EMPIRICAL STUDY ON THE APPLICATION OF THE ACTS FOR COMPENSATING INDUSTRIAL INJURIES

An empirical study, on the application of the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948, was conducted for finding out their effectiveness in providing compensation to workmen for industrial injuries. The universe, sampled out for the study, was mainly the Cochin industrial belt in the State of Kerala. The industrial establishments, chosen for study from this universe, do not have a homogeneous character. So it was felt desirable to adopt the stratified random sampling method of research. \(^1\)

Each of the industrial establishments was taken as a stratum and from each, a group of five to fifteen workmen/employees was selected by random sampling. Data were collected by informal personal discussions with the workmen/employees with the help of a schedule of questions. In those cases, where the workmen/employees, interviewed, could not give a clear picture regarding a particular issue, the data, collected from such group of workmen/employees were checked by having personal discussions with another group/trade unions/employers/local offices of the Employees' State

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\(^{1}\) See C.R. Kothari, Research Methodology, Methods and Techniques (1991), pp. 76, 77.

\(^{1a}\) Persons covered by the Employees' State Insurance Act, 1948, are called as 'employees'. See supra, Chapter 3.
Insurance Corporation and thus, the actual position was ascertained.

For enquiring about the application of the Workmen's Compensation Act, 1923, the following categories of workers, covered by the Act, were personally interviewed:

1) workmen, engaged in loading and unloading ships;
2) workmen of ferry boats;
3) railway servants like luggage porters, licenced coolie

2. Workmen's Compensation Act, 1923, Section 2 (1) (n), read with Schedule II to the Act.

3. Id., Schedule II, Clause (VII). For studying, how far workmen, engaged in loading and unloading ships, were benefited by the Act, workers of this category, employed by Cochin Port Trust were interviewed. These workers are generally illiterate. They have to carry very heavy loads. Ships, coming to the Port, are time-bound, as they are to leave the Port for some other place by a particular date. So the stevedores of ships offer special money to the workers and get the work done speedily. Further, they are forced to handle new equipments and work in containers without proper training. Heaviness of the loads, speedy disposal of work and lack of training in handling equipments lead to frequent accidents. The data were collected by discussions with different groups of workers and trade unions.

4. Id., Schedule II, Clause (XVII). The workmen of ferry boats, run by the Kerala Shipping and Inland Navigation Corporation Ltd, and the Kerala State Water Transport Department, both in Cochin were interviewed.

5. Id., Section 2 (1) (n) (i). Railway servants of Cochin (Cochin Harbour Terminus, North and South), Alwaye and Trichur railway stations were interviewed.
porters, gangmen,6 khalasies,7 electricians and workmen
of the Signal and Telecom Department;

(4) workers, engaged in outdoor work in Railway Mail
Service;8

(5) workers, engaged in outdoor work in the Post and
Telegraph Department; 9

6. Gangmen are class IV employees of the Engineering Depart­
ment of the Indian Railways. They, being illiterate, are
the most exploited class of workers of the Railways. They
are prone to accidents, as they work on the railway line
day/night, irrespective of the condition of the weather.
They may be dashed to death by trains, coming without
signals. They may get sun-stroke and collapse in the
course of work. They are not supplied gloves for clean­
ing the lines nor kerosene oil and soap for washing their
tarred and stained hands. So they may contract skin
diseases. Data were collected by discussions with gangmen
of Cochin (Cochin Harbor, North and South), Alwaye and
Trichur railway stations. It was reported that a gangman,
on night duty on a railway line near Cochin, was dashed
to death by a train, coming without signals. See Malavala

7. Khalasies are also Class IV employees of the Engineering
Department of the Indian Railways like gangmen. They
include plumbers, brick-layers, carpenters, blacksmiths,
painters, cleaners of water tanks and drainage workers
of the Railways. They face the risk of falling from
heights and getting injured. Cleaners of water tanks may
get electric shocks. Drainage khalasies, working without
any preventive equipments/gloves, are exposed to the risk
of contracting skin diseases. The data were collected by
discussions with two different groups of khalasies of
Cochin South railway station.

8. Workmen's Compensation Act, 1923, Schedule II, Clause
(xiii). Workers of Railway Mail Service, Cochin South
railway station were interviewed.

9. Ibid. In addition to the workmen, engaged in outdoor duty
in the Head Post Office, Cochin, the workmen of Mail Motor
Service, near Cochin South railway station, were interviewed.
(6) workers, engaged in handling and transporting cargo in barges;¹⁰
(7) linemen and overseers of the Kerala State Electricity Board;¹¹
(8) workmen of timber industry;¹²
(9) X-ray technicians;¹³
(10) construction workers of multi-storeyed buildings;¹⁴
(11) sweepers and cleaners;¹⁵

¹⁰ Id., Schedule II, Clause (i). The workmen employed by the Kerala Shipping and Inland Navigation Corporation Ltd., Cochin, were interviewed. These workers are exposed to the risk of lung diseases, because of their constant touch with polluting chemicals.

¹¹ Id., Schedule II, Clauses (ix) and (xix). The workmen of this category of the Kerala State Electricity Board, South Kalamassery were interviewed.

¹² Id., Schedule II, Clauses (iii), (xxii) and (xxiii). Workmen of T.K.P. Industries, Edappally, Cochin were interviewed.

¹³ Id., Schedule II, Clause (xxvii). X-ray technicians of Lisie Hospital, Cochin; PVS Hospital, Cochin and Cochin Port Hospital were interviewed. X-ray technicians are exposed to a risky environment. Years of exposure to radium may cause cancer. If wounds and burns occur, due to radiation, healing is very difficult. Accidents may occur, due to electric shock. These workers and their children, generally, suffer from poor health.


¹⁵ Id., Schedule II, Clause (x). Sweepers and cleaners of Corporation of Cochin were interviewed.
(12) drivers, conductors and cleaners of vehicles; 

(13) linemen and line supervisors of Telephone Exchange; 

(14) workers of water purification plant; 

(15) workers, engaged in the exhibition of pictures; 

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16. Id., Schedule II, Clauses (i) & (xxv). Drivers of Corporation of Cochin, Private and Transport Bus stands, Alwaye were interviewed. 

17. Id., Schedule II, Clause (i). Cleaners of vehicles of Corporation of Cochin and conductors and cleaners of buses of Private and Transport Bus stands, Alwaye were interviewed. 

18. Id., Schedule II, Clause (ix). Linemen and line supervisors of Telephone Exchange, Alwaye were interviewed. Accidents, like falling and getting electric shocks, are now rare in the Department of Telecommunications, because of the use of insulation coating lines, minimisation of overhead cable lines and the adoption of underground cable system. Still, as the linemen have to keep the telephone receivers close to their ears for a long time for fault repair, the diaphragms of their ears are commonly damaged. As they work in the hot sun without any eye protective devices, their eye-sight is affected. Workers, doing underground jointing work, have to work in tents in dusty and polluted environment for long hours and are, therefore, susceptible to lung diseases. The data were collected by discussions with two groups of workers of this category of the Telephone Exchange, Alwaye. 

19. Id., Schedule II, Clause (iii). Workmen of Water Works, Alwaye were interviewed. These workers are likely to get electric shocks, while operating heavy motors and have breathing trouble, while chlorinating water. They have to carry heavy bags of chemicals like alum, walking along slippery floor. So they may fall down and get injured. They are likely to become deaf, as they work in highly noisy atmosphere. 

20. Id., Schedule II, Clause (xxi). Workmen of Matha Mathurya Theatre, Alwaye were interviewed.
(16) workmen, engaged in the operation of Light house; 21
(17) masters and seamen of ships; 22
(19) workers, engaged in drilling tube-wells; 23
(19) workers, engaged in blasting and crushing rock; 24
(20) workers, engaged in operation or maintenance of aircraft; 25

1. Id., Schedule II, Clause (xx). Workmen of Light house, Vypeen, Cochin were interviewed. There are only five workers including attender and sweepers, engaged in the operation and maintenance of the Light house in Cochin. Those, who are engaged in outdoor work like cleaning the lantern glass and painting cupola, are likely to fall from the top of the Lighthouse down to the ground. Workers may fall from the vertical ladder inside the Lighthouse from 20 feet height. They are likely to have electric shocks, as they work in contact with high-power electricity (3500 volts). If there is no electricity, either generator or gas has to be used for operating the Lighthouse. During monsoon, it is very difficult to start the generator and this may cause chest pain to the worker. Operation of the Lighthouse by using gas is also equally risky.

22. Id., Schedule II, Clause (vi). Masters and seamen of ship, named M.V. Ubaidullah, an Indian ship, carrying cargo from Cochin to Lakshadweep, were interviewed.

23. Id., Schedule II, Clause (xxx). Workers of the Ground-water Department, Collectorate, Cochin were interviewed. These workers, engaged in drilling tube-wells, do a highly risky job. Accidents, like breaking of oil tanker, air compressor and air hoses, may occur at any time. They are likely to be affected by blindness, pressure, lung and heart diseases, as they work in highly noisy, dusty and polluted environment.

24. Id., Schedule II, Clauses (iv) and (xv). Workers, employed by Thomas Koravakkattu, Kulappuram, Muvattupuzha were interviewed.

25. Id., Schedule II, Clause (xxviii). Workers, engaged in operation or maintenance of aircraft in Airport, Cochin, were interviewed.
(21) workers, engaged in handling or transport of goods in godowns; and

(22) workers of factories. 27

The chief defect of the Workmen's Compensation Act, 1923 is that it casts the entire liability for compensation on the employer but does not compel him to insure his liability. 28 If the employer insures his liability under the Act, he will not evade his liability. So it was felt necessary to enquire into the question whether the employers of the workmen, chosen for the study on the application of the Workmen's Compensation Act, 1923, 29 have insured their liability for payment of compensation. Of the fifty employers, taken up for study, 30 seventeen are Central Government factories/departments, nine Kerala Government factories/departments, eleven public institutions and twenty-seven private firms.

26. Id., Schedule II, Clause (xxvi). Workers of the godown of Food Corporation of India, Willingdon Island, Cochin were interviewed.

27. Id., Schedule II, Clauses (ii) and (iii). Workers of factories like Cochin Shipyards Ltd., Cochin-15; Hindusthan Petroleum Corporation Ltd., Cochin-16; Modern Food Industries (India) Ltd., Edappally; Premier Tyres Ltd., Kalamassery; Indian Aluminium Co. Ltd., Udyogamandal; Travancore Cochin Chemicals Ltd., Udyogamandal; Fertilisers and Chemicals Travancore Ltd., Udyogamandal; Hindusthan Insecticides Ltd., Udyogamandal; Travancore Chemicals Manufacturing Ltd., Kalamassery; Hindusthan Machine Tools Ltd., Kalamassery and Tata Oil Mills Ltd., Cochin, not covered by the Employees' State Insurance Act, 1948, were interviewed.

28. See id., Sections 3 and 14.

29. Supra, nn.3-27.

30. Ibid.
departments/factories, four private factories, two private service institutions, three building contractors and fifteen private individual employers, of whom thirteen are bus owners. The information, collected, is tabulated as follows:-

<table>
<thead>
<tr>
<th>Category of employers chosen for study.</th>
<th>Total No. of employers chosen for study.</th>
<th>Total No. of employers who have not insured the liability.</th>
<th>Total No. of employers who have insured the liability.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Govt. departments/factories</td>
<td>17</td>
<td>12</td>
<td>5</td>
</tr>
<tr>
<td>Kerala Govt. departments/factories</td>
<td>9</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Private factories</td>
<td>4</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Private service institutions</td>
<td>2</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Building contractors</td>
<td>3</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Private individual employers</td>
<td>2</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Private bus owners</td>
<td>13</td>
<td>-</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>50</td>
<td>27</td>
<td>23</td>
</tr>
</tbody>
</table>

It is found that only five out of the seventeen Central

31. Shipping Corporation of India, Indian Airlines, Modern Food Industries Ltd., Fertilisers and Chemicals Travan-core Ltd. and Hindustan Insecticides Ltd.

32. Cochin Port Trust, Railways, Railway Mail Service,
Government departments/factories, two out of the nine Kerala Government departments/factories and one out of the four private factories have insured their liability. The two private service institutions and the two private individual employers other than bus owners have not insured their liability. Two out of three building contractors and all the private bus owners have insured their liability.

(f.n.32 contd.) Telecommunications, Lighthouse, Post and Telegraph, Shipping Corporation of India, Indian Airlines, Modern Food Industries Ltd., Fertilisers and Chemicals Travancore Ltd., Hindustan Insecticides Ltd., Poor Corporation of India, Hindustan Petroleum Corporation Ltd., Indian Aluminium Company Ltd., Indian Rare Earths Ltd., Hindustan Machine Tools Ltd. and Cochin Shipyard Ltd.

33. Kerala Shipping and Inland Navigation Corporation Ltd. (transporting cargo in barges) and Travancore Cochin Chemicals Ltd.

34. Kerala Shipping and Inland Navigation Corporation Ltd. (running ferry boats), Kerala Shipping and Inland Navigation Corporation Ltd. (transporting cargo in barges), Kerala State Electricity Board, Corporation of Cochin, Kerala Water Authority, Kerala State Road Transport Corporation Ltd., Kerala State Water Transport Department, Kerala State Ground Water Department, and Travancore Cochin Chemicals Ltd.

35. T.K.P. Industries, Edappally.

36. T.K.P. Industries, Edappally; Travancore Chemicals Manufacturing Ltd., Kalamassery and Tata Oil Mills Ltd., Cochin-16.

37. Lисie Hospital, Cochin and PVJ Hospital, Cochin.

38. Matha Mathurya theatre, Alwaye and Thomas Koravakkattu, Muvattupuzha.


Additional information, on the issue of insurance of liability of the employer, was collected by verifying the Register of Workmen's Compensation Cases of the offices of the Commissioner for Workmen's Compensation at Ernakulam and Trichur. Fifty six cases, as entered in the Register of Workmen's Compensation Cases, 1992 of the Ernakulam office, were verified. The information, collected, is tabulated below:

Table No.II

<table>
<thead>
<tr>
<th>Category of employers</th>
<th>Total No. of employers</th>
<th>No. of employers who have not insured their liability</th>
<th>No. of employers who have insured their liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Govt.</td>
<td>8</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>departments/</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>factories</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kerala Govt.</td>
<td>4</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>departments/</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>factories</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private firms</td>
<td>26</td>
<td>12</td>
<td>14</td>
</tr>
<tr>
<td>Private individuals</td>
<td>18</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>56</td>
<td>27</td>
<td>29</td>
</tr>
</tbody>
</table>

It is found that none of the eight Central and four State Government departments/factories, verified, has insured the liability. But out of the twenty six private firms,
verified, fourteen have insured their liability. Coming to private individual employers, out of the eighteen cases, verified, fifteen have insured their liability.

Forty five cases, as entered in the Register of Workmen’s Compensation Cases, 1990 of the Office of the Commissioner for Workmen’s Compensation, Trichur, were verified. The information, collected, is tabulated below:

Table No.III

<table>
<thead>
<tr>
<th>Category of employers</th>
<th>Total No. of employers</th>
<th>Total No. of employers who have not insured the liability.</th>
<th>Total No. of employers who have insured the liability.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Govt.</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>departments/ factories.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kerala Govt.</td>
<td>2</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>departments/ factories.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private firms</td>
<td>2</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Private individuals</td>
<td>41</td>
<td>4</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>45</td>
<td>8</td>
<td>37</td>
</tr>
</tbody>
</table>

In forty one cases, the employers are private individuals, of whom thirty are owners of vehicles and of these, thirty seven have insured their liability. In the remaining four cases, the employers are two Kerala Government departments/boards and two private firms and all the four have not insured their liability.
In the absence of provision for compulsory insurance of employer's liability under the Workmen's Compensation Act, 1923, it has to be examined whether the employer tries to evade his liability under the Act. The information, collected for examining this question, is tabulated as follows:

Table No. IV

<table>
<thead>
<tr>
<th>Category of employers taken for study</th>
<th>Total No. of employers taken for study</th>
<th>Total No. of employers providing compensation as per the W.C. Act.</th>
<th>Total No. of employers providing compensation in ways other than those in the W.C. Act.</th>
<th>Total No. of employers not required to provide compensation because of the absence of accidents</th>
<th>Total No. of employers evacuating compensation altogether</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Central Govt. departments/factories</td>
<td>17</td>
<td>8</td>
<td>8</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>2 Kerala Govt. departments/factories</td>
<td>9</td>
<td>5</td>
<td>4</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3 Private factories</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>4 Private service institutions</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>5 Building contractors</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>6 Private employers</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>7 Private bus owners</td>
<td>13</td>
<td>13</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

'Ways other than those in the Workmen's Compensation Act, 1923 includes meeting the expenses for medicine, leave with full salary only for temporary disablement and alternative job only for permanent disablement and job for the dependent only, in case of death.'
Of the seventeen Central Government departments/factories, chosen for study, it is found that the workers, engaged in loading and unloading work in the godown of the Food Corporation of India, are not given any compensation at all by their principal employer on the ground that they are casual workers, employed through contractor. In the Department of Telecommunications, though the linemen and line supervisors are not given any compensation in cases of permanent total disablement, they are given other alternative jobs. In certain other Central Government departments/factories like Cochin Port Trust, Indian Railways, Post and Telegraph, Cochin Port Hospital, Light House,

41. In the Indian Railways, though workmen of the Signal and Telecommunication Department, Electrical Department and even the luggage porters of the Traffic Department are given legally permissible compensation, the class IV employees of the Engineering Department, namely, gangmen and khalasies are exploited. The Department of Railways considers only those injuries of these workers, causing wounds and flow of blood, as injuries on duty. Occupational diseases and collapsing in the course of duty, because of strain of work, are not treated as injuries on duty. Injuries on the way to and from place of work are also disregarded. These workers, being illiterate and not backed by trade unions, are simply disregarded by the management. They are treated just like slaves. Gangmen cannot gather together and fight in unison, as they are scattered on the railway lines. This exploitation of theirs is admitted not only by the different groups of gangmen/khalasies, interviewed in Cochin (Harbour Terminus, South and North), Alwaye and Trichur railway stations but also by workmen of other departments of the Railways.
Indian Aluminium Co. Ltd., and Hindustan Machine Tools Ltd., payment of compensation is not certain. But the injured workmen of these departments/factories are given the cost of medical treatment, leave with salary\(^{42}\) for temporary disablement and alternative job in cases of permanent total disablement.\(^{43}\) In Modern Food Industries (India) Ltd. only minor injuries to fingers and legs, which can be cured by medical treatment, have occurred. As the factory has introduced group insurance system against industrial accidents, the receipt of compensation, in the case of serious injuries, need not be doubted. In certain other departments/factories like Cochin Air Port, Cochin Shipyard Ltd., Hindustan Petroleum Corporation Ltd., Fertilisers and Chemicals Travancore Ltd., Hindustan Insecticides Ltd., Indian Rare Earths Ltd., and the Shipping Corporation of India, the employer does not evade his liability for the payment of compensation under the Workmen's Compensation Act, 1923. Whereas Cochin Air Port, Fertilisers and Chemicals Travancore Ltd., Hindustan Insecticides Ltd., and the Shipping Corporation of India have under taken group insurance of their workers,\(^{44}\) Cochin Shipyard Ltd.

\(^{42}\) In Hindustan Machine Tools Ltd., for the period of temporary disablement, only half pay salary is granted.

\(^{43}\) Cochin Port Wharf workers are denied even alternative job. In cases of death, dependants are given job, only after years of delay. Gangmen of the Railways are given alternative job, only after long gap, which leads to service-break and loss of other service benefits. Further the Department of Railways has recently stopped the provision for job for dependants, in case of death on duty.

\(^{44}\) Supra, n.31.
Hindustan Petroleum Corporation Ltd., and Indian Rare Earths Ltd., have no group insurance. But in all these establishments, in the event of occurrence of industrial injuries, the entire cost of medical treatment, special leave with salary for the period of temporary disablement and compensation in cases of permanent disablement and death are granted to the injured workman/his dependants. If the workman is incapacitated for the work, he was doing, he is given alternative job.

45. Supra, n.32.

46. In Cochin Air Port and the Shipping Corporation of India, in addition to the cost of medical treatment, the food expenses, during the period of hospitalisation, are also met by the employer.

47. This special leave is with full salary in all these establishments except in the Shipping Corporation of India, where the seamen are granted only basic salary without allowances and Cochin Shipyard, where leave with half salary only is granted.

48. Dependant is generally given job in case of death by these establishments. But in the Hindustan Petroleum Corporation Ltd., the dependant is to opt any one of the following alternatives:
1) Dependant will be given employment.
2) Full salary from the date of death till the date, on which the deceased workman would have retired in due course, if he had not died, at the rate of the salary, the workman was drawing at the time of his death, will be given in lumpsum on the condition that the dependant will not get gratuity and provident fund for the time being but only on the date, the deceased workman would have retired and after the due date of retirement, he will be getting 40% of the salary as pension.
3) Forty percent of the last drawn salary from the date of death of the workman till the due date of retirement will be given, in which case provident fund and gratuity will be paid along with this salary amount in lumpsum.
Out of the nine Kerala Government departments/factories taken for study, the linemen and line supervisors of the Kerala State Electricity Board, workers of the Water Purification Plant at Alwaye under the control of the Kerala Water Authority, the drivers and cleaners of vehicles and the sweepers and cleaners of the Corporation of Cochin and the drivers and conductors of the Kerala State Road Transport Corporation are not given compensation, in accordance with the Workmen's Compensation Act, 1923. In the Kerala State Electricity Board, the Corporation of Cochin and the Kerala Water Authority Department, if the injured workers of the categories, noted above, are unfit for the work, they have been doing, they may be given alternative job and in case of death, a dependant is given job. The situation, in the Kerala State Road Transport Corporation is different. The Corporation has not insured the staff against industrial accidents. In case of accidents, what the Corporation does, is to see that the loss, incurred by the Corporation by the accident, is recovered from the worker. 49 The workmen of ferry boats, run by the Kerala Shipping and Inland Navigation Corporation Ltd., are found to have sustained only minor

49. Formerly, those drivers, who lost eyesight by occupational strain, were given job in other categories. Now, even this practice is stopped. Drivers are forced to continue as drivers, despite loss of eye-sight, leading to accidents.
injuries, which can be cured by medical treatment. Accident leave with full salary is granted for the period of temporary disablement, in addition to medical reimbursement. The permanent workmen of both the barges, run by the Kerala Shipping and Inland Navigation Corporation Ltd., and the Kerala Ground Water Department, engaged in the construction of tube wells, the workmen of the ferry boats, run by the Kerala State Water Transport Department and the workmen of the Travancore Cochin Chemicals Ltd., a Kerala Government company are satisfied with the compensation, provided to them by their respective employers for industrial injuries. The Kerala Shipping and Inland Navigation Corporation Ltd., and the Travancore Cochin Chemicals Ltd., have insured their workmen. In case of accidents, leave with full salary is provided, in addition to medical reimbursement, for the period of temporary disablement in all these four establishments. After that, if the workman is declared to be permanently disabled or death ensues, compensation, admissible under the Workmen's Compensation Act, 1923, is provided. If the workman is not medically fit for his previous work, he is given other suitable job.

50. In Kerala State Water Transport and Ground Water Departments, hospital leave with full salary up to 120 days and half pay thereafter is given to permanent workers for temporary disablement, as per Kerala Service Rules, Article 103.
Tata Oil Mills Ltd., Travancore Chemicals Manufacturing Ltd., Premier Tyres Ltd., and T.K.P. Industries Ltd., are the four private factories, taken up for study. In Travancore Chemicals Manufacturing Ltd., the compensation, provided to workmen, covered by the Workmen's Compensation Act, 1923, for industrial injuries is not at all in compliance with the Act, as the maximum amount of compensation is limited to 90% of 10 days' salary. Premier Tyres Ltd., also does not grant compensation for industrial injuries to those workmen, covered by the Workmen's Compensation Act, 1923, in accordance with the Act. The factory has, however, insured certain organs of workers of certain risky departments, because of the probability of such organs being affected by accidents. But Tata Oil Mills Ltd., provides compensation to workmen, not covered by the Employees' State Insurance Act, 1948, in accordance with a workmen's compensation scheme, which is on a par with the Employees' State Insurance Scheme.

51. Supra, n.36. In the case of these factories, the Workmen's Compensation Act, 1923 is applicable only to those workers, whose wages exceed Rs.3,000/- and, hence, are not covered by the Employees' State Insurance Act, 1948. See supra, Chapter 6

52. See supra, n.51.

53. Ibid.

54. Both the factory and the workman have to pay equal contributions for this insurance.

55. Supra, n.51.

56. The All India Tata Oil Mills Employees' Federation has entered into an agreement with the management for providing an accident compensation scheme on a par with the Employees' State Insurance Scheme.
this scheme, the company is to grant special leave with full salary for the period of temporary disablement, in addition to meeting the entire medical expense. If temporary disablement is followed by permanent disablement, compensation is paid in lump sum, according to the rates as permissible under the Employees' State Insurance Scheme. As T.K.P. Industries Ltd., has insured the liability under the Workmen's Compensation Act, 1923, compensation is paid by the insurance company, if accidents occur.

Lisle Hospital, Cochin and PVS Hospital, Cochin are the two private medical service institutions, taken for study. X-ray technicians, employed by these institutions, run the risk of being affected by occupational diseases like cancer. If they happen to be affected by any occupational disease, they do not expect to get any compensation as per the Workmen's Compensation Act, 1923, because of the difficulty of proof and absence of group insurance by these institutions.

T & T Associates, Kareem & Co. and K.T. Francis & Co. are three building contractors, selected for study. Of these, the first two firms have insured their liability for

57. Supra, n.37.
58. Supra, n.13.
59. Supra, n.40.
compensation under the Workmen's Compensation Act, 1923. So there is no possibility of their evading liability, in the event of occurrence of accidents.

The two private individual employers, taken up for study, are the owner of Matha Mathurya theatre and Thomas Koravakattu, employing workers, engaged in rock blasting operations. The workers, engaged in the exhibition of films in Matha Mathurya theatre, have never met with any accident in the course of their employment for the last several years, entitling them to compensation under the Workmen's Compensation Act, 1923. Workers, engaged in rock blasting operations, are susceptible to accidents at any time, though no accident has occurred, since operations were started recently by the employer, selected for this study. But the employer has not insured his liability for compensation under the Workmen's Compensation Act, 1923. So, in the event of occurrence of accidents, payment of compensation is not certain. It may depend upon the capacity and discretion of the employer, since his workers are ignorant of the provisions of the Workmen's Compensation Act, 1923.

The bus operators are the last group of private employers, taken for study. All of them, having insured

60. Supra, n.38.
61. Supra, n.24.
62. See Table No.I, Serial No.7.
their liability for compensation, compensation, in accordance with the Workmen's Compensation Act, 1923, is paid by the insurance companies, if accidents occur.

The lumpsum mode of payment of compensation under the Workmen’s Compensation Act, 1923 is subject to criticism. However, workers of the different institutions, interviewed, prefer lumpsum payment. Their justification for this preference is that they can either deposit the money in a bank and get interest or make use of the money for any other useful venture, requiring a large sum of money like buying landed property.

Though factors like age and monthly wages of the workman may be relevant in payment of compensation, can the particular department of the workman be a relevant factor? Of the various institutions, studied, the Department of Railways has caught the attention of the researcher as the only institution, meting out differential treatment to workmen, with regard to the payment of compensation for industrial injuries, based upon the department, to which they belong. While electricians (Electrical Department), technicians (Signal and Telecommunication Department) and even luggage porters (Traffic Department) of the Indian Railways are granted, on sustaining injury, duty leave with salary, followed by the payment of

63. Supra, Chapter 5.
compensation under the Workmen's Compensation Act, 1923, the gangmen and Khalasies 64 (Engineering Department) are utterly neglected by the superior officials with regard to the payment of compensation for industrial injuries. As far as these Class IV employees of the Engineering Department are concerned, the sanction of duty leave with salary, and payment of compensation for industrial injuries depends upon the good-will of the railway doctor and the superior officials. These workers have no access to office and superior officials. If they complain, they are likely to be victimized by the officials.

It is also noted that differential treatment is meted out to permanent and casual workmen, with regard to the payment of compensation for industrial injuries under the Workmen's Compensation Act, 1923, in certain government departments. In the Department of Railways, luggage or traffic porters, who are permanent staff of the Railways, are granted duty leave with salary till they are declared medically fit by the railway doctor. If they are not declared medically fit, then disablement is assessed and compensation awarded, as per the Workmen's Compensation Act, 1923. Unlike the traffic porters, the licensed coolie porters of the Railways are not its permanent staff. In case of accidents, they are not given compensation on the ground that they are not permanent workmen of the Railways. Though they are casual

64. Supra, nn.6 and 7.
workers, they have to be treated as railway servants, they being employed for the purpose of the Railways' trade or business and under the disciplinary control of the Railways. 65. In the Food Corporation of India, casual workers, who have been engaged in loading and unloading work in the godowns for the last 25 to 30 years, are not given any compensation under the Workmen's Compensation Act, 1923, by the Corporation on the ground that they are casual workers, employed through contractor. This is inspite of the fact that the Workmen's Compensation Act, 1923 requires the principal employer to compensate his contractor's workmen, employed for the purpose of the former's trade or business. 66. In the Kerala Shipping and Inland Navigation Corporation Ltd., while the permanent workers, engaged in loading and unloading cargo in barges, are given benefits like leave with full salary, medical reimbursement and compensation, permissible under the Workmen's Compensation Act, 1923 for industrial injuries, the casual workers, who have been working for years together, get nothing but first-aid, in case of industrial injuries. In the Kerala Groundwater Department, while the permanent workers are granted medical reimbursement, leave with salary and compensation, admissible under the Workmen's Compensation Act, 1923, the casual workers, who have been working for years


66. Workmen's Compensation Act, 1923, Section 12.
together, are not given anything at all. Compared to the
government departments, in the factories, as the casual
workers are covered by the Employees' State Insurance Act,
1948, their position is secure.

Workmen interviewed for evaluating the efficacy of
the Workmen's Compensation Act, 1923, are generally unaware
of the existence of the Act. This unawareness on the part
of the workmen helps the private employers evade the payment
of compensation easily. Even in government departments,
it is because of the illiteracy of the workers that the wharf
workers of the Cochin Port Trust, the gangmen and Khalasies
of the Department of Railways, the linemen of the Kerala
State Electricity Board and the Department of Telecommunications are treated like slaves and exploited by the superior
officials. The main reason behind the denial of compensation to the casual workers in different government departments, noted above, is their ignorance of their rights under
the Workmen's Compensation Act, 1923.

If trade unions exist for protecting the interests of
workers, they should not have permitted the exploitation of
the workers, as noted above. Instead of educating the
workers about their rights for compensation under the Work-
men's Compensation Act, 1923 and espousing their cause,
unions are siding with the management. In Cochin Port Trust

67. Supra, nn. 6, 7, 11 and 18.
all the unions are found to be rendering full-time service
to the workers in well-furnished offices with all facilities.
All of them agree on the point that their management is com-
 pensating their workmen for industrial injuries, in accord-
ance with the Workmen's Compensation Act, 1923. But the
illiterate wharf workers complain that some of the unions
side with the management and force them indirectly to work
beyond their capacity. Unions do not know about the acci-
dents, happening to the workers. They do not take pains
to see that immediate medical assistance is provided to the
injured workers and compensation obtained. Workers of
government departments, interviewed, generally, do not believe
in unions, which, according to them, are interested only in
collecting subscriptions and enriching themselves. Workers
of factories do not have much complaints against their unions' stand towards obtaining compensation to injured workmen for
industrial injuries under the Workmen's Compensation Act, 1923. In Shipping Corporation of India, Cochin Shipyard
Ltd., Travancore Cochin Chemicals Ltd. and Tata Oil Mills
Ltd., unions are found to be taking up the issue of receipt of legally admissible compensation for industrial injuries
seriously. Unlike in other factories, workers of Cochin
Shipyard Ltd. are noted to be acknowledging the service,
rendered by their unions in helping them obtain compensation,
as per the Workmen's Compensation Act, 1923. Private employers
are, generally, understood to be discouraging the growth of
unions by refusing to employ unionised workers. So, in the case of workers of such employers, unions cannot render any help to workers for obtaining compensation under the Workmen's Compensation Act, 1923. But there are also liberal private employers, who do not stand in the way of their workers' obtaining compensation for industrial injuries under the Act with the help of unions.68

Another problem with the gangmen of the Department of Railways, the operators of Lighthouse and the tubewell drillers of the Kerala Ground Water Department is that they find it difficult to organise the workers of their category, as their work-places are in different places.69 This stands in the way of their obtaining compensation under the Workmen's Compensation Act, 1923. In certain other institutions, even if all the workers are at one work-place, there is no unity even among the workers. For instance, the disunity among the wharf workers of Cochin Port Trust helps the employer evade the liability for compensation under the Act.

68. M/s. Kareem & Co., Kaloor (supra, n.14), for instance, gives cost of medical expenses and half-day payment for the period of disablement, as per the terms of an agreement between the unions and the firm.

69. The gangmen are scattered along the railway lines and cannot collect themselves together. In each lighthouse, there will be only five or six workmen. The group in each lighthouse finds it difficult to have contacts with the groups in other lighthouses. As far as the Ground Water Department is concerned, each district has only one station, thus making impossible the unity of workers of different stations. See also supra, nn.6, 21 and 23.
It is also noted that employees and unions of factories complain about the medical benefit under the Employees' State Insurance Act, 1948. But they are not very much concerned about the compensation for industrial injuries under the Workmen's Compensation Act, 1923, to be provided by the factory to those workers, who are not covered by the Employees' State Insurance Act, 1948. This disinterestedness of the unions prevents the proper implementation of the Workmen's Compensation Act, 1923.

Commissioners for Workmen's Compensation are pivotal in the working of the Workmen's Compensation Act, 1923, they being responsible not only for the adjudication of disputes, under the Act but also for administering the Act. So it was felt necessary to collect data from them, regarding the defects in the implementation of the Act and the ways for rectifying the same. In Kerala, there are seven Commissioners for Workmen's Compensation for fourteen districts. The

70. Supra, n.51.
71. See Supra, Chapter 8
72. See Supra, Chapter 7
73. Deputy Labour Commissioners are appointed as Commissioners for Workmen's Compensation. These Commissioners are full-time officers.
74. The areas of jurisdiction of these seven Commissioners are as follows:
1) Trivandrum and Pathanamthitta
2) Quilon and Alleppey
3) Kottayam and Idukki
4) Ernakulam
5) Trichur and Palghat
6) Malappuram and Calicut
7) Kannanore, Kasargod and Wyanad
Ernakulam district, being the most industrialised of all districts in Kerala, is assigned to one Commissioner. In other districts, the number of cases being comparatively less, one Commissioner is to be in charge of two districts and in the northern zone of Kerala, one Commissioner is put in charge of three districts, namely Cannanore, Kasaragod and Vyanad. Out of the seven Commissioners for Workmen's Compensation in Kerala, two Commissioners - one for Ernakulam district and the other one for Trichur and Palghat districts - were selected for the purpose of this study. Data, relating to the implementation of the Workmen's Compensation Act, 1923 and the adjudication of cases under the Act, were collected by personal discussions with these Commissioners with a schedule of questions as well as by perusal of the Register for Workmen's Compensation Cases, maintained by the Commissioners, followed by informal discussions with the bench clerks of the Commissioners.

It is understood from the two Commissioners, interviewed, that workers' unawareness of the Workmen's Compensation Act, 1923, the indifference of the unions to the workers' problems and even the reluctance of the employers to report fatal accidents to the Commissioner do not prevent the workers from getting compensation under the Workmen's Compensation Act, 1923, because of the spirit of advocates, shown in taking up

75. Workmen's Compensation Act, 1923, Section 10-B.
such cases. Advocates, on coming to know of the occurrence of accidents, educate and instigate the workers to file cases.

The tendency on the part of private employers to insure their liability is admitted by the two Commissioners. According to them, except small private employers like those of coconut tappers, workers engaged in rock blasting, digging wells, felling and logging trees, government departments and some factories, most of the private factories/firms/employers and some of the government factories have insured their liability for compensation. Government departments and big factories can bear the burden of compensation even without insurance, according to the Commissioners. As far as small employers, noted above, are concerned, their liability, according to the Commissioners, should be insured by the government or the government should take up the responsibility for payment of compensation in their case. Otherwise, the Workmen's Compensation Act will be creating a group of small employers, whose condition, after an accident, will be worse than that of the injured workman.

76. Supra, Tables II and III
77. Insurance company is usually found to be one of the parties in Workmen's Compensation Cases.
78. The Government of Tamil Nadu has instituted the Industrial Accidents Distress Relief Fund for providing compensation to workmen, permanently disabled by injury or to the dependants of those, who are fatally injured in the course of employment in stone breaking, blasting, digging wells or other industries, where the employer does not have the financial capacity for paying compensation under the Workmen's Compensation Act, 1923. Funds will be released from this fund as per the orders of the Commissioner for Workmen's Compensation. See copy of G.O.Ms.No.727, Labour Department dated 11.5.1972.
The main obstacle in the way of speedy disposal of cases under the Workmen's Compensation Act, 1923, according to the Commissioners, is that advocates go on requesting for adjournment of cases on the ground of natural justice, as they get fee for each appearance and the employers, for whom they are appearing, want to evade their liability for compensation, they having not insured the same. According to the Commissioners, unnecessary adjournments of this sort should be prevented by imposing cost for each adjournment. Examination of police witness and medical witness and constitution of Medical Board in those cases, where the workman objects to medical certificate, issued by the employer's doctor, invite further delay, because they, being busy, may not appear, in spite of repeated reminders. Condonation of delay, in filing cases, also causes delay, because collection of evidence to assess the gravity of the circumstances, responsible for the delay, after years of delay naturally involves further delay. Although, in theory, the proceedings before the Commissioner are intended to be informal, not requiring compliance with all the provisions of the Civil

79. If there are no adjournments, a case can be disposed of within a span of six months, because what is expected is only a summary trial without calling for detailed evidence.

80. See supra, Chapter 8

81. The Medical Board, consisting of specialised doctors, is appointed by the District Medical Officer.
Procedure Code, it is, in practice, becoming formal. Above all, automobile cases, which ordinarily should have been filed before the Motor Accidents Claims Tribunal, are now flooding to Commissioners for Workmen's Compensation, because of some restriction, imposed by the Motor Accidents Claims Tribunal recently on the amount of compensation, payable in cash\(^2\) and the comparative delay in the disposal of cases there.

It is noted that though trade unions are empowered to appear before the Commissioner,\(^3\) they do not usually appear before the Commissioner.\(^4\) It is found by the Commissioners that trade union leaders are not as competent as advocates to represent and win cases.

The Schedule of workmen, covered by the Workmen's Compensation Act, 1923\(^5\) is not comprehensive, additions being made from time to time. Though the additions to the Schedule, made by the State Government, reach the Commissioner's office in time, those, that are made by the Central Government, do

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\(^2\) In the Motor Accident Claims Tribunal, now the sum of compensation, payable in cash, is restricted to Rs.5000/- only. Formerly, the whole amount was awarded by cheque to the applicant's advocate, who used to exploit the workman. To avoid this, the restriction, noted above, was introduced recently. The balance amount is to be remitted in a specified bank as a fixed deposit in the applicant's account.

\(^3\) See supra, Chapter 8

\(^4\) There are, however, exceptions. In the office of the Commissioner for Workmen's Compensation at Trichur, one Indian National Trade Union Congress (INTUC) trade union leader appears for workmen now and then.

\(^5\) Workmen's Compensation Act, 1923, Schedule II
not. It is learnt from the Commissioners that the delay in the receipt of additions to the Schedule, made by the Central Government, makes even admission of cases difficult.

It is understood from the Commissioners that employers, generally, do not take care to report accidents and submit annual returns to the Commissioner. Annual returns of accidents are to be submitted by the employer to the Commissioner for Workmen's Compensation of the concerned district, who, in turn, is to submit a consolidated statement of the annual returns, submitted by the employers, to the Labour Commissioner, Trivandrum, who is the Head of the Labour Department. As no returns are submitted by employers, blank/nil statements are submitted by the Commissioner for Workmen's Compensation to the Labour Commissioner. But the Commissioners are too busy to investigate and pursue such violations of the Workmen's Compensation Act, 1923 by the employer and prosecute him. Even if the Commissioners find time to prosecute the guilty employers, the penalties being nominal, will not affect them. So, unless the penalties are made deterrent, prosecuting the employer by the Commissioner becomes meaningless.

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86. Id., Sections 10-B, 16.
87. See Ibid.
88. Id., Section 18-A (1). See also supra, Chapter 9.
Even though the Commissioner for Workmen's Compensation is considered to be equivalent to a District Court and saddled with administrative duty, in addition to adjudication, he is not provided with sufficient staff and other infrastructural facilities, as available in a District Court to meet the requirements of his duties. 89

For enquiring about the effectiveness of the application of the Employees' State Insurance Act, 1948, thirteen factories of Cochin were selected for study. Out of these, seven are Central Government factories, namely, Hindustan Petroleum Corporation Ltd., Modern Food Industries (India) Ltd., Indian Aluminium Company Ltd., Fertilizers and Chemicals Travancore Ltd., Hindustan Insecticides Ltd., Indian Rare Earths Ltd., and Hindustan Machine Tools Ltd., two under the control of the Kerala Government, namely, Kerala Cooperative Milk Marketing Federation Ltd., and Travancore Cochin Chemicals Ltd., and the remaining four private factories, namely, Premier Tyres Ltd., Chackolas Spinning and Weaving Mills Ltd., Travancore Chemicals Manufacturing Ltd., and Tata Oil Mills Ltd. Only those employees 90 of these

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89. For example, at the office of the Commissioner for Workmen's Compensation at Trichur, certified copies of judgments are provided to parties, only after two or three months from the date of the order, as the office does not have a xerox-machine and the typewriter, available, is very old and in defective condition.

90. Supra, n. 1 a
factories, whose salary does not exceed Rs.3,000/- and, therefore, covered by the Employees' State Insurance Act, 1948\textsuperscript{91} were made the focus of this study. Employees of Hindustan Petroleum Corporation Ltd., have objected to the application of the Employees' State Insurance Scheme and now there is no such Scheme in the factory. The permanent workers of Travancore Cochin Chemicals Ltd. have been exempted from the application of the Employees' State Insurance Scheme, as the factory has introduced group insurance and company's medical scheme. The recognised unions of Modern Food Industries (India) Ltd. and Fertilisers and Chemicals Travancore Ltd. have obtained stay against the application of the Employees' State Insurance Scheme to the permanent employees of their factories. But the contract employees of these factories are covered by the Employees' State Insurance Scheme. As the scales of pay of employees have been revised, in other factories like Indian Aluminium Co. Ltd., Hindustan Insecticides Ltd., Hindustan Machine Tools Ltd., Kerala Co-operative Milk Marketing Federation Ltd., and Premier Tyres Ltd. the number of employees, covered by the Scheme, is limited. But all the plant employees of Chackolas Spinning and Weaving Mills Ltd., more than half of the total number of employees of Travancore Chemicals

\textsuperscript{91} Employees' State Insurance Act, 1948, Section 2(9); Employees' State Insurance (Central) Rules, 1950, Rule 50. See also \textit{supra}, n.51.
Manufacturing Ltd. and two-thirds of the employees of Tata Oil Mills Ltd. are covered by the Scheme. In those factories where the Scheme is not applicable now, data were collected by having discussions with the employees/trade unions regarding their past experience of the Scheme.

Though the comparative advantage that the Employees' State Insurance Act, 1948 has over the Workmen's Compensation Act, 1923 is the provision for medical benefit, this provision is found to be not at all advantageous to the employees, in practice. All the employees and office-bearers of trade unions of all the thirteen factories, interviewed, have expressed their dissatisfaction with the administration of medical benefit by the State Government. One of the general complaints is the non-availability of medicines. If medicines are bought from medical shops, as per the prescription of the Employees' State Insurance doctor, the cost of medicines is reimbursed only after long delay. Experienced and specialised doctors and facilities for super-speciality treatment are not available in Employees' State Insurance hospitals. Even those doctors and the para-medical staff, who are available, are corrupt and undedicated to their profession. As the Employees' State Insurance hospitals are worse than government hospitals, employees generally refrain from

92. One hundred employees and twenty trade union leaders were interviewed.

93. Employees' State Insurance Act, 1948, Section 58.
availing of the medical benefit from these hospitals. It is found from discussions with the employees/trade union leaders that the main reason for this sorry state of affairs in Kerala is that the Employees' State Insurance hospitals are under the control of the State Government, which diverts the funds, meant for the medical benefit under the Employees' State Insurance Scheme, for other purposes.

Regarding other employment injury benefits, administered by the local offices of the Employees' State Insurance Corporation, employees and unions of all the factories, except Fertilisers and Chemicals Travancore Ltd., Indian Rare Earths Ltd., Chackolas Spinning and Weaving Mills Ltd. and Travancore Chemicals Manufacturing Ltd. are satisfied. The complaint of the employees of the first two factories is with regard to the long delay, experienced in getting the benefits. The employees of the last two factories complain that they do not get disablement benefit for certain occupational injuries, peculiar to the nature of their employment. For instance, employees of Chackolas Spinning and Weaving Mills Ltd. cannot work, if their fingers sustain slight injuries. But accident reports, regarding such injuries,

94. See supra, Chapter 6

95. Unions of Hindustan Machine Tools Ltd. are divided on the satisfactory administration of other employment injury benefits. While INTUC union has no complaint, CITU union is of the opinion that the receipt of these benefits depends on the influence exerted.
are not accepted by the local office of the Employees' State Insurance Corporation, which cannot understand the peculiar nature of the work of this factory. So, even though employees are disabled for work by slight injuries to fingers, they cannot get any temporary disablement benefit for the same. The problem, experienced by the employees of the Travancore Chemicals Manufacturing Ltd., is that doctors recommend temporary disablement benefit only for visible injuries like deep cuts or wounds, but just neglect invisible injuries like sprains, common among the employees of this factory. Even though the employees are disabled for the work, they were doing, they are declared medically fit by the doctor, thus putting them in trouble.

Data, regarding the application of the Employees' State Insurance Act 1948, were collected from the local offices of the Employees' State Insurance Corporation, because the Corporation is, mainly, responsible for the application of the Act. The local offices at South Kalamassery and Alwaye were sampled out for the purpose. It is found from discussions with the managers and staff of these offices that the Employees State Insurance Corporation is handicapped by certain problems in the proper application of the Act. The first problem is that though it is an autonomous body, it is not actually independent, it being

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96. See supra, Chapter 7
under the control of the Ministry of Labour. The second problem, faced by the Corporation, is lack of co-operation on the part of employers. The employer is expected to remit contributions and furnish returns, regarding the remittance to the local office of the Employees' State Insurance Corporation in time. In certain cases, though the employer might have collected the contributions, he might not remit them in the bank to the account of the Employees' State Insurance Corporation in due time, but misappropriated the amount by diverting it for other purposes. In certain other cases, though the employer might have remitted the contributions in the bank, he might not send returns/statements, regarding the daily wages and contributions paid in respect of each employee, to the local office, after the expiry of the contribution period. If returns are not submitted by the employer to the local office in time, the office will be in the dark about the daily wages and other details of the employees. This will stand in the way of their providing benefits to an injured employee in time.

There have been many cases of such violations of law by the employer. But now that the penal provisions for such violations have been made more stringent, the employers are

97. See Employees' State Insurance (General) Regulations, 1950, Regulations 26, 29 and 31.
98. Id., Regulations 29 and 31.
100. Employees' State Insurance Act, 1948, Sections 85 to 85-C.
now more vigilant. The third problem is the lack of adequate interest on the part of the State Government. Though the Employees State Insurance Corporation constructs hospitals and bears the lion's share of the administrative expenses, the State Government's approach to the administration of medical benefit affects the reputation of the Employees' State Insurance Scheme.

It is concluded from the above study that workers' ignorance of the law is the main obstacle in the way of their obtaining compensation for industrial injuries under the Workmen's Compensation Act, 1923. The view, expressed by the Commissioners for Workmen's Compensation that illiteracy of the workers does not stand in the way of their obtaining compensation, because of the enthusiasm and spirit of advocates in taking up workmen's compensation cases, cannot be accepted in toto. This is because poor workers cannot afford to get legal assistance from advocates. Gangmen and khalasies of the Railways and workers, engaged in loading/unloading work in Cochin Port Trust would not have been exploited by their employers, if the advocates were generous enough to take up their cases. So it is suggested that provision should be made in the Workmen's Compensation Act, 1923 for inculcating in the workers legal awareness by affixing the

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101. Id., Section 59.

102. Supra, nn.3, 6 and 7.
important provisions of the Workmen's Compensation Act, 1923 in the vernacular language compulsorily at the workplaces. The inspectorate, proposed for enforcing the Workmen's Compensation Act, 1923, should inspect the workplace to examine, whether this provision is being complied with. It should also be made responsible for inspecting the workplaces and finding out, whether workers are exploited by employers by non-payment of compensation.

As the general unions are not concerned about the problems of the workers, exposed to industrial injuries, these workers should organise themselves and have their own category unions. These workers should be educated for the purpose by Workers' Education Programmes, to be conducted by the Inspectorate.

It is found that private employers, covered by the Workmen's Compensation Act, have shown a tendency to insure

103. Section 32(2)(o) of the Workmen's Compensation Act, 1923 requires the State Government to make rules, requiring the employers to display notices, containing abstracts of the Act. Since the Act is a Central one, it would be much better to have uniformity in the matter throughout the country. So, according to the Law Commission of India, instead of leaving it to the rules, it is desirable that a section should be introduced in the Act, in this respect. See Law Commission of India, Sixty-second Report on the Workmen's Compensation Act, 1923 (1974), p.97.

104. See supra, Chapter 9

105. Ibid.
their liability. To uproot the tendency on the part of other employers to evade their liability, provision should be made in the Workmen's Compensation Act, 1923 for compulsory insurance of liability of all employers. In the case of small employers, who cannot bear even the burden of insurance, it is suggested that the government should take up the responsibility for payment of the insurance premium and thus see that their liability for compensation under the Act is insured.

Majority of the workers, covered by the Workmen's Compensation Act, have supported lumpsum payment of compensation under the Act. It appears that workers are ignorant of the demerits of lumpsum payment. So, the workers should be properly educated by the Inspectorate about the comparative advantages of periodical payments.

It is learnt that the Commissioners are too busy to discharge their administrative duties properly. So, they should be relieved of their administrative duty.

The chief obstacle in the way of the speedy disposal of cases by the Commissioner for Workmen's Compensation is

106. See supra, Tables II and III
107. Supra, Chapter 2
108. Supra, Chapter 9
109. See also supra, Chapter 7
found to be the tendency on the part of the advocates to get the cases adjourned. It is suggested that the Workmen's Compensation Act, 1923 may be amended, imposing fee upon the parties for each adjournment.

Provision should also be made in the Workmen's Compensation Act, 1923 for the expeditious despatch of amendments to the Workmen's Compensation Act, 1923 and the Workmen's Compensation Rules, 1924 as well as the additions and changes to Schedules to the Act, made from time to time, to the Commissioners for Workmen's Compensation. This will help them mete out justice to an injured workman, as required by the changes in the law.

Because of the general dissatisfaction of the employees, covered by the Employees' State Insurance Act, 1948, with the administration of medical benefit by the State Government, appropriate changes may be made in the Act, making it obligatory on the Employees' State Insurance Corporation to undertake administration of medical benefit in lieu of the State Government.

The Employees' State Insurance Act, 1948 and the Rules may be amended, requiring the employers to provide the employees with sufficient information, in the vernacular language, about the employment injury benefits, available under the Act and the formalities for obtaining the same. This will help the illiterate employees, especially the causal ones, avail of the employment injury benefits.

110. Supra, Chapter 6