs. 5/- of wages drawn within the month. (subject to a maximum of 6 annas in case of those drawing less than Rs. 50/- a month and 9 annas in case of those drawing more than 50/- a month)

(vi) Sickness had to be certified by the medical officer of the factory.

(vii) The whole cost of benefits paid to the non-contributory employees and half the cost of benefit paid to the contributory employees was to be borne by the employers. The excess of the receipts from their contribution over half the benefits paid to them was to be accumulated to be utilised for the purpose of lengthening the period of benefits.

(viii) Maintenance of accurate accounts and statistics by the employer. In this scheme too there was no separation of the cash and medical benefits. However, one of its salutary features was the provision of benefit for the non-contributory workers.

No action was taken on this scheme. It was suggested at the conference that the details of a comprehensive scheme
should be worked out by a small committee of about three experts. Later, however, it was decided to entrust the work to a special officer. Accordingly, Professor B.P. Adarkar was appointed for this work in 1943. He submitted his report in 1944.

7. **Adarkar's Scheme, 1944:** Prof. B.P. Adarkar submitted his "Report on Health Insurance for Industrial Workers" in August 1944. In the formulation of the health insurance scheme within the framework of the terms of reference given to him, Prof. Adarkar adopted certain basic principles as guide lines. He also made certain assumptions regarding the general effort from the Government side. The details of the principles underlying his scheme are as follows: 35

1. The scheme must be a **compulsory** one, if it is to be of any real value to the working class.

2. It must be a **contributory** one as far as possible.

3. It must be simple, clear and straightforward from the viewpoint of those who administer it, those who will pay for it and those who will benefit by it.

4. It must take the existing framework of labour legislation as its formal basis as far as possible.

5. It must not be too ambitious in the beginning.

6. It must be financially sound, economical in working and as far as possible, actuarially balanced.

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(7) It must minimise disputes and litigation and at the same time close all loopholes for malingering, collusion and commission of offences.

(8) It must be workable in the peculiar circumstances of Indian Labour and Industry.

(9) It must as far as possible be in conformity with International Labour Conventions.

(10) It must not be allowed to be inappropriately burdened with financial responsibilities which properly belong to other measures of social security; and finally

(11) It must be flexible, leaving sufficient scope for subsequent alterations and extensions.

Assumptions :- According to Prof. Adarkar, no scheme of health insurance can be planned and implemented in isolation, without taking into consideration the trends in the allied fields and Government’s programmes in them. As he had already stated that a health insurance scheme should not be burdened with responsibility which should be tackled by Government through other programmes, Prof. Adarkar assumed that simultaneously with the introduction of the Health Insurance Scheme, Government would initiate action in respect of the following:-

(1) Early introduction of
   (a) unemployment and
   (b) old-age insurance programmes for industrial workers.

Ibid, p.21-24
(2) The adoption and enforcement of certain "premedical" measures such as regulation of wages, rigorous enforcement of factory laws, housing, nutrition, education in health and improvement of environmental hygiene.

(3) A general national health improvement drive.

These assumptions, it was believed, would help in a great way to reduce the incidence of sickness among the insured and so the cost of the scheme.

Coverage: Coming to the salient features of the scheme proposed by Prof. Adarkar, it covered all the factories belonging to the three major industrial classifications

(a) all textiles (cotton, Jute, rayon etc.);
(b) all engineering; and
(c) all minerals and metals.

However, the following types were excluded from the coverage, viz.

(1) Factories and establishments of
   (a) the defence services;
   (b) public departments;
   (c) public utilities, provided Government was satisfied that the sick-pay and the medical facilities compared favourably with those given under the Scheme.

(2) The exemption holds good for private factories also, subject to their fulfilling the above conditions; special consideration being given to its location in sparse areas.

37 Ibid, p.28-31
The workers were divided into three categories for the purpose of the scheme

(i) permanent—those who had put in three months' continuous service,

(ii) temporary—those who had put in three months' service intermittently in the aggregate in a calendar year and

(iii) casual—those who had not completed three months' service either in aggregate or continuously.

Contributions and Benefits—Three basic principles that were followed in regard to contribution were that

(i) the employers' contribution was to be the same for all categories of workers,

(ii) there was to be no class of non-contributory workers and

(iii) there were to be three classes of workers according to the wage group to which they belonged—class A (earning one rupee or more per day), class B (earning less than one rupee a day), and Class C (earning less than 8 annas a day). So far as the contribution of the workers was concerned, only the permanent and the temporary workers were required to contribute while the casual workers had not to pay.

<table>
<thead>
<tr>
<th>Contributing Party</th>
<th>Class A</th>
<th>Class B</th>
<th>Class C</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rs. As. Ps.</td>
<td>Rs. As. Ps.</td>
<td>Rs. As. Ps.</td>
</tr>
<tr>
<td>Employers</td>
<td>1-04-0</td>
<td>1-04-0</td>
<td>1-04-0</td>
</tr>
<tr>
<td>Workers</td>
<td>0-12-0</td>
<td>0-08-0</td>
<td>0-04-0</td>
</tr>
</tbody>
</table>
Table III shows the structure of monthly contribution rates under the scheme.

The contributions were to be collected by the employers in accordance with the stamped card system. In case the state agreed to contribute and Professor Adarkar wanted it to contribute, it was to contribute 8 annas (2 annas to be given by the Central Government and 6 annas by the Provincial Governments).

As Dr. V. Jagannadham observes "the basic principles underlying the benefits were the same as in other countries, namely, some correlation between contributions and benefits, qualifying and waiting periods and medical benefit without any conditions as to qualifying period or waiting period, from the first day of illness up to final recovery, subject to certain rules regarding a protective period."

The scheme was to provide both for cash benefit and medical benefit. For cash benefit, a qualifying period of 6 monthly contributions (either continuous or intermittent) and a waiting period of 3 days were suggested. A permanent worker was entitled to 90 day's cash benefit (subject to certain conditions) and a temporary worker to 45 days' cash

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benefit. The casual worker did not get any cash benefit as he did not contribute. The scales of cash benefits under the scheme are shown in the following table.

**TABLE IV**

<table>
<thead>
<tr>
<th>Period</th>
<th>Class A</th>
<th>Class B</th>
<th>Class C</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rs.As.Ps.</td>
<td>Rs.As.Ps.</td>
<td>Rs.As.Ps.</td>
</tr>
<tr>
<td>Until the first six contributions are paid.</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>After six contributions and upto the twenty-fourth contribution</td>
<td>0-05-0</td>
<td>0-04-0</td>
<td>0-02-0</td>
</tr>
<tr>
<td>(partial cash benefit).</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After payment of the twenty-fourth contribution.</td>
<td>0-12-0</td>
<td>0-08-0</td>
<td>0-04-0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

As seen earlier, no conditions were laid down for the grant of the medical benefit.

**Administration:** As regards administration, the report recommended a scheme which combined the territorial basis with appropriate representation of the contributing parties, beneficiaries and the doctors. It was suggested that the scheme should be administered by a statutory corporation to be called The Central Board of Health Insurance. The structure of this corporation was to be pyramidal. At the
apex was to be the Central Board with the Labour Minister as its chairman and at the base the advisory regional boards and the local committees.

Administration of medical benefit was not separated from that of cash benefit though salaried medical service was preferred to the panel system, the latter too was not completely ruled out as it was recommended mainly for sparsely populated areas. Appointment of medical supervisors was considered to be necessary to ensure a uniform standard, inspect drugs and stores, hear complaints and supervise medical facilities in sparse areas.

Inclusion of maternity benefit in the scheme was also recommended mainly because it is very common in most of the western countries.

The legal machinery for dealing with disputes and offences was to consist of two parts, internal bodies like the local committees, the regional boards and the Central Board and external bodies like the special courts created by the Government of India for hearing appeals.

The scheme suffered from certain limitations like:

(i) limited scope,
(ii) exclusion of workers over sixty from the scheme,
(iii) the duration of the cash benefit being short and
(iv) the cash benefits being inadequate

However, some of its laudable features were that it

(i) advocated non-separation of cash and medical benefit,
(ii) allowed freedom to adopt either the service system or the panel system according to the requirements of the area,
(iii) pleaded for contribution by the state and last but not the least
(iv) it urged that maternity benefit also should be included in a scheme for health insurance.

The Government of India thought it fit to obtain expert opinion on the report submitted by Professor Adarkar before taking any action on it and requested the International Labour office to send a deputation to examine the scheme. In response to this request, Messrs M. Stack and R. Rao of the International Labour Office came to India in 1945 and prepared a note on Professor Adarkar’s report.

8. Stack and Rao Scheme, 1945: The two experts agreed with the fundamental principles enunciated by Professor Adarkar. The Chief modifications suggested by them were:

(i) the separation of the medical and the cash benefit,

(ii) the integration of maternity benefit and workmen’s compensation in the health insurance scheme and
(iii) the extension of the scheme to all perennial factories covered by the Factories Act and to non-manual workers.

The main features of the scheme were:

(i) grouping together of all branches of social insurance which require medical service like sickness, child-birth and employment injury,

(ii) covering all the risks by a single all-inclusive contribution,

(iii) extending the medical benefit to the families of the workers and

(iv) cash benefit to be sufficient for subsistence and proportioned to the normal standard of living of the lower and middle classes.

The risks covered were sickness, maternity and employment injury. "The exclusion of tuberculosis" according to them, "is regrettable, but we understand that it would not be possible in the near future to create the necessary sanatoria and that in the existing housing conditions relapse would remain very probable".\(^39\) They also point out that tuberculosis is pre-eminently a purely public responsibility in most countries of the world.

\(^{39}\) M. Stack and K. Rao *Note on the Report prepared by Prof. B.P. Adarkar on a Scheme of Health Insurance for Industrial Workers*, New Delhi, 1945, p. 3
Benefits:— Following the Beveridge reports, Messrs Stack and Rao recommended the same rate of benefit for all the three risks and did not make any distinction between the male and the female employees. The fundamental principle followed in regard to benefit was "all cash benefits should be fixed at the same percentage of the basic earnings of the beneficiary being neither less than 50 per cent nor more than 75 per cent of his actual earnings." 40

A five-fold categorisation of workers as against the three-fold classification suggested in the Adarkar report and the scale of benefits suggested by the experts are shown in the following table:

<table>
<thead>
<tr>
<th>Class</th>
<th>Range of daily earnings</th>
<th>Basic earnings</th>
<th>Benefit six days a week</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>As. 8 to Rs. 1</td>
<td>As. 12</td>
<td>As. 8</td>
</tr>
<tr>
<td>II</td>
<td>Re. 1 to Rs. 1-8</td>
<td>Rs. 1-4</td>
<td>As. 13</td>
</tr>
<tr>
<td>III</td>
<td>Rs. 1-8 to Rs. 2-4</td>
<td>Rs. 2-0-0</td>
<td>Rs. 1-4</td>
</tr>
<tr>
<td>IV</td>
<td>Rs. 2-4 to Rs. 3-8</td>
<td>Rs. 3-0-0</td>
<td>Rs. 1-13</td>
</tr>
<tr>
<td>V</td>
<td>Rs. 3-8 and over</td>
<td>Rs. 4-0-0</td>
<td>Rs. 2-7</td>
</tr>
</tbody>
</table>

40 Ibid.
The above rates were to be cut down by 50 per cent in the case of hospitalisation, but for permanent total incapacity and death due to employment injury, full pensions at those rates were to be granted. Also, a convalescence benefit and a funeral benefit equal to one month's earnings were recommended.

There was to be no qualifying period for employment injury; but for sickness, maternity and medical benefit, the initial qualifying condition of 17 weekly or 4 monthly contributions in the course of a prescribed period of 6 months was laid down.

A waiting period of 3 working days of incapacity was proposed, benefit being available for the fourth and subsequent days of incapacity.

The duration of benefit was 13 weeks for sickness (which could under certain circumstances be extended to 26 weeks), till the completion of medical care for temporary incapacity and 12 weeks (six before child-birth and six after it) for maternity cases.

It was suggested that medical care should be provided by the provincial health authorities and should
comprise medical, surgical, obstetrical and simple dental treatment at the dispensary, home or hospital and supply of proper and sufficient medicines and surgical appliances.

Finance—The experts supported the plea for state participation in the scheme. They were in favour of the costs being charged to three sources—the contributions, the provincial government and the central government, and of the fund bearing the entire cost of cash benefits, (a major share (2/3) of the cost of medical care for insured persons and a minor share (1/3) of the cost of medical care for the wives and children of the insured persons).

Increasing of the coverage, incorporation of maternity benefit and of compulsory insurance of state funds against industrial accidents in the health insurance scheme, inclusion of non-contributory class of beneficiaries, separation of medical and cash benefit (on the assumption of the provincial governments providing increased medical facilities), rejection of the distinction between permanent, temporary and casual workers, increased rates of benefit and suggesting the extension of benefit to the families of the workers, were some of the welcome features of the scheme.

It is gratifying to note that the government adopted some of these suggestion like separation of medical and cash
benefit and extending the scheme to the families of the workers.

It would have been much better had the experts not put down an upper age-limit especially because there is no provision in India for an old age pension for workers and not suggested a qualifying period for medical benefit. It may be mentioned that the latter defect has been removed in the existing scheme.

On the basis of the Adarkar Report and the modifications and alterations suggested in the Stack and Rao scheme, the Government of India introduced a bill in the Central Legislative Assembly on November 6, 1946. It was referred to the Select Committee on 22nd November, 1947. The Select Committee submitted its report on the 11th February 1948 making substantial improvements in the original Bill. It modified the provisions making it applicable to all the employers in the factories and changed the name of the Bill to the "Employees' State Insurance Bill", which became a law in the form of the Employees' State Insurance Act in 1948. This Act is the first of its kind not only in India but in the whole of the South East Asian region.
March towards Social Security Since 1948—The First Plan made a realistic approach towards social security by inaugurating the Employees' State Insurance Scheme at industrial towns of Kampur and Delhi on February 24, 1952. The Employees' Provident Fund Scheme which was initially enforced in six industries, was also to be extended to all industries employing 50 or more persons.  

The Second Five Year Plan extended the E.S.I. Scheme and the Employees Provident Fund Scheme to all industries and establishments employing 10,000 or more workers in the country as a whole. The Second Five Year Plan thus visualised the application of the principle of social insurance on an extended scale for the provision of social security services. The Third Plan also made an earnest approach by extending the E.S.I. Scheme to all centres where there was concentration of five hundred or more industrial workers. An urgent consideration was given to various aspects of integration of the existing social security schemes. The Fourth Plan envisaged the extension of social security services for the

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41 Govt. of India, Planning Commission, First Five Year Plan, New Delhi, 1952 p.586
42 Govt. of India, Planning Commission, Second Five Year Plan, New Delhi, 1958 p.580
43 Govt. of India, Planning Commission, Third Five Year Plan, New Delhi, 1961 p.11 and 156
progress of a Welfare State. In the Fifth Plan the wage limit for coverage of employees was raised from Rs. 500 to Rs. 1000/- per month and the Scheme had been progressively extended to cover employees in power-using factories employing 10 to 19 persons and non-power using factories employing 20 or more persons and to commercial establishments.

It is obvious from the above discussion that the trend in public policy has been increasingly directed towards developing a comprehensive and universal system of social security for providing economic protection to the industrial workers. In contrast to the policy of developing social insurance in western countries, the E.S.I. Scheme from the outset, provides protection to industrial workers, against the contingencies of sickness, maternity and employment injury on an integrated basis in accordance with the actuarial principles. It is thus evident from the above that in our country sound foundations have been laid by the State during recent years by introducing E.S.I. Scheme as the chief instrument of providing economic protection necessary for achieving the objectives of Welfare State.

**Formation of the Employees' State Insurance Corporation**

The Employees' State Insurance (E.S.I.) Act has created an

\[44^{op. cit., p.139}\]
autonomous Organisation, namely the Employees' State Insurance Scheme in India. It was constituted in October, 1948 and under the E.S.I. Act, the Central Government has been placed in the position of 'final authority' in all the matters of policy.

As brought out earlier that in addition to necessities of food, clothing, housing etc., man needs security in times of physical and economic distress consequent upon sickness, disablement etc. The E.S.I. Scheme is an integrated measure of Social Insurance embodied in the E.S.I. Act and is designed to accomplish the task of protecting 'employees' as defined in the E.S.I. Act against the hazards of sickness, maternity, disablement and death due to employment injury and to provide medical care to insured persons and progressively to their families.

In simple words we may explain it as a scheme of social security to provide protection to workers by way of payment of benefits in cash and providing medical facilities in kind in the contingencies of sickness, maternity, employment injury and death.

The Employees' State Insurance Corporation can, therefore, rightly be claimed to be the beginning of an extended social security system in India on which benefits to
an increasing number of citizens of all classes can safely be extended in the years to come.

Salient features of the E.S.I. Scheme—The E.S.I. Act was intended to apply to the whole of India except the State of Jammu and Kashmir. The law regarding the extension of the Act was fully discussed by the Hon'able Chief Justice Mootah of the Allahabad High Court in Anand Kumar – Versus Employees' State Insurance Corporation in 1957. According to him:

"The Central Government has been given wide discretion in extending the provisions of the Act to any part of India. But the Act cannot be brought fully into force until the Central Government is satisfied that contributions sufficient in amount have been collected in order to ensure that there are funds sufficient to enable the Corporation to fulfil its obligations under the Act."

As a result of above discussion the Act was not implemented throughout India simultaneously.

Industries covered—The Act applied to all factories in the covered areas. But the word 'factory' has been defined in a special way for the purpose of this Act. The Indian Factories Act, 1948 defines a factory as:
"Any premises (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power of (ii) whereon 20 or more persons are working without the aid of power but it does not include a mine, or a railway running shed ". 45

But according to the E.S.I. Act:-

"Factory means any premises including the precincts thereof whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of Mines Act, 1952, or a railway running shed. 46

In other words an establishment is considered a "factory" coverable under the Employees' State Insurance Act, provided it satisfies all the conditions listed below:-

(a) It has clearly demarcable premises, including the precincts thereof.

45 Indian Factories Act, 1948, § 12 (m)

46 The Employees' State Insurance Act, 1948 § 2 (12) as amended till date.
(b) A manufacturing process\(^{47}\) is carried out in any part of the premises or in its precincts.

(c) The manufacturing process is not seasonal in nature.

(d) Power\(^{48}\) is used in the manufacturing process.

(e) Twenty or more workers are employed for wages and have been employed on any day during the 12 months preceding on any part of the premises and precincts.

(f) The manufacturing process does not belong to the category of subjects falling under the purview of Indian Mines Act 1923 and the establishment is not a railway running shed.

\(^{47}\)Section 2 (X) of the Factories Act 1948 defines manufacturing process as the process for (1) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale transport delivery or disposal or (ii) pumping Oil, water or sewerage or (iii) Generating, transforming or transmitting power or (iv) Composing types for printing by letter press, lithography photogravure or other similar process or book binding, (v) constructing, reconstructing repairing, refitting, finishing or breaking up ships or vessels.

\(^{48}\)Factories Act defines Power as electric energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy.
Difficulties in interpretation: The definition of "Factory" under the Act is thus very elaborate but it does not provide explicit tests which can be uniformly applied to judge whether a particular establishment constitutes a "factory" coverable under the provisions of the Act. Lack of sufficient guidelines in the matter has led to disputes and recourse to litigation. Most of the cases hinge on the interpretation of (e) above, namely "twenty or more" persons requirement.

Twenty or more persons: A close look at the wording of the definition of "factory" contained in Section 2(12), would make clear that the reference is to the number of workers employed as distinct from the actual number working. This is one of the major changes brought about under the 1966 Amendment of the Act. In the original Act the reference was only to the number of persons actually working. For instance, in Employees' State Insurance Corporation Vs. Siddique, it was held that so long as the number of persons working on the premises is twenty or more, the premises is a 'Factory' falling within the definition, it being immaterial whether the persons so working are paid wages or not. 49 The definition does not observe any distinction

between the clerical and supervisory staff and the workers who are directly associated with the manufacturing process. It also does not differentiate between the persons engaged by the principal employers and those engaged by contractors, but working on the premises of the establishment.

In another case viz. Chaman Singh Vs. S.S.I. Corporation, the point of contention was whether the principal employer working on the premises should be counted as working in the factory. The court rejected the contention that he was not employed and, therefore, should not be included in counting the twenty persons to make his premises a factory. 50

Two different persons working for part of the day at different times will be counted as two persons for the purpose of the twenty persons required to make the premises a factory.

The second part of the clause under consideration states that if 20 persons or more are found on the pay roll of an establishment even for a day during the preceding 12 month period, then that establishment should be regarded as a factory covered by the Act. This is an administrative safeguard introduced to foil any unfair attempts by the
employers in marginal cases to circumvent the extension of the Act to their establishments.

Premises and Precincts:—The cases given below will give an idea of the difficulty in interpreting the expression "premises and precincts".

In, 'Employees' State Insurance Corporation Vs. Sriramulu Naidu',\(^5\) the court held that it was not essential for all the 20 persons to be working in one and the same department and that the premises need not be a single building. For the purpose of the 20 persons requirement all persons working in different departments were counted as the efforts of all departments which were co-ordinated for common objective i.e., shooting and processing a film. A number of buildings within a compound constituted the premises and precincts mentioned in the definition; the studio was held to be a factory coverable by the E.S.I. Act. In the Calcutta Electric Supply Corporation Vs. E.S.I. Corporation,\(^5\) it was held that the Electric Supply Corporation's three generating units, 23 Sub-Stations and certain ancillary establishments

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51. *All India Reporter*, 1960, Madras, p.248

52. *All India Reporter*, 1961, Calcutta, p.248
all formed a single unit liable to be covered by the E.S.I. Act. The court rejected the Electric Corporation's plea that the employees of the Sub-stations and ancillary units were not directly engaged in production of power and, therefore, the Corporation needed not pay employer's contribution under Section 73 A of the E.S.I. Act. The Sub-stations and ancillary establishments were adjuncts of the generating units and could not be considered as separate.

However, in Haneef & Co. vs. E.S.I. Corporation,\textsuperscript{53} it was held that a place where tanning was carried on manually did not become a factory under the purview of Section 2(12) of the E.S.I. Act simply by reason of its using electric power to lift water from a well outside the tannery precincts from where it flowed to the tannery through conduit pipes.

The case cited above restricts the meaning of the term factory and narrows down the scope of the Act.

The Act exempts certain establishments. It does not apply to:

(a) Seasonal factory which has been defined as a factory exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture

\textsuperscript{53}Madras Law Journal, 1969, p.17
of coffee, indigo, lac rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes; and includes a factory which is engaged for a period not exceeding seven months in a year:-

(i) in any process of blending, packing or repacking of tea or coffee; or

(ii) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify;

The expressions "manufacturing process" and power shall have the meaning respectively assigned to them in the Factories Act. (63 of 1948).\(^5^4\)

(b) Mines, and

(c) Railway running sheds.

However, the Central Government are empowered to extend the Act to other establishments by giving six months' notice.

Seasonal factory:— The provision under Section 1(4) excluding seasonal factories from the purview of the Act also added to the administrations difficulties. With each

\(^{54}\text{Ibid}\)
extension of the coverage, the administration has to examine carefully whether the process coming under the extension is seasonal or not.\textsuperscript{55} To give an example, in \textit{Shri Suresh Gokuldas Vs. Employees State Insurance Corporation}\textsuperscript{56} the court ruled that the applicants' factory was a seasonal factory as the process of the concern viz. processing of cotton waste is recognised as a seasonal manufacturing process, whether that process was carried out continuously or only intermittently.

\textbf{Employees covered:--} The third and final stage in the process of the extension of the Scheme is the coverage of individual employees of the factories coming under the Act. Initially workers with monthly wages not exceeding Rs.400/- in non-seasonal power-using factories employing 20 or more persons were covered. Later on the coverage was extended to:

\textsuperscript{55}A seasonal factory is defined under Section 2(12) of the E.S.I. Act as one " which is exclusively engaged in one or more of the following manufacturing processes, namely cotton ginning, cotton and jute processing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year (a) in any process of blending, packing or repacking of tea or coffee or (b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, Specify.

\textsuperscript{56}\textit{All India Reporter}, Madras, 1965, p.287
(1) to workers with monthly wages up to ₹500/- (1968).

(2) to include persons employed in connection with the administration of factory/establishment, department or branch thereof, purchase of raw-materials, distribution or sale of products (1968).

(3) to workers in new classes of establishments, namely, smaller power-using factories employing 10-19 persons, non-power using factories employing 20 or more persons, shops, hotels and restaurants, cinemas and preview theatres, newspaper and road-motor transport establishments employing 20 or more persons (1975) in areas where provisions of Section 1 (5) of the E.S.I. Act are extended.

(4) to workers with monthly wages up to ₹1000/- (excluding remuneration for overtime work w.e.f. 30 Nov 75).

For the purpose of coverage, an employee under the Act has been defined thus:

Any person employed for wages in or in connection with the work of a factory or establishment to which this (E.S.I.) Act applies, and

(1) who is directly employed by the principal employer on any work incidental or preliminary to, or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere.

57Section 2(9) of the E.S.I. Act, 1948
(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into contract of service and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof with the purchase of raw materials for or the distribution or sale of the product of the factory or establishment; but does not include (a) any member of the Indian Naval, Military or Airforce (b) any person so employed whose wages (excluding remuneration for over-time work) exceed one thousand rupees a month at any time after (an not before) the beginning of the contribution period shall continue to be an employee until the end of that period.

The above definition of 'employee' as spelt out under the Act is fairly elaborate. It clearly explains the position taken in respect of the workers directly employed by the principal employer and about those taken by him temporarily and also in respect of the workers of a contractor or other middlemen engaged by the principal for carrying out some work of his establishment. The primary
consideration in respect of all categories of workers mentioned above is whether their duties form part of the work, or incidental, or preliminary to, or connected with the work of the establishment concerned. In the case of persons engaged directly by the principal employer, they are regarded as employees coverable by the definition, provided the above mentioned requirement in respect of their duties is satisfied, irrespective of whether their duties are carried out inside the premises or outside it. But in the case of workers employed by the contractor and middlemen, to be regarded as employees they should be found working on the premises of the establishment under the overall supervision of the principal employer or his agent. However, in both the categories of workers, the definition does not make any distinction between the white collar workers i.e., those belonging to the administrative, supervisory classifications and the blue collar workers i.e., manual workers engaged in production, etc.

The second important clause in the definition is wage of the workers employed. In this respect the definition is different from the one adopted for the "20 persons or more" requirement to decide whether an establishment is a factory or not under the same E.S.I. Act. Here only those workers whose total emoluments do not exceed Rs.1000/- per month are
considered. The third feature is that employees belonging to the three defence services, the Army, the Navy and the Air Force are excluded from the purview of the definition of 'employee' under the Act.

A perusal of some of the court rulings on the term 'employee' under the Act indicates that persons who are engaged as gardeners, building workers, office attendants, watchmen etc. would all come under the purview of the term 'employee' of the Act.\textsuperscript{58}

Similarly, the "line staff" of an electric supply Corporation has been held to come within the definition of 'employee' though their work is necessarily outside the premises of the factory, in this case the power house or transformer, for they are directly employed by the principal employer, viz. the Electric Supply Corporation; also their work is clearly incidental and connected with the work of the factory (supplying electric power to consumers).\textsuperscript{59}

It has been held in another case.\textsuperscript{60} that members of the administrative staff of a managing agency firm housed in a

\textsuperscript{58}K. Thiagarajan v. E.S.I. Corporation, Madras, \textit{All India Reporter}, 1963, p. 361

\textsuperscript{59}Nagpur Electric Light & power Co. Ltd. v. Regional Director E.S.I. Corporation, \textit{All India Reporter}, 1967, Supreme Court, p. 1364.

\textsuperscript{60}Chanan Singh & Sons v Regional Director, E.S.I.C. AMRITSAR, \textit{All India Reporter}, Punjab p. 426
factory are not covered by the definition of employees coverable by the E.S.I. Act. Their work cannot be construed to be either incidental to or connected with the work of the factory.

All India Coverage as on 31-3-75 and 31-3-76 is shown in the table given below:

**TABLE VI 61**

**ALL - INDIA COVERAGE AT A GLANCE**

<table>
<thead>
<tr>
<th></th>
<th>31-3-75</th>
<th>31-3-76</th>
</tr>
</thead>
<tbody>
<tr>
<td>STATES</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>CENTRES</td>
<td>365</td>
<td>388</td>
</tr>
<tr>
<td>EMPLOYEES</td>
<td>43,85,000</td>
<td>51,50,000</td>
</tr>
<tr>
<td>INSURED PERSONS</td>
<td>47,75,000</td>
<td>56,00,000</td>
</tr>
<tr>
<td>RATIO OF INSURED PERSON TO EMPLOYEE</td>
<td>1.0889</td>
<td>1.0874</td>
</tr>
<tr>
<td>FAMILY (IP) UNITS</td>
<td>47,54,150</td>
<td>55,84,050</td>
</tr>
<tr>
<td>INSURED WOMEN</td>
<td>3,46,550</td>
<td>4,35,450</td>
</tr>
<tr>
<td>TOTAL BENEFICIARIES</td>
<td>1,84,66,950</td>
<td>2,16,82,050</td>
</tr>
<tr>
<td>EMPLOYEES YET TO BE COVERED</td>
<td>6,65,000</td>
<td>7,25,000</td>
</tr>
</tbody>
</table>

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61. *E.S.I.C. Statistical Brochure 1976-77* p.1
Contingencies covered: The E.S.I. Scheme provides protection of income as well as medical services in case of (i) Sickness, (ii) Maternity, and Employment Injuries. The term employment injuries covers both industrial accidents and occupational diseases. Accidents may result in total or partial disablement or in death. A partial disablement may be temporary and curable after some treatment. But permanent disablement, whether total or partial, is an incurable condition lasting till death. These contingencies have been defined by E.S.I. Act, 1948 in a special way for the purpose of attracting the provisions of the scheme.

Progress of implementation: The scheme came into force in Kanpur and Delhi simultaneously on 24th February, 1952, covering about 1,20,000 workers in the two Centres. The total number of Insured Persons and the Centres covered in the country during the various years of the Scheme upto 31 March 1976 have been shown at Appendix 'B' and 'C' respectively to this thesis. A social insurance scheme requires co-ordinated efforts of the employers, the employees, the State Governments concerned and the medical doctors. In other words in a large country like India this scheme could not achieve its targets of implementation and
extension for want of such co-ordination. In spite of the above difficulties, the scheme has been progressively extended from time to time to several industrial Centres over the country. The persistent efforts made during 1957-58 bore fruit in subsequent years when a beginning was made in the extension of medical care to the families of the insured persons in certain industrial Centres.  

The table on the next page shows the increase under certain important heads since its inception during different plan periods:

62 E.S.I.C. Annual Report 1957-58 p.9
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Centres</td>
<td>31</td>
<td>89</td>
<td>139</td>
<td>54</td>
<td>37</td>
</tr>
<tr>
<td>2.</td>
<td>Insured Persons</td>
<td>12,92,000</td>
<td>6,47,000</td>
<td>14,66,000</td>
<td>3,71,500</td>
<td>9,73,500</td>
</tr>
<tr>
<td>3.</td>
<td>Family Units</td>
<td>-</td>
<td>6,78,550</td>
<td>23,55,350</td>
<td>5,40,200</td>
<td>11,66,950</td>
</tr>
<tr>
<td>4.</td>
<td>Beneficiaries</td>
<td>12,92,000</td>
<td>26,01,000</td>
<td>82,49,650</td>
<td>19,27,250</td>
<td>43,34,200</td>
</tr>
<tr>
<td>5.</td>
<td>Cash Offices</td>
<td>99</td>
<td>129</td>
<td>178</td>
<td>96</td>
<td>96</td>
</tr>
<tr>
<td>6.</td>
<td>Inspection Offices</td>
<td>32</td>
<td>32</td>
<td>29</td>
<td>21</td>
<td>2</td>
</tr>
<tr>
<td>7.</td>
<td>E.S.I.Hospitals</td>
<td>-</td>
<td>7</td>
<td>7</td>
<td>17</td>
<td>25</td>
</tr>
<tr>
<td>8.</td>
<td>E.S.I.Annexes</td>
<td>-</td>
<td>-</td>
<td>17</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>9.</td>
<td>Total Beds</td>
<td>878</td>
<td>1,610</td>
<td>3,487</td>
<td>3,438</td>
<td>2734</td>
</tr>
<tr>
<td></td>
<td>(Including reserved)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>SI Dispensaries</td>
<td>98</td>
<td>236</td>
<td>239</td>
<td>115</td>
<td>85</td>
</tr>
<tr>
<td>11.</td>
<td>IMOs &amp; IAPs</td>
<td>1,767</td>
<td>1,036</td>
<td>2,660</td>
<td>704</td>
<td>79</td>
</tr>
</tbody>
</table>

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63 E.S.I.C. *Annual Report 1973-74 p.(iv)*
(b) The Employers and Trade Unions—The employers and trade unions have also been instrumental in ameliorating the conditions of the industrial workers. With a rise in the industrial proletariat the responsibility of the employers and trade unions in safeguarding the economic and social interests of the working class population has increased to a greater extent. The employer too, of late, has awakened to the growing needs, hopes and aspirations of the working classes and has begun to realise the inevitability of treating him as an equal partner in the joint enterprise. In fact, the Workmen's Compensation and State Maternity Benefit schemes were nothing more than 'employers' liability schemes. It is, however, gratifying to note that some enlightened employers of larger organisations have shown themselves quite alive to the interests of the workers. They have regarded the maintenance of a contented labour force as conductive to their efficiency and productivity. They have thus achieved this harmonisation between the workers' interest and their own. But a large majority of employers especially smaller ones still regard profit making as the guiding motive of their relations with the workers.

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64 V.V. Borkar Public Finance and Fuller Employment with special reference to India, University of Bombay, 1959, p. 12
Although trade unions have helped the workers to obtain better wages and working conditions, the worker has not been able to obtain a fair deal. The Labour Investigation Committee has remarked that his illiteracy, ignorance and helplessness have been largely exploited by some employers who have been able to break or disregard the law with impunity and very often the worker himself has been party to this and where he has been aware of his rights, he has connived at the statutes of law for the simple reason that security of employment is more important to him than the assertion of his right. The State Governments have also been guilty in this respect.

It may be emphasised that a comprehensive and broad-based system of social security for a welfare state can hardly be conceived except as a part of the general economic and social policies aimed at achieving a fast rate of economic growth, maximising employment and ensuring a minimum standard of living for all the industrial workers. It now stands undoubted that many of the social ailments are man-made and it is the responsibility of the society and the state to cure them. The moral right of the workers and the poor to beg for charity has been creditably converted into the human right to social security. The solution of the

\[65\text{op.cit., p.9}\]
problem of economic insecurity of the industrial workers, as we understand it today, is the joint responsibility of the State, planners, employers' and workers' organisations alike. The law by itself will remain inadequate to cope with the needs of the growing industrial population.

Resume: It is evident from the facts and figures discussed in the preceding paragraphs that it would be quite erroneous to hold the belief that the village provides a measure of economic security to industrial workers as we understand the term today. In the absence of social security measures, the Royal Commission on Labour, however, rightly observed that 'the village is an infinitely better place than the city for the young and the aged, the sick, the maimed and the exhausted, the unemployed and the unemployable,' but to hold the view, as the said commission did, that the village 'nexus' should be maintained as a source of economic security for the workers, is at best only a counsel of despair. The fact is that the workers are in a transitional stage, the joint family and the caste are steadily deteriorating as

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66 Govt of India, Report of the Royal Commission on Labour, Calcutta, 1931, p.15
institutions of economic and social security. In context of this background, Administration of Benefits under the E.S.I. Scheme may be called a step in right direction.