CHAPTER III

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LEGAL ASPECTS OF INDUSTRIAL SAFETY

3.1. Introduction

3.1.1. Any responsible state would take interest in the conduct of industry and superimpose statutory obligations mostly on the employers and also to a lesser degree on the workers in order to maintain good industrial relations and secure good working conditions. Labour has a vital role in increasing productivity, and the management has to create conditions in which the workers can make their maximum contribution.

3.1.2. Labour legislation is based on certain fundamental principles:

- **Social Justice.** To provide for in an industrial setup equitable distribution of profits, affording protection to workers against harmful effects to their health, safety and morality.
- **Social Equity.** Legislation based on social justice fixes a definite standard for adoption for the future, taking into consideration the events and circumstances of the past and present.
- **International Uniformity.** International uniformity is another principle on which labour laws are based.
- **National Economy.** While framing labour legislation, the general economic situation of the country has to be borne in mind lest the very objective of the legislation is defeated. The state of national economy is an important factor in influencing labour legislation in the country.

3.1.3. After the colonialist’s left India’s industrial scenario changed considerably and the perceptible change was witnessed during the last 45 years. Prof. ND Kapoor in his book “Industrial Law” writes that “The main postulates of labour policy operating in the country can be summed up as follows:

- **Recognition of the State, the custodian of the interest of the community, as the catalyst of ‘change’ and welfare programs.**
• Recognition of the right of the workers to peaceful direct action if justice is denied to them.
• Encouragement to mutual settlement, collective bargaining and voluntary arbitration.
• Intervention by the state in favour of the weaker party to ensure fair treatment to all concerned.
• Primacy to maintenance of industrial peace.
• Evolving partnership between the employer and the employees in a constructive endeavour to promote the satisfaction of the economic needs of the community in the best possible manner.
• Ensuring fair wage standards and provision of social security.
• Co-operation for augmenting production and increasing productivity.
• Adequate enforcement of legislation.
• Enhancing the status of workers in the industry.
• Tripartite consultation.

3.2. National Policy on safety, health and environment at workplace

3.2.1. The Constitution of India enshrines detailed provisions for the rights of the citizens and other persons and for the principles to be followed by the States in the governance of the country labeled as “Directive Principles of State Policy”. These Directive Principles provide for:-
• securing the health and strength of workers, men and women;
• the tender age of children are not abused;
• citizens are not forced by economic necessity to enter vocations unsuited to their age or strength;
• just and humane conditions of work and maternity relief are provided, and
• The Government shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of
undertakings, establishments or other organisations engaged in any industry.

3.2.2. On the basis of these Directive Principles, the Government of India declares its policy, priorities and strategies, purposes through the exercise of its power. She is committed to regulate all economic activities among the several states and with foreign nations for management of occupational safety and health risks and to provide measures for protection of national assets and for the general welfare to assure, as far as possible, every working man and woman in the nation safe and healthy working condition and to preserve human resources. The formulation of policy, priorities and strategies in occupational safety, health and environment at work places, is not undertaken by national authorities alone but in some form of consultation with the social partners i.e. employees’ organisations, employers organisations, autonomous & voluntary organisations, public etc. for agreement and involvement for ensuring set goals/objectives.

3.2.3. Government of India firmly believes that without safe and healthful working conditions, social justice cannot be achieved and that attainment of safety and health at work is fundamental to economic growth. The changing job patterns and working relationships, the rise in self employment, greater sub-contracting, outsourcing of work and the increasing number of employees working away from their establishment and home work, pose the problem of management of occupational safety and health risks. New safety hazards and health risks will be appearing along with the transfer and adoption of new technologies. In addition, many of the well known conventional hazards will continue to be present at the workplace many years ahead till the risks arising from exposure to these hazards are brought under adequate control. Particular attention needs to be paid to the hazardous occupations and of workers in precarious conditions such as migrant workers and various vulnerable groups of workers. The increasing use of chemicals and biological agents with hazard potential unknown to people; the indiscriminate use of agro-chemicals including
pesticides, agricultural machinery’s and equipment, and their impact on health
and safety of exposed population; industries with major accident risks; effects of
computer controlled technologies and alarming influence of stress at work in
many modern jobs may pose serious safety and health risks. Work related
hazards and occupational diseases in small-scale industries and agriculture are
likely to increase as the occupational safety and health services are out of reach
in these occupations.

3.2.4. The fundamental purpose of this National Policy on Health, Safety and
Environment at workplace is to reduce the incidence of work-related injuries,
diseases and fatalities.

3.2.5. With a view to improve the occupational safety and health performance
year by year, it is essential to ensure that following actions are taken:-
  • Providing statutory framework including enactment of General Enabling
    Legislation on OSH in respect of all sectors of economic activities, designing
    suitable control systems of compliance, enforcement and incentives for better
    compliance.
  • Providing administrative and technical support services.
  • Providing a system of incentives to employers and employees to achieve
    higher health and safety standards.
  • Establishing and developing the research and development capability in
    emerging areas of risk and effective control measures.
  • Developing a proper interface between the work and the human resource
    through a system of skill improvement.
  • Focusing prevention effort and monitor performance through improved
    data collection system on work related injury and disease.
3.2.6. The policy seeks to bring the national objectives into focus as a step towards improvement in occupational safety and health performance. The objectives are to achieve:

a) Continuous annual reduction in the incidence of work related injuries, fatalities and diseases.

b) Continuous annual reduction in the cost of workplace injuries and diseases.

c) Extend coverage of work-related fatalities, incidents and diseases by national data sources as a means of better performance and monitoring the same from time to time.

d) Continuous increasing community awareness regarding occupational safety and health related areas.

3.2.7. The formulation of such a policy integrating it into the national economic plan under the collaboration of the government, employers’ and workers’ organisations will ensure action with the commitment of all social partners. A key for the success will be the formulation of a practical national policy, which could be implemented as suitable to local conditions in phases. The country, as a whole, and the government and the social partners, in particular, are committed for steady and sustainable development for economic growth of the country. We, the all concerned, are committed to preserve our national assets, the human resource being the most priority concern, including the environment. For the purpose of achieving the above referred objectives and goals, Government of India draws out the action programme referred hereunder.

3.2.8. **Action programme.**

3.2.8.1. **Enforcement.**

- By providing an effective enforcement program, which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual, violating this prohibition.
• By effectively enforcing all applicable laws and regulations concerning safety, health and environment in all economic activities with such technical variations as may be necessary for which there shall be adequate and qualified inspection services.
• By creating a “National Safety, Health and Environment at Workplace Fund” to enable the effective implementation of the policy.
• By providing that employers and employees have separate but complementary responsibilities and rights with respect to achieving safe and healthful working conditions.
• Amending progressively the existing laws dealing with safety, health and environment in line with the international instruments.
• Monitoring adoption of national standards by regulatory authorities.
• Facilitating the sharing of best practices and learning between OHS regulatory authorities.
• Developing new enforcement methods including innovative sanctions that encourage and ensure improved workplace performance.

3.2.8.2. **National Standards.** Developing standards, codes of practices on safety, health and environment for uniformity at the nation level in all economic activities consistent with international standards and implementation by the stakeholders in true spirit.

3.2.8.3. **Compliance.**

• Encouraging the States to assume the fullest responsibility for the administration and enforcement of occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans and programmes in accordance with the provisions of the Acts, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith,
• Calling upon the cooperation in application of social partners in supervision of the application of legislation’s and regulations relating to safety, health and environment at work place.

• Developing guidance on OHS management systems, strengthening voluntary actions and establishing auditing mechanisms which can test and authenticate management systems.

• Providing specific measures to prevent catastrophes, and to co-ordinate and make coherent the actions to be taken at different levels, particularly in the industrial zones where undertakings with high potential risks for workers and the surrounding population are situated.

• Recognizing the best safety and health efforts and facilitating others to emulate their examples.

3.2.8.4. Awareness.

• Providing forums for consultations with employers’ representatives, workers’ representatives and community on matters of national concern relating to safety, health and environment at work place with the overall objective in creating awareness and enhancing national productivity.

• Encouraging joint labour-management efforts to preserve, protect and promote national assets and to reduce injuries and disease arising out of employment.

• By maximizing gains from the substantial investment in awareness campaigns by sharing experience and learning.

• By including occupational safety and health at work place in schools higher technical, medical, professional and vocational courses.

• Securing good liaison arrangements with the International organisations.

• By providing medical criteria, which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience and that in
the event of such occupational diseases having been contracted, suitably compensated.

- Providing for appropriate reporting procedures with respect to occupational safety and health to help achieve the objectives and to accurately describe the nature of the occupational safety and health problem with a view to carry out national project study, surveys to identify problem areas and pragmatic strategies.

3.2.8.5. Research and Development.

- By providing for research in the field of occupational safety and health, including the social and psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems.
- Exploring ways to discover latent diseases, establishing causal connections between diseases and work environmental conditions, and conducting other research relating to health problems.
- Development of Occupational safety and health skills.
- Building upon advances already made through employer and employee initiative for providing safe and healthful working conditions.
- Providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health.
- Integrating health and safety into workplace, industry and professional training programme, vocational, professional and enforcement agencies training arrangements.
- Providing information and advice, in an appropriate manner, to employers and organisations, with a view to eliminating hazards or reducing them as far as practicable.

3.2.8.6. Data collection.

- Compiling statistics relating to safety, health and environment at work places, prioritising key issues for action, conducting national
studies/surveys/projects through governmental and non-governmental organisations and ensuring its compliance.

- Reinforcing and sharing of national occupational safety, health and environment at work place information amongst different stake holders through a national network system on OSH.

- By extending data coverage relevant to work-related injury and disease, including measures of exposure, and occupational groups that is currently excluded, such as self-employed people.

- Extending data systems to allow timely reporting and provision of information. By exploring partnerships to address areas where there is overlap between public health and occupational risk.

3.2.8.7. Practical guidance.

- Providing practical guidance and encouraging employers and employees in their efforts to reduce the incidence of occupational safety and health risks at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions.

- Giving effect to the decisions by Courts of Law or other tribunals involving question of principles relating to the application of safety, health and environment at work.

- Developing the means for improved access to information.

- Facilitating sharing of practical guidance developed within industrial sectors and jurisdictions.

3.2.8.8. Incentives. By innovative financial and non-financial incentives.

3.2.8.9. Review. National Policy should be reviewed at periodical intervals to assess relevance of the National Goals, for the adoption of targets and development of action plans for their achievements.

3.2.9. To meet the challenges ahead there is a need to develop the cooperation of social partners in the assessment and control of workplace risks by mobilising local resources and extending protection to under-served working
population and vulnerable groups where social protection is meager. We are committed to review the National Policy on OSH and legislation under tripartite collaboration; improve enforcement, statistics compilation and analysis; develop special programmes for hazardous occupations and specific sectors; set up training mechanisms; create nation-wide awareness; arrange for the mobilisation of available resources and expertise. The National Policy and programme envisages total commitment and demonstration by all concerned stakeholders such as government and social partners. Through dedicated and concerted efforts, India will, certainly and steadily, march towards economic prosperity consistent with the requirements of safety, health and environment at workplace thereby improving the standard of living of the people.

3.3. Industrial and Labour Law

3.3.1. The terms Industrial law and Labour law are considered as synonymous in our country. The scope of the term industrial law is however much wider. Broadly speaking, industrial law covers all the statutes and case laws pertaining to the industry. Labour law covers aspects covering laws, which are primarily concerned with labour. The fundamental rights and directive principles of state policy enshrined in the constitution of the country need a special mention in view of the supreme importance in directing and influencing the labour legislation in the country. Article 42 of the constitution lays down for the provision for securing just and humane conditions of work and for maternity relief.

3.3.2. The aim of all social security legislations is to provide an environment where there is freedom from economic fear. An ideal welfare state must provide every citizen the opportunity of earning his living and freedom from fear – fear especially of economic ruin. It is the duty of the community as a whole to protect by common endeavour any individual member thereof from the physical distress consequent on illness and from economic distress inevitable on reduction or loss of earning due to illness, disablement, maternity, old age, unemployment, or
death of a working member. Neither the Government nor the Law Court took notice of the labour problem seriously, as they believed in the policy of non-interference in employer-employee relation. As a result the situation eventually became worse and the society was so much adversely affected that the Government was forced to take some measures to solve their problems. Initially the workers and trade unions tried to salvage, but the Government later on realised the importance of the problem and could not be a silent spectator to this as the workers formed a large section of the society. Therefore the Government had to intervene to settle the disputes in the interest of national economy and welfare of people at large.

3.3.3. Thus there were **two basic concepts** on which the labour legislation was framed:-

- Well being of workers and to secure them due share of profits in their production.
- Workers share in the gains of economic development.

**3.4. Need for Labour Legislation.**

3.4.1 As the factory system had inherent evils to which factory workers were exposed in the bargaining, labour legislation was found necessary for the following reasons: -

- Workers were financially weak and had little or no bargaining power.
- Workers were prone to accidents due to improper machines and working conditions.
- Poor compensation for injuries.
- Work in industries was hazardous with long hours of duty, no rest or recreation.
- Children and women were taking to work under hazardous conditions of work and at odd hours.
3.5. Classification of Labour Laws

3.5.1. Labour laws may be classified under the following categories:

1. Laws relating to conditions of work in factories and establishments: General Laws which are applicable to all establishments not otherwise provided for, e.g., Factories Act 1948, the Industrial Employment (Standing Order) Act 1946.
2. Specific Laws which are applicable to specific industries.
3. Laws relating to specific matters relating to wages, social security, welfare, housing, leave etc.
4. Laws relating to association of workers.
5. Laws relating to children and women.
6. Laws relating to social insurance.

3.5.2. Modern industrialisation and economic growth envisaged in our planning would, of necessity; call for increased use of legislation not only for tackling the social and economic problems existing in the industrial society but also for creating such conditions as would be conducive for establishing a social order. The foundation on which over 165 current laws rest was laid in pre-independence India. They were carried on for over half a century. Safety and health at work is governed by variety of statutes in the state depending on the nature of work place, manufacturing activity and specific aspects of safety and health. Some of the important statutes are given below:

- The Factories Act, 1948 (Amended 1987)
- The U.P. State Factories Rules, 1950
- Indian Boilers Act, 923
- Uttar Pradesh Boilers Rules
- Indian Boilers Regulations
- Dangerous machines (Regulations) Act
- Child Labour (Prohibition and Regulations) Act
- Manufacture, Storage and Import of Hazardous Chemicals Rules 1989
• U P Factories (Control of Industrial Major Accident Hazards) rules 1996.
• Building and other construction workers Act 1996
• Indian Electricity Act 1911
• Indian Electricity Rules 1956
• Indian Explosives Act
• The Petroleum Act
• Static and Mobile Pressure Vessels Rules


3.6.1. There are different departments of Central Government and State Government entrusted with the responsibility of enforcement of these statutes. The efforts of the enforcement agencies are also supplemented by other organizations such as training and research institutions, employers associations, employees associations, etc. in promoting occupational safety and health in the state. Labour Commissioner Organization functions under the Department of Labour. The Department of Labour is headed by Principle Secretary (Labour) supported by Special Secretaries, Joint Secretary, Deputy Secretary and Under Secretary at the Government level. The enforcement of labor laws are being enforced through Labour Commissioner Organisation headed by Labour Commissioner. Labour Acts being implemented by the Labour Department are:-

• The Industrial Employment (S.O.) Act, 1046
• The Factories Act, 1948
• The Delhi Shops & Establishment Act, 1954
• The Workmen’s Compensation Act, 1923
• The Minimum Wages Act, 1948
• The Equal Remuneration Act, 1976
• The Payment of Bonus Act, 1965
• The Trade Union Act, 1926
• The Payment of Gratuity Act, 1972
• The Contract Labour (R&A) Act, 1970
• The Bombay Lifts Act, 1939
• Sales Promotion Employees (Conditions of Service) Act, 1976
• The Inter-State Migrant Workers (RECS) Act, 1979
• The Bombay Smoke Nuisance Act
• The Industrial Disputes Act, 1947
• The Payment of Wages Act, 1936
• The Working Journalists (Condition of Service & miscellaneous provisions) Act, 1955
• The Child Labour (Prohibition & Regulation) Act, 1986
• The Punjab Industrial Establishment (Casual, Sick Leave & Festival) (as extended to Delhi) 1965
• The Maternity Benefit Act, 1961
• The Labour Laws (Exemptions from furnishing returns and maintaining register by certain establishment) Act, 1988
• The Motor Transport Workers Act, 1961
• The Regulations for licensing and controlling place of amusement and performance for Public amusement Act, 1980

3.6.2. Labour Acts being implemented by other Departments.
1. The Bonded Labour (System) Abolition Act, 1976 (Office of Deputy Commissioner, Delhi)
2. Employees State Insurance Act, 1948, (Directorate of Health Services)

4. **The Manufacture, Storage and Import of Hazardous Chemical Rules, 1989.** The Government of India, Ministry of Environment, has framed these Rules under the Environment Protection Act, 1986. These Rules apply to all workplaces in which the hazardous chemicals are manufactured or stored. The responsibility of the Inspectorate of Factories under these Rules is to check enforcement of this legislation in industrial installations covered under the Factories Act, 1948. The MAH factories are those in which the quantity of
hazardous substance is more than the threshold limit prescribed under these Rules.

- Salient Features of this legislation are:-
  
  (i) Labeling of Containers containing hazardous substances.
  (ii) Developing Material Safety Data Sheets (MSDS) of hazardous substance and making available to workers etc. and others.
  (iii) Preparation of On-site Emergency Plan for chemical disaster by MAH factories in consultation with the Factories Inspectorate, to carry out mock-drill and to modify and update from time to time.
  (iv) Preparation of Off-site Emergency Plan, for the district, for chemical disaster, by the Dy. Commissioner, with the assistance of Factories Inspectorate, and to carry out mock-drill and to modify and update from time to time.
  (v) Issue of Improvement Notices by Factories Inspectorate and other authorities.


6. The Maternity Benefit Act, 1961. This Act is a central legislation, which provides maternity benefit to woman workers and is applicable on factories covered under the Factories Act, 1948. It also applies on shops and establishments in which ten or more workers are employed or were employed on any day of the preceding twelve months. The provisions of this Act shall not apply to any factory or other establishment to which the provisions of Employee State Insurance Act, 1948 apply for the time being.
Since the factories covered under Factories Act, 1948 are also covered under Employees State Insurance Act, the Maternity benefit Act practically does not apply to the workers and employees of factories covered under these legislation’s. In fact, the women employees of factories get maternity benefit from the Employees State Insurance Corporation under the Employees State Insurance Act, 1948. The Rules have been framed under this Act, according to which Inspector of Factories is ex-officio Inspector of this Act in respect of factories registered under the Factories Act, 1948. Recently on the recommendations of the Administrative Reforms Department, of Government of Delhi, a decision has been taken by the department to transfer the work of enforcement of this non-technical legislation from Factories Inspectorate to the Labour Inspectors and Inspecting Officers of the department, who enforce other labour laws.

7. **The Payment of Wages Act, 1936.** The Payment of Wages Act, 1936 is central legislation, which applies to the persons employed in the factories and to persons employed in industrial or other establishment specified in sub-clauses (a) to (g) of clause (ii) of Section 2 of this Act. This Act has not applied on workers whose wages payable in respect of a wage period average Rs.1600/- a month or more. Since the minimum wages in Delhi are much higher, this Act has become almost redundant in its present form. The Ministry of labour has already initiated the process for suitable amendment of this Act.

- **Salient Features:**
  
  (i) This Act has been enacted with the intention of ensuring timely payment of wages to the workers and for payment of wages without unauthorized deductions.
  
  (ii) The salary in factories/establishments employing less than 1000 workers is required to be paid by 7th of every month and in other cases by 10th day of every month.
(iii) A worker, who either has not been paid wages in time or an unauthorized deductions have been made in his/her wages, can file a claim either directly or through a Trade Union or through an Inspector under this Act, before with the Authority appointed under the Payment of Wages Act. The power for hearing and deciding claims under this Act has been vested with the Presiding Officer of a Labour Court.

Recently on the recommendations of the Administrative Reforms Department, of Government of Delhi, a decision has been taken by the department to transfer the work of enforcement of this non-technical legislation from Factories Inspectorate to the Labour Inspectors and Inspecting Officers of the department, who enforce other labour laws.

8. The Punjab Industrial Establishment (National & Festival Holidays, Casual & Sick Leave,) Act, 1965 as extended to the NCT of Delhi. The Punjab Industrial Establishment (National and Festival Holidays, Casual & Sick Leave) Act, 1965 and the Rules made thereunder have been enforced in the National Capital Territory of Delhi w.e.f. 1.1.1974. This Act is applicable on factories covered under provisions of the Factories Act, 1948.

Salient Provisions:-
(i) As per provisions of this Act, every employer is required to allow three National holidays and a minimum of four festival holidays in a year.
(ii) There is also a provision in this Act for seven days Casual Leave and 14 days Sick Leave at half pay in a year. However the workers entitled to sickness benefit under the Employees State Insurance Act, 1948 are not entitled for Sick Leave. Since most of the factories are covered under Employees State Insurance Act, 1948, the Sick Leave provisions are generally not applicable on workers employed in factories. It has also been clarified in Section 14 of this Act, that nothing contained in this Act, shall affect any right or privileges, which any worker is entitled
to receive under any other law, contract, custom or usage, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

(iii) This Act requires the maintenance of Register containing details of Casual and Sick leave availed by the workers.

(iv) There is also provision of mutual consultation between the management and the workers under this Act and Rules made there under for deciding the days to be observed as festival holidays in a factory.

- Penal Provisions: - The Rules framed under this Act provide for a punishment with a fine, which may extend up to Rs.250/- only.

3.6.4. Labour Laws administered by the Labour Commissioner Organisation are given below:-

1. **The Beedi and Cigar workers (Conditions of Employment Act, 1966).** An act to provide for the welfare of the workers in Beedi and Cigar establishments and to regulate the conditions of their work and for matters connected therewith.

2. **The Bonded Labour System (Abolition) Act, 1976.** An act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental there-to.

3. **The Child Labour (Prohibition and Regulation) Act, 1986.** An act to prohibits the engagement of children in certain employment’s and to regulate the condition of work of children in certain other employments.

4. **The Contract Labour (Regulation and Abolition) Act, 1970.** An act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

5. **The Equal Remuneration Act, 1976.** An act to provide for the payment of equal remuneration of men & women workers and for the prevention of discrimination on the ground of Sex against-women in the
matter of employment and for matter of employment and for matter connected therewith or incidental thereto.

6. **The Factories Act, 1948.** An act to consolidate and amend the law regulating labour and providing for the health, safety, welfare and other aspects of labour in factories.

7. **The Industrial Disputes Act, 1947.** An act to make provision for the investigation and settlement of industrial disputes and for certain other purposes.

8. **The Industrial Employment (Standing Orders) Act, 1946.** An act which require employers in industrial establishment formally to define conditions of employment under them.

9. **The Inter-state Migrant Workmen (Regulation of Employment and condition of Service) Act, 1979.** An act to regulate the employment of interstate migrant workmen and to provide for their condition of service for matters connected therewith.

10. **The Indian Boilers Act, 1923.** An act to consolidate and amends the law relating to steam boilers.

11. The Labour Laws Exemption from Furnishing Return and Maintaining Registers by certain Establishments Act, 1988. An act to provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws.

12. **The Maternity Benefit Act, 1961.** An act to regulate employment of workmen in certain establishments for certain periods before and after child-birth and to provide for maternity benefit and certain other benefits.

13. **The Minimum Wages Act, 1948.** An act to provide fixing minimum rates of wages in certain employment.

14. **The Motor Transport Workers Act, 1961.** An act to provide for the welfare of motor transport workers and to regulate the conditions of their work.
15. The Payment of Bonus Act, 1965. An act to provide the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith.

16. The Payment of Gratuity Act, 1972. An act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oil fields, plantation, ports, railways, companies, shops or other establishments and for matters connected there with or incidental there to.

17. The Payment of Wages Act, 1936. An act to regulate the payment of wages to certain classes of employed persons.

18. The Plantation Labour Act, 1951. An act to provide for the welfare of labour and regulate the conditions of work in plantations.

19. The Sales Promotion Employees (Condition of Service) Act, 1976. An act to regulate certain conditions of service of sales promotion employees in certain establishments.

20. The Trade Union Act, 1926. An act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions.

21. The Weekly Holidays Act, 1942. An act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theaters.


23. The Working Journalists (Fixation of Rates of Wages) Act, 1958. An act to provide for the fixation of rates of wages in respect of working journalists and for matters connected therewith.
25. The U.P. Dookan Aur Vanijya Adhistan Adhiniyam Act, 1962. An act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops and commercial establishments.


27. The U.P. Industrial Dispute Act, 1947. An act to provide power to prevent strikes and lockout, to settle industrial disputes and for other incidental matters.


30. The U.P. Industrial Undertaking special Provision for Prevention of (Unemployment) Act, 1966. An act to enable the State Government to make special provision for a limited period in respect of industrial relations, financial obligations and other like matters in relation to those industrial undertakings the running of which is considered essential as a measure of preventing, or providing, relief against unemployment.

3.7. The Workmen's Compensation Act, 1923

3.7.1. History

3.7.1.1. Before the passing of the Worker's Compensation Act any workmen, who received any injury in the course of employment had to seek the help of the court for determination of the compensation. He had to file suit in the same way as any person injured in an accident. He had to establish three things viz.; firstly that the accident was the result of an accident with his employment, secondly the employer was somehow responsible for the accident, and finally he had to establish the amount of compensation due to his injury. This was a lengthy and costly process, and often he founded himself in a poorer condition than he started. Many times’ compensation was not awarded claiming the accident to be caused simply due to dangers inherent in the employment.

3.7.1.2. A legislation of this kind helps to reduce the inspection and to mitigate the effect of accidents by provision of suitable medical treatment, thereby making industry more attractive to labour and increasing efficiency. The Act provides for cheaper and quicker disposal of disputes relating to the compensation through special tribunals than possible under the Civil law (Gazette of India 1922 Part I, p.313).

3.7.1.3. Originally the Act was applicable to workers of certain prescribed industries wherein the workmen were entitled compensation from the employer in case of personal injury caused by accident arising out of and in the course of employment with certain reservations relating to the duration of incapacity and negligence of workman himself. The amount of compensation was mainly dependent on the incapacity or disability. Even when the negligence was proved, the employer could avoid his liability by putting forward any of the following defenses namely.

- End of personal action with death.
- Doctrine of contributory negligence.
- Doctrine of assumed risks.
- Doctrine of common employment, and;
Self inflicted injury.

3.7.1.4. All these made it extremely difficult for the workmen to obtain relief in case of an accident. In order to obviate these, Government passed the **Fatal Accidents Act 1855** to avoid the vigour of the rule that “a person’s claim to suit comes to an end with the death of that person.” The present Act was enacted to meet the remaining objections.

**3.7.2. Theory behind Workmen’s Compensation Act, 1923**

3.7.2.1. The theory of workmen’s compensation is that “the cost of product should bear the blood of workmen.”

3.7.2.2. The following statement of objects and reasons was made at the time of moving the bill:

“The general principles of workmen’s compensation command almost universal acceptance and India is now nearly alone amongst civilized countries being without legislation embodying these principles. For a number of years the more generous employers have been in the habit of giving compensation voluntarily, but this practice is by no means general. The growing complexity of industry in this country, with the increasing use of machinery and consequent danger to workmen along with the comparative poverty of the workmen themselves, render it advisable that they should be protected, as far as possible from the hardships arising from accidents.”

3.7.2.3. The Act provides for cheaper and quicker disposal of disputes relating to compensation through special tribunals than is possible under civil law. The general principle followed in the Act is that compensation should ordinarily be given to workmen who sustain personal injuries by accidents arising out of and in the course of their employment. Compensation is also given for certain occupational diseases. The Act is a humanitarian measure. The compensation payable under this Act is not dependent on the negligence on the part of the employer, as it is not a remedy for the employer’s negligence but is rather in the
nature of insurance of the workmen against risks of accident. So any rash or negligent action on the part of the workmen is not a bar to any compensation under the Act so long as it is within the scope of his duty as an employee [RB Moondrs & Co. v. Bhanwari, (1970) Lab. I.C. 695]. The Act is a beneficent legislation and must, therefore be given a liberal construction and as far as possible, in favour of workmen so that deserving workmen get full and speedy benefit and advantage of its beneficial measures.

3.7.2.4. The Act thus provides social security to workmen and is a humanitarian measure. In this connection, the following quotation from Phil Hollenbach Co.v. Hollenbach (1918) must also be noted:

"The purpose intended to be accomplished by this recent legislation is fair and just distribution of the burdens or losses which result from accident to an employee while regularly engaged in an effort to produce something which will serve a purpose or fill a demand. The workman who is disabled through accident arising out of his employment is, so far as the final result of the community is concerned much in the same attitude as a disabled machine in the shop, and the loss and misfortune in each case are and should be charged to be absorbed by the business. If it takes a man and a machine a given time to produce a given number of pair of shoes, and the machine becomes broken or worn out, the cost of the repairs is charged to the business as one of the elements entering into the cost of production, just as the price of a day’s labour, or price of a material, is borne by the ultimate consumer. This is eminently fair and just. If that be granted, is the man who operates the machine, and who while in the regular course of his employment, is disabled through accident which arises from the nature of the business is entitled to be treated with less consideration and generosity."

3.7.2.5. An editorial of Outlook illustrates the principles of payment of compensation to workers:

"When a machine is injured in the course of its use, the owner bears the cost of injury and charges it to the expenses of its production for which he receives
payment as he sells his goods. When, a workman is injured in the course of his employment, the cost of injury comes upon him, who can ill afford to bear it; and if his injury is serious, resulting in long term incapacity for work or in death, his family is drafted into that great army of dependants that is a reproach to civilization.”

3.7.2.6. Neither the Government nor the Law Court took notice of the labour problem seriously, as they believed in the policy of non-interference in employer employee relation. As a result the situation eventually became worse and the society was so much adversely affected that the Government was forced to take some measures to solve their problems. Initially the workers and trade unions tried to salvage, but the Government later on realised the importance of the problem and could not be a silent spectator to this as the workers formed a large section of the society. Therefore the Government had to intervene to settle the disputes in the interest of national economy and welfare of people at large.

3.7.2.7. A legislation of this kind helps to reduce the inspection and to mitigate the effect of accidents by provision of suitable medical treatment, thereby making industry more attractive to labour and increasing efficiency. The Act provides for cheaper and quicker disposal of disputes relating to the compensation through special tribunals than possible under the Civil law (Gazette of India 1922 Part I, p.313). Originally the Act was applicable to workers of certain prescribed industries wherein the workmen were entitled compensation from the employer in case of personal injury caused by accident arising out of and in the course of employment with certain reservations relating to the duration of incapacity and negligence of workman himself. The amount of compensation was mainly dependent on the incapacity or disability.
3.7.3. Various Amendments

3.7.3.1. Amendment 1933. This enabled compensation for injuries resulting in employment for more than seven days instead of ten days, eligibility and requirements for paying compensation.

3.7.3.2. Amendment 1938. Two important changes were made namely. a list of occupational diseases were added to schedule II and the liability of present employer in case of compressed air illness even if the workman had served not more than six months was included.

3.7.3.3. Amendment 1939. Two amendments were made regarding the definition of workmen.

3.7.3.4. Amendment 1958. The amendments were as follows:-

- The scope of the Act was extended to workers with monthly wages not exceeding Rs 400;
- Distinction between adult and minor was removed;
- Waiting period for receiving compensation was reduced to three days;
- In case of disablement period more than 28 days the compensation was to be paid from the date of disablement;
- Penalty was imposed for failure to pay compensation when due, and;
- The scope of Schedule I, II, III was enlarged.

3.7.3.5. Amendment 1962.

- Wage limit was raised to Rs 500;
- First six injuries of first schedule were deemed as permanent total disablement;
- Occupational disease were included in part C of Schedule III;
- Workmen could claim compensation within two years from the date of notice of disablement was given and;
- Manganese and falloidol poisoning were included in the list occupational diseases.
3.7.3.6. There after the Act was amended in 1975 to increase the wage limit. In the amendment of 1995 adopted son/daughter/child was included in the dependents, definition of workmen included certain other categories of persons, immunity for permanent disablement was included and amount of compensation was increased.

3.7.4. The **main purpose** of the Act is to provide special machinery to deal with the cases of compensation in case of accidents and to make arrangements for some prompt compensation to the injured workmen who cannot afford to go to the Court of Law.

### 3.7.5. Salient Features of the Act

1. The employers are under obligation to pay compensation to those employees who are entitled to claim benefits under this Act.
2. The workmen lose his right to compensation if such an accident is due to influence of drinks or drugs if it is caused with willful disobedience of rules or orders or disregard of safety devices.
3. In case of fatal accidents all cases of accidents to be brought to the notice of Commissioner, in case of admission of liability the compensation amount to be deposited with the Commissioner, and if not the commissioner should decide the case and inform dependants.
4. A subcontractor may indemnify his contractor.
5. The Act is administered by the Commissioner of Workmen’s Compensation by the State Government.
6. The worker cannot claim benefits under this Act and ESI Act together.

### 3.7.6. Important Provisions

**Section 3.** Liability of an employer is limited and subject to **u/m** conditions:

(i) **Personal injury to the workman;**
(ii) **Injury must have been caused by an accident;**
(iii) Accident must have been arisen out of and in the course of employment;
(iv) Injury must have resulted in the workman’s death or permanent or temporary, total or partial disablement.

The employer is not liable to make payment in case:-
- The injury does not result in total or partial disablement for a period exceeding three days;
- Incase of an injury not resulting in death, which is directly attributable to influence of drinks or drugs, willful disobedience of rules, removal or disregard to safety or any other device.

Section 4. This section deals with the amount of compensation in case of:
(i) Death;
(ii) Permanent total disablement;
(iii) Permanent partial disablement;
(iv) Temporary disablement whether total or partial.

Section 5. Deals with methods of calculating wages. The basic factor is the wage group.

Section 6. Provides review of compensation by Commissioner for workmen’s compensation. An application for review can be made with a medical certificate in certain case pertaining to the wage status of worker, ceasure of payment of compensation by the employer or as a case of negligence or fraud.

Section 7. Lays down procedure for commutation of half-monthly payments.

Section 8. Deals with procedure in regard to distribution of compensation.

Section 9. Deals with immunity from attachment.

Section 10. Deals with notice and claims of the accident, and fatal accidents.

Section 11. Medical examination of the injured.

Section 12. Deals with contracting.

Section 13. Remedies of employer against strangers.

Section 18. Penalties.
Section 19. Reference to a commissioner.

Section 20. Appointment of a commissioner.

Section 28. Registration of agreements.

3.7.7. Analysis

3.7.7.1. This Act is a landmark legislation considering the fact prior to the enactment of this Act all cases of injury had to seek the intervention of the court for compensation. The main drawback of this was that it was a lengthy and costly process. More often than not the worker found himself to be poorer at the end than he was at the beginning. In several cases, the courts awarded no compensation if the accident was simply due to dangers inherent in the employment. Initiation for an enactment of this sort came up way back in 1884; to obviate certain draconian measures adopted by the employer in order to deny compensation to the workmen the Fatal accidents Act 1855 was passed. In 1923 the Workmen's compensation Act was enacted to meet the remaining objections of the employees not covered by the above-mentioned Acts. This Act has helped to streamline procedure for injured workmen. The Act has proved of immense utility to both the workmen and the employers and has resulted in bringing about better relations among them. It provides a simple, cheap and prompt procedure for the recovery of compensation and relieves the parties of unnecessary litigation. An injured workman may either file a civil suit for damages against the employer or claim compensation under the Workmen's Compensation Act, 1923. He has to make a choice between the two reliefs'. A claim under the Workmen's Compensation Act is safe and less costly.

3.7.7.2. However it appears to have certain aspects, which are either not, covered or the provisions do not permit smooth translation of compensation to the workmen. Viz.,

- The scope of the Act is limited.
• Any person whose employment is of casual nature and otherwise for the employer's trade or business has been not been considered as a workman.
• The Act pays little or no attention towards unorganized sector and casual labour.
• The contention that the jurisdiction of civil court to entertain the suit is barred by section 19(2).
• Some employers affect insurance against their legal liability to compensation under the Workmen's compensation Act.
• In the cases of insolvency and the liability of the insurers is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceeding or liquidation.
• Where any contract of the employer with the insurer is void or voidable because of non-compliance by the employer with any terms and conditions of the contract; the insurer shall still be liable to the workmen if the employer becomes insolvent.
• Penalties imposed are too lenient or does not have any real deterrent effect.
• In Schedule III, OCCUPATIONAL DISEASES, should include those relating to radiation hazards, excessive heat, and those related to stress disorders.
• A male medical practitioner can examine a female worker. She can insist on an examination by a female medical practitioner but in that case she has to deposit a sum sufficient to meet the expenses of examination by female medical practitioner.
• Under the Section 11, an employer can drag on the proceeding on some pretext or the other [(1995-11-LLJ1017(Mad)].
• The Act deals only with cases of 'contract of service'. For the employer-employee relationship, a 'contract of service' is necessary.
Only manual workers falling within the definition of workman are entitled to compensation.

Further, the benefits provide under Employees’ State Insurance Act are much more liberal than those available to a workman under the Workmen’s Compensation Act, 1923.

The Workmen's Compensation Act, 1923 is sometimes described as a dying legislation because it is being replaced by the Employees' State Insurance Act, 1948 as the benefits provided under the latter are much more liberal.

3.8. Factories Act 1948
3.8.1. Working conditions in factories are regulated by the Factories Act 1948, which provides for the health, safety and welfare of workers and precautions to be taken in case of hazardous process. Minimum standards of lighting ventilation safety, health and welfare services, which the employers must provide in the factories, have also been laid down. The State Government through their factory inspectors enforces the Act. It also empowers the State Governments to frame rules so that the local conditions prevailing in the state are appropriately reflected in the enforcement. After the amendment of the Act in 1976, there has been substantial modernisation and innovation in the industrial field. Several chemical industries have come up which deal with hazardous and toxic substances. This brought along with it the problems of industrial safety and occupational hazards. Consequent to the Bhopal gas tragedy this Act was amended in 1987 to cater for provisions relating to handling of hazardous substances by the occupiers and laying down emergency standards and measures. The amendments also include procedures for location of hazardous industries to ensure that hazardous and polluting industries are not set up in areas where they can cause adverse effects on the general public. Provision has also been made for the workers participation in safety management. Opportunity
has also been availed of to make punishments provided in the Act stringer and
certain other amendments necessary in the implementation of the Act.

3.8.2. The first Factories Act was passed in 1881; this was purely designed to
protect the children and to provide for some health and safety measures. New
Acts followed it in 1891, 1911, 1922, and 1934. The Act of 1934 was passed to
implement the recommendations of the Royal Commission on Labour in India
and the conventions of International Labour Organisation. The experience of the
working of this Act revealed a number of defects and weaknesses, which
hampered effective administration of this Act. The provisions regarding safety,
health, and welfare of workers were also found to be inadequate and
unsatisfactory. It was, therefore felt that in view of the large and growing
industrial activities in the country a radical overhauling of the law relating to the
factory was necessary. Hence Factories Act of 1948 came about. The Act was
subsequently amended in 1987.

3.8.3. This Act is a piece of social welfare legislation. It governs the working
conditions of workmen in the factories. The Act aims to protect workers
employed in factories against industrial and occupational hazards and to ensure
safe and healthy conditions of life and work. It makes detailed provisions
regarding health, safety and welfare in order to provide good working conditions
and other facilities to enhance their welfare.

3.8.4. **Provisions regarding Safety.** The safety provisions are contained in
Chapter IV, Secs.21 to 41. These are absolute and obligatory in their character
and the occupier of every factory is bound to follow them.

- **Section 21. Fencing of Machinery.** Dangerous part of every machinery to
  be securely fenced. The State Government may by rules prescribe such
  further precautions, as it may consider necessary in respect of any
  particular machinery or part thereof. This section imposes an absolute
obligation. An offence is made if the fencing is not there when the machine is made to work.

- **Section 22. Work near machinery in Motion.** In any factory if it is necessary for the examination of any part of the machinery while the machinery is in motion such examination shall be only made by a specially trained adult worker wearing tight fitting clothing. He shall be furnished with a certificate of his appointment. Restriction has been imposed on employment of women and children near machinery in motion. There is also restriction on cleaning, etc. of specified moving parts.

- **Section 23. Employment of young persons on dangerous machines.** The state government shall specify machines, which in its opinion are of dangerous character.

- **Section 24. Striking gear and devices for cutting off power.** Suitable striking gear to be provided, maintained and used. Suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom. Locking devices to prevent accidental starting of transmission machinery.

- **Section 25. Self-acting machines.** Traversing part not allowed to run within a distance of 45 cm from any fixed structures.

- **Section 26. Casing of a new machinery.** All machinery driven by power and installed in any factory after 1st Apr 1949 shall be effectively guarded to prevent danger. Selling out or letting on hire shall be punishable with imprisonment up to 3 months and fine.

- **Section 27. Prohibition of employment of women and children near cotton openers.**

- **Section 28. Hoists and lifts should be of good mechanical construction and to be properly examined once in every six months.**

- **Section 29. Cranes and lifting machines etc. to be of good construction and to be examined once in every 12 months, they should not be loaded**
beyond safe working load, the cranes should not approach within six meters of a place where any person is employed in working.

- **Section 30.** Notice of maximum safe working speed of grinding stone or abrasive wheel, etc. to be kept near machine. These laid down speed shall not be exceeded.
- **Section 31.** Deals with safe working pressure of pressure plants.
- **Section 32.** All floor, stairs, gangways, passages and steps shall be of sound construction and properly made.
- **Section 33.** Pits, sumps, etc. to be securely covered or fenced.
- **Section 34.** There is a prohibition on lifting or carrying of excessive weights and maximum weights to be lifted or carried to be prescribed.
- **Section 35.** In every factory, screen or suitable goggles shall be provided for the protection of persons employed on it or in the immediate vicinity.
- **Section 36.** This lays down certain restrictions on entry into any chamber, tank, vat, pit, pipe etc. where any gas, fume etc. is present.
- **Section 37 & 38.** covers certain precautions against explosive or inflammable gas, dust etc. and to provide practical measures to prevent outbreak of fire and its spread.
- **Section 40.** This takes care of safety of building, machinery, prohibiting its use when danger is imminent, maintenance buildings and appointment of safety officers.
- **Section 41.** The sections 41-A to 41-F were introduced by amendment Act of 1987. These involve:
  - Constitution of a site appraisal committee, for the purpose of advising the state government to consider applications for grant of permission for the initial location of a factory involving a hazardous process and for the expansion of any such factory.
  - The occupier of every factory involving hazardous process has to disclose all information regarding dangers, including health hazard. He has to lay down policy regarding health and safety of the workers.
Approval of Chief inspector is required for handling usage and transportation of hazardous substances.

- The occupier is responsible for maintaining health records, appoint competent persons to supervise handling of hazardous substances and provide for medical examination.
- Central government has power to appoint inquiry committee in the event of an extraordinary situation.
- Emergency standards have been laid down in respect of hazardous process.
- Workers participation in safety management.
- Right of workers to be warned about the imminent danger.
- Penalty for contravention of the provisions.

- **Section 62&63. Register of adult workers.** The manager of every factory shall maintain a register of adult workers, which shall be available to the Inspector at all times during working hours, or when any work is being carried on in the factory. No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work displayed in the factory and the entries made before his name in the register of adult workers in the factory.

- **Section 67 to 77.** These contains provisions regarding employment of young children, restriction on employment, carrying of token, requirement of certificate of fitness, stipulating working hours for children etc.

- **Employment of women.** All the provisions of the Factories Act regarding employment and work of adult workers apply to adult female workers except for the following provisions which apply to female workers only:
  
  (i) Women workers are not allowed to clean lubricate or adjust any part of machinery in motion if it would expose the women to risk of any injury from any moving parts,
(ii) Prohibition of employment near cotton openers,
(iii) Women shall not be required or allowed to work in any factory more than 48 hours in a week or 9 hours a day, they will be allowed to work only between 6 A.M and 7 P.M,
(iv) State government shall make rules for exemption in case of fish curing or canning.

- **Section 87. Dangerous operations.** A manufacturing process or operation carried on in a factory might expose any person employed in it to a serious risk of bodily injury, poisoning or disease. The State Government may make rules applicable to such factories. When it appears to the Inspector that conditions in the factory or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity, he may prohibit such occupier from employing any person other than those necessary to attend minimum tasks till the hazard is removed.

- **Section 88. Notice of Certain Accidents.** Any accident resulting in death, bodily injury resulting preventing him from working for 48 hours notice of the same shall be made. Similarly in the case of certain dangerous occurrence, any diseases specified in the Third schedule of the Act.

- **Section 91-A.** Provision for occupational and safety health surveys by any of the authorities prescribed.

### 3.8.5. Analysis

3.8.5.1. **Aim of the Factories Act 1948** is to protect workers employed in factories against industrial and occupational hazards and to ensure safe and healthy conditions of life and work. It makes detailed provisions regarding health, safety and welfare of workers in order to provide good working conditions and other facilities to enhance their welfare. The Act is a landmark legislation. As the technological advancement has set a rapid pace in industry as a whole, it is felt
that some sort of redundancy has been set in implementing the provisions. The areas involved are as follows:

- The scope of factory in the definition is too narrow. It is proposed that the provisions of the safety aspects should be applicable as per categories of factories. That is to say in a man power intensive country this quantification may become an impediment and it may not be possible to implement all these provisions in small units. Hence the minimum number of workers to be considered should be raised to 50 and non-power units should be kept out of the following provisions of safety: section 22, 25, 31. Quarry has not been brought under the scope the Act, which needs to be done.

- The provisions are intended to benefit only workers in factory and for the field workers it is left to interpretation. Hence there is a strong case for their direct inclusion.

- The unorganised sector has not been brought in the provisions of the Act. This is a major lacuna keeping in mind the fact that the unorganised sector is quite large and unprotected.

- The clause ‘manufacturing process’ leaves risk involving work like transportation of fuel, oil, and their distribution out of the scope of Factories Act. The above aspect is also in the qualification for a worker. This needs to be obviated.

- Section 4 permits different departments to be separate factories, and the discretion is left to the occupier and State government. It is felt that this leverage is quite heavily balanced towards the occupier and hence the trade unions should also have say in the decision making.

- Workshops or workplaces should be excluded from the provisions of section 86.

- Manager of a factory drawing remuneration should not be allowed to qualify as occupier. Vice-versa may be true.
As regards approval, licensing and registration of factories the Chief inspector or the State government should be held culpable for not acting within one month of receipt of application.

In the duties of occupier social responsibility should be included and culpability added.

The power of the state government to exempt any person or class of persons from the provisions of section 10 should be considered against.

Section 23 is superfluous in that where as Section 22 prohibits examination or cleans, lubricate or adjust any part of machinery in motion, this section provides avenues for employment of young persons on dangerous machines.

Exemptions provided to self-acting machines installed prior to the enactment of this Act in section 25 needs to be repealed.

Section 38 regarding precautions in case of fire needs to be amplified. There is a case for incorporating certain uniform procedures in certain factories, special procedures in the case of sensitive factories, and additional procedures in the case of factories situated near thickly populated areas or at places where collateral damage is a possibility.

Safety officers should be employed by the state for a particular type of factories or geographical area. The present arrangement some how defeats the purpose of the appointment as for survival he toys the bell of the occupier.

3.8.5.2. The Factory Act by it self contain adequate provisions to safeguard the safety of workplace and workers. It can only be effective if its implementation is done with a sense of mutual commitment. The appointments of Inspector, Safety officer, welfare officer should have the representation of the workers or their union. There should be provision for self audit. The present scale of punishments provided in section 92 to 106 are too lenient to serve as a deterrent, therefore they should be enhanced periodically to make them more realistic. Modern industrialization and economic growth envisaged in our planning would of necessity; call for increased use of legislation not only for tackling the social and economic problems existing in the industrial society but also for creating such
conditions as would be conducive for establishing a social order. The foundation on which over 165 current laws rest was laid in pre-independence India. They were carried on for over half a century. During the 1980s and 1990s “economic reforms” and shift in industrialization strategy took place. But the labour policy and laws are not dovetailed with industrial and economic policies. Till the 1980s labour was protected in the labour markets and employers were protected in the product markets. Now both feel less protected or unprotected. There is a perception that the existing laws give unions in the organized sector virtually a veto power to block changes. Further that labour legislation has paved the way for multiplicity of unions, growth in intra and inter union rivalry, exacerbation of industrial strife and excessive intervention by the state in industrial relations.

3.9. The Employees’ State Insurance Act, 1948

3.9.1. History

3.9.1.1. The Act is a landmark in the history of social security in India and the object is to introduce social insurance by providing for certain benefits to employees in case of sickness, maternity, and employment injury, pension to dependents on the death of the worker due to employment injury and funeral expenses not exceeding Rs 1000 towards expenditure on the funeral of an insured person. It is applicable to all factories including those belonging to the Government other than seasonal factories. However nothing contained in this Act shall apply to factory or an establishment whose employees are otherwise in receipt of benefits similar or superior to the benefits provided under this Act. The provisions of the Act was initially applicable to the parental factories using power and employing 20 or more persons, but later on included;

- Small power using factories employing 10 to 19 persons,
- Non- power using factories employing 20 or more persons,
- Shops, hotels, restaurants, cinemas including road motor transport and news paper establishments employing 20 or more persons.
3.9.1.2. The Act is a piece of social security legislation conceived as a means of extinction of the evils of society, namely, want, disease, dirt, ignorance and indigence. Its object is to introduce some social insurance by providing for certain benefits to employees in case of sickness, maternity, employment injury and for certain other matters in relation thereto.

3.9.2. Amendments
3.9.2.1. The Act was amended in 1966, 1984, & 1989. These amendments provided raising of wage ceiling of workers to Rs 6000 or less. The rate of contribution from the monthly income of each contributor has also increased to 4.75 and 1.75 from 4.5 and 1.5 percent respectively.

3.9.3. Salient features of the Act
- An Employees State Insurance Corporation has been setup under this Act.
- Essentials of an employment injury are:-
  - It must be personal to an employee,
  - Must be caused by an accident or occupational disease,
  - Employment must be insurable,
  - The injury must arise out of and in the course of employment.
- It is immaterial whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India.
- Every factory or establishment to which this Act applies shall be registered within such time and in such a manner as prescribed.

3.9.5. Important Provisions
- Section 3,4,5,6&7. Aspects regarding Employees State Insurance corporation.
- Section 8,9,18&19. Constitution of the Standing committee.
- Section 10&11, 22. Constitution of the Medical benefit council.
• **Section 42.** General provisions as to payment of contribution.

• **Section 46. Benefits.** Six types of benefits are provided by the Act, which the insured persons, their dependants or certain persons are entitled. These are sickness benefit, maternity benefit, disablement benefit, dependent's benefit, medical benefit and funeral benefit.

• **Section 51.** For the purposes of this Act, an accident arising in the course of an insured person's employment is presumed in the absence of evidence to the contrary to have arisen out of employment, but the presumption is rebuttable one.

• **Section 76.** All proceedings under this Act shall be instituted in the Employees' Insurance Court appointed for the local area in which the insured person was working at the time the question arose. The state government has the power to transfer any proceedings *suo motu* or on the motion of Employees' Insurance Court from one court to another.

### 3.9.6. Analysis

3.9.6.1. The Employees' State Insurance Act, 1948 with its amendments including Amendment rules 1991, is a social security legislation aimed at introducing social insurance by providing certain benefits for employees in case of sickness, maternity and employment injury. The Act provides for medical care and treatment, payment of cash benefits. This Act provides for easier access of benefits to the injured workmen. The act is definitely an improvement on the existing acts, but certain aspects require further deliberation. The act confers benefit on the employees against sickness, maternity, and other disabilities. The provisions of the act therefore, may be construed in technical, narrow or restricted sense. The scope of coverage under the Employees' State Insurance Act, 1948 is much wider than under the Workmen's Compensation Act, 1923. Under the latter only manual workers falling within the definition of workman are entitled to compensation where as under the former, all persons employed for wages in or in connection with the work for a factory or establishment
(irrespective of the fact whether they are manual, supervisory or salaried employees) are entitled to disablement benefit provided their remuneration does not exceed Rs 3000 per month. Further, the benefits provide under this Act are much more liberal than those available to a workman under the Workmen's Compensation Act, 1923. The Workmen's Compensation Act, 1923 is sometimes described as a dying legislation because it is being replaced by the Employees' State Insurance Act, 1948 as the benefits provided under the latter are much more liberal. They are;

3.9.6.2. **Medical care.** The ESI hospitals or dispensaries are maintained in a poor state, a visit to the hospitals or dispensaries maintained under this section brings out the deplorable state of affairs.

### 3.10. Summary

3.10.1. Labour legislation is based on certain fundamental principles namely; Social Justice, Social Equity, Ensuring fair wage standards and provision of social security, Adequate enforcement of legislation, and Enhancing the status of workers in the industry. The terms Industrial law and Labour law are considered as synonymous in our country. The scope of the term industrial law is however much wider. Broadly speaking, industrial law covers all the statutes and case laws pertaining to the industry. Labour law covers aspects covering laws, which are primarily concerned with labour.

3.10.2. Neither the Government nor the Law Court took notice of the labour problem seriously, as they believed in the policy of non-interference in employer-employee relation. Labour legislation is necessary as the factory system had inherent evils to which factory workers were exposed in the bargaining.

3.10.3. Before the passing of the Worker's Compensation Act any workmen, who received any injury in the course of employment had to seek the help of the court for determination of the compensation. Originally the Act was applicable to workers of certain prescribed industries wherein the workmen were entitled compensation from the employer in case of personal injury caused by accident.
arising out of and in the course of employment with certain reservations relating to the duration of incapacity and negligence of workman himself. The theory of workmen’s compensation is that “the cost of product should bear the blood of workmen.” Compensation is also given for certain occupational diseases. The Act thus provides social security to workmen and is a humanitarian measure. Originally the Act was applicable to workers of certain prescribed industries wherein the workmen were entitled compensation from the employer in case of personal injury caused by accident arising out of and in the course of employment with certain reservations relating to the duration of incapacity and negligence of workman himself. An injured workman may either file a civil suit for damages against the employer or claim compensation under the Workmen’s Compensation Act, 1923. A claim under the Workmen’s Compensation Act is safe and less costly.

3.10.4. Working conditions in factories are regulated by the Factories Act 1948, which provides for the health, safety and welfare of workers and precautions to be taken in case of hazardous process. The State Government through their factory inspectors enforces the Act. This brought along with it the problems of industrial safety and occupational hazards. Provision has also been made for the workers participation in safety management. It governs the working conditions of workmen in the factories. The Act aims to protect workers employed in factories against industrial and occupational hazards and to ensure safe and healthy conditions of life and work. Aim of the Factories Act 1948 is to protect workers employed in factories against industrial and occupational hazards and to ensure safe and healthy conditions of life and work. It makes detailed provisions regarding health, safety and welfare of workers in order to provide good working conditions and other facilities to enhance their welfare. The provisions are intended to benefit only workers in factory and for the field workers it is left to interpretation. Section 4 permits different departments to be separate factories, and the discretion is left to the occupier and State government. Safety officers should be employed by the state for a particular type of factories or geographical
area. The Factory Act by itself contain adequate provisions to safeguard the safety of workplace and workers.

3.10.5. The Employees' State Insurance Act, 1948, is applicable to all factories including those belonging to the Government other than seasonal factories. The Employees' State Insurance Act, 1948 with its amendments including Amendment rules 1991, is a social security legislation aimed at introducing social insurance by providing certain benefits for employees in case of sickness, maternity and employment injury. The scope of coverage under the Employees' State Insurance Act, 1948 is much wider than under the Workmen's Compensation Act, 1923.

3.10.6 Detailed analysis on legal aspects of industrial safety is given in Chapter VI.
ANNEXURE - I

ADMINISTRATIVE STRUCTURE OF LABOUR COMMISSIONERS ORGANISATION, HQS., U.P.

LABOUR COMMISSIONER/ HEAD OF THE OFFICE
Addl. Lab. Commissioner (Gazzeted, Question Cell, Uttarakhand)
Addl. Lab. Commissioner (Records, 20 Point Programme)
  Director (Boilers)
    Dy. Lab. Commissioner (Custody, Estt.)
  Asst. Motion Study Officer
Addl. Lab. Commissioner (Technical, Trade Union, Gratuity, Custody)
Addl. Lab. Commissioner (Non-Gazzeted, Accounts Branch Secretariat)
Jt. Lab. Commissioner (Employment, Ind. Relations, Permanent Orders, Stats)
Addl. Lab. Commissioner (Home, Enforcement, Boons, welfare)
  Dy. Lab. Commissioner (Ind. Enforcement)
Finance & Account Officer
  Dy. Lab. Commissioner (Bonous, Write (Ind. Relation)
Medical Superintendent (Ayuverda)
  Dy. Lab. Commissioner (Branch Secretariat)
  Dy. Director Factories (Medical)
  Dy. Lab. Commissioner (Child, Bonded, Women Lab.)
  Asst. Account Officer (2)
  Publicity Officer
  Motion Study Officer
ANNEXURE - II

ADMINISTRATIVE STRUCTURE OF REGIONAL OFFICES OF LABOUR COMMISSIONER, UP

Asstt. Director, Boilers - 6
Dy. Director, Boilers (3)
Asstt. Director Factories-7 (Posted in the office of the Dy Director Factories)
Asstt. Director, Factories-11 Independent Office
Regional Dy Director Fys.(7)
Labour Enforcement Officer-94
Labour Enforcement Officer - 76
Asstt. Lab Commssiner-22(Independent office )
Asstt. Lab. Commissioner - 38 (Posted in the office of the Regional ,Addl./ Dy .Commissioner)
Labour Enforcement Officer-147 (Independent Office)
Regional Additional Labour Commissioner (3)
Dy. Labour Commissioner (14)
ANNEXURE-III

DIRECTOR OF FACTORIES, UTTAR PRADESH

Dy. Director of Factories (Medical)
Dy. Director of Factories (Meerut)
Asst. Director of Factories (6)
Dy. Director of Factories (Gaziabad)
Asst. Director of Factories (1)
Dy. Director of Factories (Kanpur)
Asst. Director of Factories (4)
Dy. Director of Factories (Lucknow)
Asst. Director of Factories (3)
Dy. Director of Factories (Bareilly)
Asst. Director of Factories (4)
Dy. Director of Factories (Allahabad)
Asst. Director of Factories (2)
Dy. Director of Factories (Gautam Budh Nagar)
DAsst. Director of Factories (1)
List of Notifiable Diseases
1) Lead poisoning including poisoning by any preparation or compound of lead or their sequelae.
2) Lead tetra-ethyl poisoning.
3) Phosphorous poisoning or its sequelae.
4) Mercury poisoning or its sequelae.
5) Manganese poisoning or its sequelae.
6) Arsenic poisoning or its sequelae.
7) Poisoning by nitrous fumes.
8) Carbon bisulphide poisoning.
9) Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10) Chrome ulceration or its sequelae.
11) Anthrax
12) Silicosis
13) Poisoning by halogens or halogen derivatives of the hydrocarbons, of the aliphatic series.
14) Pathological manifestation due to:
   a) Radium or other radioactive substances
   b) X-rays.
15) Primary epitheliomatous cancer of the skin
16) Toxic anemia
17) Toxic jaundice due to poisonous substances.
18) Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.
19) Byssiosis
20) Asbestosis
21) Occupational or contact dermatitis caused by direct contact with chemical and paints. These are of types, that is, primary irritants and allergic sensitizers.
22) Noise induced hearing loss (exposure to high noise levels).
23) Beryllium poisoning.
24) Carbon monoxide
25) Coal miners’ pneumoconiosis
26) Phosgene poisoning
27) Occupational cancer
28) Isocyanates poisoning
29) Toxic nephritis.
ANNEXURE - V

Occupations Declared Dangerous under Section 87 of the Factories Act, 1948

(a) Manufacture of aerated water and processes incidental thereto

(b) Electrolytic plating or Oxidation of metal by use of an Electrolytic containing chromic acid or other chromium compounds

(c) Manufacture and repair of electric accumulators

(d) Glass manufacture

(e) Grinding and treatment of lead grinding and glazing of metal

(f) Manufacture and treatment of lead and certain compounds of lead

(g) Generating gas from dangerous petroleum

(h) Cleaning or smoothing of articles by a jet of sand, metal shot or grid or other abrasive propelled by a blast of compressed or a steam

(i) Liming and tanning of raw hides and skins and process incidental thereto

(j) Manufacture of Pottery and ceramics

(k) Carrying on a certain processes of lead and lead material in printing presses and type foundries

(l) Chemical works

(m) Manufacture of articles from refractory materials

(n) Handling and processing of asbestos from manufacture of any
Article of asbestos and process of manufacture or otherwise in which asbestos is used in any form

(o) Handling and manipulation of corrosive substances

(p) Compression of oxygen and hydrogen produced by the Electrolysis of water

(q) Process of extracting of oil and fats from extracting plants

(r) Manufacture of manipulation of manganese and its compounds

(s) Manufacture of manipulation of dangerous pesticides

(t) Manufacture, handling and use of benzene and substances Containing benzene

(u) Manufacturing process or operation in carbon-disulphide plants

(v) Manufacture and manipulation of carcinogenic dye intermediates

(w) Operation involving compressed gases

(x) Highly flammable compressed gases

(y) Operations in foundries

(z) Manipulation of stone or any other material containing free silica
ANNEXURE - VI

Prohibition of Employment of the Child Labour under Child Labour (Prohibition and Regulation) Act, 1986

- Employment of children below the age of 14 years is prohibited in the following processes carried out in a workshop where section 67 of the Factories Act, 1948 is not applicable
  - Bidi making
  - Carpet weaving
  - Cement-manufacture, including bagging of cement
  - Cloth printing, dyeing and weaving
  - Manufacturing of matches, explosives and fire works
  - Mica cutting and splitting
  - Shellac manufacture
  - Soap manufacture
  - Tanning
  - Wool cleaning
  - Building and construction industry
ANNEXURE - VII

STATE CRISIS GROUP FOR OPERATION OF AN OFF-SITE EMERGENCY PLAN FOR CHEMICAL DISASTER.

General

- Chemicals are a vital component of every day life and occupy an important position in our economy. There has been a rapid increase in recent times in their use in industry and household. Many of these chemicals are toxic, highly reactive, explosive or flammable, or have combination of these characteristics. Due to these properties, they have potential to cause damage to human beings, other living creatures, plant, property and the general environment. It is therefore, necessary to take utmost care, while handling such chemicals at all stages of manufacture, processing, treatment, storage, transportation, use, or sale.

- The potential for major accidents caused by the increasing production, storage and use of hazardous substances implies that a well-defined systematic approach is required if major disasters are to be avoided. Although such an emergency may be caused by a number of factors e.g., plant failure, human error, earth quake, vehicle crash or sabotage, it will normally manifest itself in any of three basic forms viz. fire, explosion or toxic release. Unlike natural disasters which can not be prevented the occurrence of emergencies caused through chemical accidents can be minimized by proper planning and preparedness. Such a planning can be successful, only if those responsible for handling hazardous substances are aware about hazards and have a concern
about it. This has to be supported by the local authorities, State Government and the Central Government.

Statutory Provisions

- The Government of India has enacted legislations for safe handling, storage, use and transportation of hazardous and toxic chemicals. These rules are enforced by various agencies at Central and State Government levels. These agencies include, Controller of Explosives (Government of India), Central Pollution Control Board (Government of India), Delhi Pollution Control Committee, Factories Inspectorate, transport authorities and local health authorities. Environment (Protection) Act, 1986 has been supplemented by the "Manufacture Storage and Import of Hazardous Chemical Rules, 1989." These Rules, which have been enacted by the Central Government for managing chemical accidents. The "Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996" compliment the "Manufacture Storage and Import of Hazardous Chemical Rules, 1989." It provides for a four tier crisis management system to be setup at Local, District, State and Central level. The rules were notified on 2nd August, 1996 by the Ministry of Environment and Forests, Government of India, under the Environment Protection Act, 1986. These Rules provide for a statutory back-up for setting up of Crisis Groups at Local, District, State and Central Level which have Major Accident Hazard (MAH) installations. As per provisions of these Rules, the Government of India has constituted a Central Crisis Group, to deal with major chemical accidents and provide expert guidance for handling major chemical accidents in the country besides other functions mentioned in Office Order No. 3-15/91-HSMD dated 27.09.1996. The Rules provide for keeping public informed on chemical accidents, prevention, preparedness and mitigation. These Rules will enable preparation of Off-site Emergency Plan, updating, and conduct of mock-drill. It will further enhance the implementation of Public Liability Insurance Act, 1991, for providing relief to the victims.
Institutional Framework

- State Governments are required to constitute:
  - State Crisis Group (SCG)
  - District Crisis Groups (DCGs) and
  - Local Crisis Groups (LCGs) to plan and
    respond to chemical accidents in the state.

- "Central Crisis Group" is the apex body in the country to deal with and provide expert guidance for planning and handling of chemical accidents in the country. The Central Crisis Group shall continuously monitor the post-accident situation and suggest measures for prevention of reoccurrence of such accidents. It is required to meet once in six months and respond to queries from State Crisis Groups and District Crisis Groups. "State Crisis Group", is the apex body of the Government of Delhi, consisting of government officials, technical experts and industry representatives. This group is required to deliberate on planning, preparedness and to provide guidance for handling of chemical accidents, with a view to reducing the extent of loss of life, property and ill-health. The State Crisis Group will review all the Off-site Emergency Plans for chemical disaster for its adequacy. This group is required to meet once in three months. The Dy. Commissioner is ex-officio chair-person of the "District Crisis Group" and this Group is the apex body at the district level and is required to review all On-site emergency plans prepared by the occupiers of the Major Accident Hazards (MAH) installations for preparation of the District offsite Emergency plan which shall also include hazards due to transportation of hazardous chemicals by road and by pipelines. The District Crisis Group is required to meet once in a 45 days and conduct one full scale mock-drill of the District Offsite Emergency Plan, on a site every year. Management of Emergencies due to hazardous chemicals
Fighting emergency arising out of a Chemical Accident calls for a concerted effort at Local, District, State and Central Level and utilisation of the available resources within shortest possible time. That is the key to success in overcoming the crisis.

**Central Crisis Group - Constitution and functions**

- By an order number 3-15/91-HSMD dated 27th September, 1996, the Central Crisis Group (CCG) has been set up by Ministry of Environment and Forests, Government of India. This is an apex body comprising senior officials of the Government and technical experts.
- The functions of the Group shall be as follows:-
  1. To deal with major chemical accidents and provide expert guidance for handling major chemical accidents in the country.
  2. Continuously monitor the post-accident situation arising out of a major chemical accident and suggest measures for prevention and to check recurrence of such accidents.
  3. Conduct post-accident analysis of such major chemical accidents and evaluate responses.
  4. Review District Off-site Emergency Plans with a view to examining its adequacy in accordance with, the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and suggest measures to reduce risks in the industrial pockets.
  5. Review the progress reports submitted by the State Crisis Group.
  6. Respond to queries addressed to it by the State Crisis Group and District Crisis Group.
  7. Publish a State-wise list of experts and officials who are concerned with the handling of chemical accidents.
  8. Render in the event of a chemical accident in a State, all financial and infrastructural help as may be necessary.
- The CCG shall meet once in every six months in the Ministry of Environment and Forests, Paryavaran Bhawan, New Delhi. The Group may co-opt any person whose assistance or advice is considered useful in performing any of its functions. The CCG deals only with major chemical accidents in the country where State Governments require marshalling of resources from other States as well as from the Central Government. The Chief Secretary, the District Magistrates of the concerned State/Districts should immediately inform the CCG about the accidents. It will meet as soon as possible after the accidents. It will meet as soon as possible after the receipt of information about the accident in carrying out its task, it shall consult experts, coordinate activities of the State Governments and the Central Ministries Departments/Agencies and keep the Cabinet Secretariat and appropriate authorities in the Government of India constantly informed about development.

- **State Crisis Group - functions**
  - The functions of the State Crisis Group are as follows :-
    (i) To review all district off-site emergency plans in the State with a view to examine their adequacy in accordance with the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 and forwards a report to the CCG once in three months;
    (ii) To assist the State Government in the planning, preparedness and mitigation of major chemical accidents at a site in the State.
    (iii) To assist the Government in managing chemical accidents at a site;
    (iv) To continuously monitor the post accident situation arising out of a major chemical accident and forward a report to the Central Crisis Group.
    (v) To review the progress reports submitted by District Crisis Groups.
    (vi) To respond to queries addressed to it by District Crisis Groups.
    (vii) To publish a list of experts and officials who are concerned with the management of chemical accidents.
Duties of Various authorities during operation of an off-site emergency plan.

- **Deputy Commissioner of the District:** The Deputy Commissioner of the district is the District Emergency Authority and is the nodal person for directing/co-ordinating management of an off-site emergency. He is also the Chair-person of the District Crisis Group, constituted under the Chemical Accidents (Emergency Planning, Preparedness & Response) Rules, 1996.

  His/her functions are:

  (i) To declare an emergency, through PCR.
  (ii) To withdraw an emergency and to declare the affected areas normal for any entry after evacuation.
  (iii) To assume over all control and to provide directions and co-ordination of all resources in tackling emergency with minimum damage to life, environment & property.
  (iv) To organise relief to the affected persons through PCRs, CATS Vans, NGOs using the available resources.
  (v) To mobilise resources.
  (vi) To organise medical assistance and relief through medical services, voluntary organisation and NGOs.
  (vii) To clean up the affected area and rehabilitation of affected population, including evacuation.
  (viii) To inform media for publication/dissemination of necessary information.
  (ix) To inform the Chief Secretary being the Chair-person of the State Crisis Group about the decisions taken and progress in tackling emergency.

  - Action by Police Control Room. To inform about the disaster to:
  - Fire Service
• Dy. Commissioner cum District Emergency Authority
• Disaster Management Centre of Police
• Local Police and other civic bodies
• Jal Board
• Vidyut Board
• CATS
• Home Guards and
• Civil Defence through Police Wireless or any other mode of quick communication.
• To direct PCR Vans of nearby areas to rush to spot without loss of time.
• To inform all major hospitals promptly to keep ready and make preparation to receive and treat the injured persons.
• Central Accident Trauma Services(CATS) to be directed to the spot for the removal of injured persons to the hospitals.
• To inform the concerned Dy. Commissioner of Police or his representative to take charge of the situation and send the Situation Report to all concerned.
• The district DCP to alert all hospitals in his jurisdiction. The Assistant Commissioner of Police /SHO to depute one nodal officer to go to the hospitals of the area and to get the Medico Legal Cases(MLCs) prepared and other related information that may be helpful to identify victims.
• To mobilise experts in consultation with District Emergency Authority, if required to assist for managing emergency and to position them at such a point so that they are easily accessible and their advice put into effective use.
• To obtain necessary information on meteorology from the Fire Control Room to support the efforts of fire and other responders in the field for defining vulnerable areas.
• Arrange for information to general public for self-protection and emergency actions.
• To provide information to near relatives of the affected persons of their whereabouts and condition of the victims.
Fire Services:-
- To act as a primary Emergency Responder.
- To take action, such as to provide Water-Curtain etc., to manage chemical accidents based on technical information and advice of Experts.
- To provide and co-ordinate the personal protection of Respondents on or near the accident site.
- To provide an on scene assessment of emergency status to Fire Control Room/ Police Control Room/District Emergency Authority.
- To provide support and protection for technical experts, who may be required to carry out special operations to contain a chemical accident such as sealing a chemical leak, repairing a damaged pipeline.
- To provide normal fire fighting/control and rescue action in line with the normal role.

- Fire Control Room (FCR) to coordinate and communicate with concerned authorities.
- Central Fire Officer to act as a Response Coordinator and give on-scene assessment to District Emergency Authority.
- Local Fire Station to give on scene assessment to Central Fire Officer and District Emergency Authority.
- To provide Emergency Response Action.

Local Police:-
- To rush to the spot with ropes, search lights and other items for maintaining law and order.
- To cordon off the area and dispersal of crowd.
- To give near scene Assessment to Distt. Dy. Commissioner of Police and District Emergency Authority.
- To provide support functions.
- To control traffic and diversions
- To ensure clear passage to Emergency Vehicles. Only the Emergency Vehicles and authorised responders are allowed to go right to the place of accident.
- To help rescue services and volunteers in all possible manners.
- To contact nearby hospitals for making emergency arrangements for receiving injured persons.
- To provide adequate force, depending upon the seriousness of a situation which may be kept at the scene of occurrence for safe guarding property/belongings of the disaster victims, and also ensure security of affected and evacuated area.

- To preserve the scene of occurrence and debris till examination by Experts
- To advice Home-Guards and Civil Defence to remain alert for responding to call from Police.

**Traffic Police:-**
- To coordinate and communicate with concerned functionaries.
- To detail the traffic staff to reach the place of occurrence.
- To give directions wherever necessary, to ensure free passage for Fire Brigade Ambulances, Police Vehicles and Vehicles of other responders.
- DCP (Traffic) to coordinate with private transporters for additional vehicles.
- To mobilize cranes at strategic points for towing away unwanted standing vehicles.
- To give near Scene Assessment to DCP(Traffic) & District Emergency Authority.
- To provide support function.
- CATS.
• To alert CATS Vans in the vicinity.
• To direct CATS vans to the points where evacuation is required.
• To alert hospitals about arriving of casualties through CATS Control Room.
• To give feedback to District Emergency Authority of medical status and advice further.
• CATS Control Room to coordinate and communicate with concerned functionaries.
• To give near Scene Assessment to its Control Room and District Emergency Authority.

• Health services:-
  • To coordinate Ambulances and Response Units.
• To inform and alert the hospitals, on arrival of casualties and provide support functions.
• To carry/seek accommodation of medical resources.
• To provide necessary advice and medical information to medical practitioners/professionals in the affected areas regarding First-aid and other medical action, if required.
• To organize relief and to provide additional medical supplies and facilities through hospitals for augmenting resources available in area of medical treatment.
• To liaison with Technical Experts of hospitals, All India Institute of Medical Sciences (AIIMS), Poison Control Centre, etc. and to provide medical advice to all primary and secondary medical Responders, as required.
• To evaluate medical status based on feedback from the field units.
• To advice the District Emergency Authority on medical status and seek additional assistance, if required.
• Civil Defence and Home Guards:-
  • Civil Defence personnel would assist the first line
• During post emergency, Civil Defence personnel, may assist people in evacuation from affected areas to relief Camps. It would assist the concerned agencies for evacuation and de-contamination work.

• The Civil-Defence and Home-guards would provide support role to various respond agencies and to remain alert/stand by for responding to any demand from District Emergency Authority.

• Public Transport System.
  • To provide support functions
  • To remain alert and to provide stand by reserve on demand from District Emergency Authority.

• MC/MC:-
  • To provide support functions such as Schools, Community Centres, which have already been identified and can be used for Night Shelter for affected persons.
  • To identify tent house(s) so as to provide tents, bedding for the affected persons in the hour of crisis.
  • To remain alert/standby for any other assistance, which may be required by the District Emergency Authority.
  • To investigate accident in godowns, isolated storages, industries under the provisions of the Act.

• Railways:-
  • To provide support functions.
  • To Control Rail Traffic near the accident site.

• NGOs. To assist the District Emergency Authority in organizing relief and rehabilitation.
- Transport Department. To investigate chemical accident in a Truck/Lorry tanker covered under the provisions of the Motor Vehicle Act, in association with Delhi Traffic Police.
- Experts. To provide technical advice and guidance to District Emergency Authority and State Government. To render necessary assistance in investigation of cause of accident.

- Pollution Control Committee. To investigate accidents in isolated storages, industries not covered under the Factories Act, 1948, pipelines and hazardous substances under transportation by Road/Railway and suggest remedial measures.

- Chief Inspector of Factories, Labour Department. To investigate cause of accident in a factory licensed/coverable under the provisions of the Factories Act, 1948, and suggest remedial measures.