Evaluation of the different forms of liability for compensating industrial injuries makes it evident that the liability under the social insurance scheme is the most befitting one, as it eliminates the problem of evasion of liability by the employer by providing for sharing of liability. However, proper sharing of liability by the State cannot be expected, in the absence of mandatory provision to that effect in the Employees' State Insurance Act 1948. So, Section 26(2) of the Act should be amended, making it obligatory on the part of the State to share the liability.

Liability for compensation under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948 arises only in the case of accidents, arising in the course of and out of employment. But the operation of a hazardous industry may result in accidents such as escape of poisonous gas, causing injuries to workmen, even when they are reposing in their residential quarters or homes nearby. Such accidents are not accidents, arising in the course of and out of employment, attracting the liability for compensation under the Workmen's Compensation Act, 1923 or the Employees' State Insurance Act, 1948. Workmen, injured by such accidents, are entitled to be compensated,
just like other members of the public under the Public Liability Insurance Act, 1991. But the injured workmen of hazardous industries should be treated as different from the members of the general public by providing the former a special statutory remedy, instead of the general one. So, the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948 may be amended, providing for liability for compensation for industrial injuries, sustained by workmen in their residential quarters or homes nearby, on account of accidents, resulting from the operation of hazardous industry.

Unlike the definition of 'workman' under the Workmen's Compensation Act, 1923, which covers only specified categories of workmen and expressly excludes clerical, administrative and supervisory staff, the definition of 'employee' under the Employees' State Insurance Act, 1948 covers various categories of employees, who might be working within the premises of a factory/establishment or outside it for the purpose of doing skilled, unskilled, manual, administrative and supervisory work or any work, related to purchase, sale or distribution of goods. It is wider than the definition of 'worker' under the Factories Act, 1948, as it covers employees, whether working inside the factories/establishments or elsewhere. Unlike the Workmen's Compensation Act, 1923, which covers all workers, falling within the definition, irrespective of their salary, the Employees' State Insurance
Act, 1948 excludes from its purview employees, receiving salary, exceeding Rs.3,000/- p.m. The number of employees, drawing less than Rs.3,000/- p.m., is found to be limited in factories. So, even though the definition of 'employee' under the Employees' State Insurance Act, 1948 has a wider coverage, the number of employees of factories, benefited by this Act, is few. Hence, it is suggested that Section 2(9) of the Employees' State Insurance Act, 1948 and Rule 50 of the Employees' State Insurance (Central) Rules, 1950, limiting the coverage of the Act to employees, not drawing salary exceeding Rs.3,000/- p.m., may be modified suitably, enhancing the salary limit.

The coverage of workmen, covered by the Workmen's Compensation Act, 1923, may be widened by making it applicable also to railway servants, employed in administrative or office work, persons employed in clerical capacity and casual workers, employed otherwise than for the purposes of employer's trade or business as well as by taking away the requirement with regard to the number of persons, to be employed in certain specified employments.

The dependants, entitled to compensation under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948, are only some of those relations, who, to some extent, depend upon the deceased person for their daily necessities. But certain persons, who, in fact, depend on the deceased person for their daily necessities,
are excluded from the purview of the term 'dependant'. For example, the son of a deceased workman, who has attained the age of eighteen years, is not entitled to get any compensation, unless he is invalid. The son might be pursuing his studies after the age of eighteen years and, therefore, in need of money. Even otherwise, a son continues to be dependent on his parent, even after the age of eighteen years. Similarly, a widowed daughter or a widowed sister is entitled to compensation, only if she is below eighteen years of age. Under the existing law, the chances of a widowed daughter's or sister's receiving compensation are illusory, since girls do not get married before the age of eighteen years. The exclusion of a widowed daughter or sister from entitlement to compensation on the ground of her being a major, viz. above eighteen years, is not justifiable, if she was depending for her livelihood on the earnings of the deceased workman. Further, a divorced daughter is not considered as a dependant under the two Acts.

Under the Employees' State Insurance Act, 1948, a widow is entitled to dependant's benefit only until remarriage. But, under the Workmen's Compensation Act, 1923, a widow does not become disentitled to receive compensation, even if she remarries. Further, unlike under the Workmen's Compensation Act, 1923, adopted son and adopted daughter have been specifically included in the list of dependants under the Employees'
State Insurance Act, 1948. But, while a widower, is a dependant under the Workmen's Compensation Act, 1923, he does not figure as a dependant under the Employees' State Insurance Act, 1948. Though an unmarried legitimate daughter is included in the first category of dependants under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948, unlike under the former Act, under the latter Act, she is not entitled to dependant's benefit after the age of eighteen years, unless she is infirm. Further, unlike under the Workmen's Compensation Act, 1923, dependants, other than a widow or a legitimate or adopted child, are entitled to dependant's benefit under the Employees' State Insurance Act, 1948, only if the deceased person does not leave behind a widow or a legitimate or adopted child.

It is suggested that a son may be considered a dependant, till he is employed, under both the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948. Provision may also be made in both the Acts for including an unborn child and a divorced daughter till her remarriage in the list of dependants and treating a widowed daughter and a widowed sister as dependants till remarriage. Further, clause (i) of Section 2(i) (d) of the Workmen's Compensation Act, 1923 may be amended in such a way that a widow ceases to be a dependant on her remarriage, as under the Employees' State Insurance Act, 1948. A widower may be included in the list of dependants under the Employees' State Insurance Act,
1948, as under the Workmen's Compensation Act, 1923. It is also suggested that Rule 58 of the Employees' State Insurance (Central) Rules, 1950 may be amended in such a way that an unmarried daughter continues to be a dependant till her remarriage and parents, unmarried divorced daughter, widowed daughter, and widowed sister of the deceased employee fall within the purview of 'dependant', though the deceased employee has left behind his widow and minor children.

The question, whether a personal injury, sustained by a workman, is a compensable industrial injury under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948, depends upon the interpretation of terms like 'personal injury', 'accident', 'employment', 'accident arising out of employment' and 'accident arising in the course of employment' by the adjudicatory authority. In order that the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948 may really help an injured workman in obtaining compensation, it is suggested that the scope of these terms may be clearly defined in those statutes.

The term 'personal injury' may be defined in the statutes to include not only external injuries, including disfigurement of the body but also internal ones such as injury to mind and injuries like rupture of a vein. It should also include diseases, caused by accident and aggravation of an existing disease by an accident or by the stress and strain of employment.
The term 'accident' may be defined in the two statutes as an unexpected event, happening without design on the part of the injured workman. 'Unexpected event' may be explained as including not only external accidents like an explosion in a mine, a collision, a man falling down from a ladder or fall of a roof but also internal ones like bursting of an aneurism, failure of the muscular action of the heart or shock, causing neurasthenia as well as the cumulative effect of a series of tiny accidents like needle pricks or mosquito bites on the body.

The Third Schedule to both the Acts covers only certain specified occupational diseases. So, the Third Schedule may be deleted in both the Acts and 'occupational disease' may be defined in both the Acts as including all diseases, known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations. Appropriate changes may also be made in Section 3(2) of the Workmen's Compensation Act, 1923 and Section 52-A(1) of the Employees' State Insurance Act, 1948.

The word 'employment' may be defined in the two Acts as covering not only the nature of the employment but also its character, conditions, obligations, incidents and special risks.

Despite the considerable extension of the sphere of employment by the theory of notional extension, courts have taken different approaches with regard to the extension of the sphere of employment to the journeys to and from the place
of work and treating accidents, occurring during such journeys as accidents arising in the course of employment. It is suggested that the expression 'accident arising in the course of employment' may be defined under the two Acts as including accidents, occurring not only during the period, when a workman/employee is doing the work, actually allotted to him but also during the time, when he is at a place, where he would not be but for his employment. An explanation clause may be added to this definition, so that the following kinds of accidents, namely, (a) accidents, sustained during working hours at or near the place of work or at any place, where the worker would not have been but for his employment; (b) accidents, sustained within reasonable periods before and after working hours, in connection with transporting, cleaning, preparing, securing, conserving, storing and packing work tools or clothes; and (c) accidents, sustained, while on the direct way between the place of work and a workman's/employee's residence or the place, where the workman/employee usually takes his meals or the place, where he usually receives remuneration, shall be regarded as accidents, arising in the course of employment, provided that the workman/employee has not invited such accident.

In the case of injuries sustained, while travelling in employer's transport, the theory of notional extension of the sphere of employment applies under the Workmen's Compensation Act, 1923, as per judicial decisions, only if the workman was
under an obligation or practical compulsion to use the trans-
port. The employees, covered by the Employees' State Insur-
ance Act, 1948, do not have this problem, as the Act has
taken away the requirement of such obligation to use the
transport. The condition of workmen, covered by the Workmen's
Compensation Act, 1923 may be ameliorated by incorporating a
similar provision in that Act.

'Accident arising out of employment' may be defined
under the two Acts as an accident, in which there is a causal
connection between the accident and employment. 'Causal
connection' may be deemed to exist, if the immediate act,
which led to the accident, is not so remote from the sphere
of the workman's duties or the performance thereof as to be
regarded as something foreign to them.

A workman or his dependants, claiming compensation under
the Workmen's Compensation Act, 1923, has to prove two things
for establishing that his injury is compensable, viz., that
(1) the accident, causing the injury, occurred in the course
of employment and (2) it arose out of employment. But an
employee or his dependant, claiming compensatory benefits under
the Employees' State Insurance Act, 1948, need prove only that
the accident, causing the injury, has arisen in the course of
employment for establishing that his injury is compensable.
This is because, on establishing that the accident arose in
the course of employment, a rebuttable presumption arises that
the accident arose out of employment. In order to relieve
which involves several factors, in addition to the loss of physical capacity. The Commissioner may not find it difficult to assess the loss of earning capacity properly, as he is empowered to seek the assistance of one or more persons, having special knowledge of the matter.

Under the Workmen's Compensation Act, 1923, half-monthly payment for temporary disablement is given now only for five years. Provision may be made in the Act for continuing the half-monthly payment during the entire period of incapacity, as under the Employees' State Insurance Act, 1948.

If the employer does not pay the amount of compensation in time, the simple interest, that he may have to pay, is only 6% per annum. This rate of interest is outdated today. Hence, it is suggested that Section 4-A(3) of the Workmen's Compensation Act, 1923 may be amended by substituting the words "simple interest at the rate of fifteen percent" in place of the words "simple interest at the rate of six percent".

It is not clear from the Workmen's Compensation Act, 1923, whether the insurance company is liable to pay interest and penalty, if it fails to pay compensation in time. This has led to conflicting judicial interpretations. Section 4-A(3) of the Workmen's Compensation Act, 1923 may be amended in such a way that the insurer, who steps into the shoes of the employer, is also made liable for payment of interest and penalty.
All employers, covered by the *Workmen's Compensation Act*, 1923, are not required to maintain notice-book. This creates problems to an injured workman, who gives notice of accident by delivering it at the residence or office of the employer, because the latter may deny receipt of notice. So, it is suggested that the giving of notice should not be made obligatory on the injured workman.

At present, under the *Workmen's Compensation Act*, 1923, the liability of the employer to report fatal accidents and serious bodily injuries to the Commissioner for *Workmen's Compensation* depends upon the existence of some other law, providing for notice of a fatal accident. It is suggested that Section 10-B of the *Workmen's Compensation Act*, 1923 may be amended in such a way that the liability of the employer to report fatal accidents and serious bodily injuries is created under that Act and does not depend upon the existence of some other law.

Unlike the *Employees' State Insurance Act*, 1948, the *Workmen's Compensation Act*, 1923 does not contain any provision for medical benefit or rehabilitation of disabled workmen. The International Labour Organisation has recommended the introduction of provisions for vocational re-education of injured workmen in national laws or regulations and requires its members to provide rehabilitation services to disabled workmen. The State of Victoria in Australia has created an Accident Rehabilitation Council to develop policies
and standards for rehabilitating injured workers. It not only promotes research into occupational and social rehabilitation but also disseminates information and creates public awareness of such matters. Incentives are given to employers who provide continued employment or re-employment to injured workers. Conversely, employers, refusing to re-engage injured workers, are punished. A comprehensive scheme for rehabilitation of injured workers on the above pattern and medical aid should be incorporated in the Workmen's Compensation Act, 1923.

Compensation under the Workmen's Compensation Act, 1923 is now usually paid in cash at the employer's or Commissioner's office. This is inconvenient for the injured workman and his dependants, who may be residing far away from these offices. So provision should be made for the distribution of compensation through local bank or post office without any additional expenditure to the workman and the dependants. The expenses for this purpose should be borne by the employer.

Lumpsum payment, followed under the Workmen's Compensation Act, 1923, is not advisable, as it is likely to be squandered away. Further, in the case of injuries, likely to lead to complications in future, the workman, who has received the lumpsum, will be in trouble, the lumpsum being fixed once for all. So, the lumpsum payment of compensation should be replaced by periodical payments, as under the Employees' State Insurance Act, 1948. Rate of periodical
payments should be revised every decade, in accordance with
the changes in the cost of living index. Commutation of
periodical payments should be permitted, only after adequate
financial counselling.

In England, before 1948, the injured workman and his
dependants had to elect between compensation and damages
under common law. But, with the passage of the Law Reform
(Personal Injuries) Act, 1948, the right to claim damages
has become an additional, rather than an alternative remedy.
It is now possible in England for the injured workman to
claim compensation under statutory law and also to pursue
simultaneously a remedy for damages under common law against
his employer. He obtains his statutory compensation, irres-
pective of what happens to his suit for damages. If he wins
the suit, a deduction, roughly equivalent to half the value
of the benefits, received under the statutory law, is made
from the total damages, assessed by the court. As two of
the doctrines, which made recovery of damages under common
law very difficult for the workers in the past, namely, those
of common employment and contributory negligence have been
abolished, it is possible now for the worker or his represen-
tative to realise fairly big damages from employers, if either
negligence or breach of statutory duty, on their part, can be
established. This right of additional remedy makes the posi-
tion of the injured worker in England an enviable one. In
India, the right to claim damages is barred, if the workman
opts for compensation under the statute. Similarly, the
right to compensation under the Workmen's Compensation Act, 1923 is barred, if he has filed a suit for damages. This defect in the law should be remedied by making the right to claim damages an additional remedy, as in England. Section 3(5) of the Workmen's Compensation Act, 1923 should be amended to achieve this purpose.

Analysis of the provisions for compensatory benefits under the Employees' State Insurance Act, 1948, reveals that the Act contains certain commendable provisions, unlike the Workmen's Compensation Act, 1923. For instance, the loss of earning capacity of an injured employee is assessed by a specially constituted Medical Board/Medical Appeal Tribunal/ Employees' Insurance Court under the Employees' State Insurance Act, 1948, whereas it is done by a single medical practitioner under the Workmen's Compensation Act, 1923. Another commendable provision is that, unlike the Workmen's Compensation Act, 1923, which does not contain any provision for review of compensation for permanent disablement, the Employees' State Insurance Act, 1948 contains provision for reviewing any assessment of the extent of permanent disablement, made by a Medical Board, if it is satisfied that since the making of the assessment, there has been a substantial and unforeseen aggravation of the results of the relevant injury. Thirdly, the quantum of compensation in cash under the Employees' State Insurance Act, 1948 is substantially higher than the one under the Workmen's Compensation Act, 1923. This is because the quantum of disablement benefit and
dependant's benefit comes to 70% approximately of the wages of the injured employee and the quantum of funeral expenses is one thousand rupees under the Employees' State Insurance Act, 1948, whereas under the Workmen's Compensation Act, 1923 compensation for death is only 40% of the monthly wages of the deceased workman and for disablement, both permanent and temporary, only 50% of the monthly wages of the workman and the amount of funeral expenses, permissible, is only an amount of fifty rupees. Fourthly, unlike the Workmen's Compensation Act, 1923, the Employees' State Insurance Act, 1948 provides for benefits in the form of services also viz. medical benefit and rehabilitation.

Despite the above-mentioned commendable provisions, there are certain defects in the system of compensatory benefits under the Employees' State Insurance Act, 1948. The first of such defects is that the disablement benefit, payable for permanent partial disablement, resulting from a scheduled injury, is proportionate to the percentage of loss of earning capacity, mentioned in Schedule II, Part II, as under the Workmen's Compensation Act, 1923. Determination of the quantum of disablement benefit, based upon the pre-determined loss of earning capacity in Schedule II, Part II for permanent partial disablement, may not be fair in all cases. Sometimes, the percentage of the actual loss of earning capacity, sustained by an employee, may be higher than the one, mentioned in Schedule II, Part II. Hence, it is suggested that Rule 57(4)(c) of the Employees' State Insurance (Central) Rules,
1950 should be amended by adding an explanation to the affect that the loss of earning capacity, mentioned in Schedule II, Part II, is the minimum and can be held to be higher on the basis of evidence, led before the tribunal under Section 54-A of the Employees' State Insurance Act, 1948.

The expression "any other law" in Section 53 of the Employees' State Insurance Act, 1948, which bars recovery of damages under other laws, implies that it includes common law also. This section should be amended by inserting an explanation that the expression "any other law" does not include common law. Otherwise, the said expression is likely to stand in the way of an employee's seeking the alternative remedy, available under common law. It is also suggested that the right to sue for damages under common law should be made an additional remedy under the Employees' State Insurance Act, 1948, as suggested in respect of the Workmen's Compensation Act, 1923.

Regulation 98 of the Employees' State Insurance (General) Regulations enables an employer to discharge an employee, who has been in receipt of temporary disablement benefit for a continuous period of six months or more, if permitted by the conditions of service of the employee. This provision, which stands in the way of an employee's receiving temporary disablement benefit beyond a period of six months, should be deleted.

The Employees' State Insurance Act, 1948, like the
Workmen's Compensation Act, 1923 does not contain any provision for supplementary benefits. So, provision should be made in the Act for introducing supplementary benefits, depending upon the consequences of disablement, at the rate of not more than 10% of the monthly wages, as was suggested in the case of the Workmen's Compensation Act, 1923.

Whereas the administrative machinery for providing compensatory benefits under the Employees' State Insurance Act, 1948 consists of a network of agencies, representing various interests like those of employers, employees, governments and medical profession and is concerned only with administration, the one under the Workmen's Compensation Act is a single agency, representing single interest but discharging both administrative and adjudicatory functions. Of course, the latter has several powers. But they are, generally, discretionary. Further, as the latter agency has to adjudicate disputes also, it may refrain from concentrating on the discharge of its discretionary administrative powers. The administrative machinery under the Employees' State Insurance Act, 1948, namely, the Employees' State Insurance Corporation, is admirable in that it represents various interests. But it suffers from over-representation of governmental interest, which will affect its autonomy. It is suggested that in the case of the Corporation, the maximum number of persons, to be appointed by the Central Government, should be reduced from five to two and provision should be made for inclusion
of three experts in Social Security, to be appointed by the Central Government. In the Standing Committee of the Corporation, the number of representatives of the Central Government should be reduced from three to one and provision should be made for the inclusion in the Committee of two experts in Social Security from among the three experts in Social Security in the Corporation. Representatives of employers, employees and the medical profession in the Corporation, Standing Committee and Medical Benefit Council are appointed by the Central Government, in consultation with such organisations of employers, employees and the medical profession as may be recognised for the purpose by the Central Government. This provision enables representatives of those organisations, affiliated to the ruling party, to be represented in the Corporation, Standing Committee and Medical Benefit Council. It is suggested that Sections 4 and 10 of the Employees' State Insurance Act, 1948 may be amended, providing for the appointment of representatives of employers, employees and the medical profession by the Central Government, in consultation with important organisations, having the largest membership. Though the Chairman of the Corporation may continue to be a member, appointed by the Central Government, the Vice-Chairman of the Corporation, instead of being an appointee of the Central Government, may be a non-official, to be elected by rotation from among the representatives of employers and employees in the Corporation by their respective group for a period of one year at a time.
The Commissioner for Workmen's Compensation under the Workmen's Compensation Act, 1923 should be freed of the burden of administrative work. The administrative work of each district should be entrusted with an Administrative Council for Workmen's Compensation, consisting of an Administrative Officer, appointed by the State Government and one representative each of employers and workmen, covered by the Workmen's Compensation Act, 1923, selected by the State Government, in consultation with their respective unions, having the largest membership or in the absence of unions, the representatives of employers and workmen, selected by the State Government. It should be made the mandatory duty of this Administrative Council to require statements from employers regarding fatal accidents, demand a further deposit, if the sum, deposited by the employer as compensation in respect of a workman, whose injury has resulted in death, is insufficient and refuse to register agreements, regarding payment of compensation, if they have been obtained by fraud or undue influence or other improper means or the amount, agreed upon, is inadequate. It is suggested that the distribution of compensation, deposited in respect of a deceased workman, should not be left to the unguided discretion of the proposed Administrative Council, as is done in the case of the Commissioner for Workmen's Compensation now. A proviso should be inserted below Section 8(5) of the Workmen's Compensation Act, 1923, enabling the Administrative Council to distribute compensation, having due
regard to the nearness of the relationship of the dependant to the deceased, the means of the dependant and the extent of his dependence on the deceased and other relevant considerations. It is also suggested that Section 8(1) of the Workmen's Compensation Act, 1923 may be amended, giving a discretion to the Administrative Council to permit direct payment of compensation to an adult woman by the employer, if the Council thinks, on an application made to it by the woman, that the woman is socially and educationally advanced enough to accept direct payment.

The tribunals for the adjudication of disputes, relating to compensation for industrial injuries viz. Commissioner for Workmen's Compensation and Employees' Insurance Court, are remarkable for their informal procedure. Though they are discharging the same functions as those of a court of law, they are not hindered in the discharge of their functions by the procedural formalities like ordinary civil courts. Further, any application, appearance or act, required to be made or done by any person before these tribunals, may be made or done by a trade union official or any other authorised person. This provides relief to an injured workman, who is not financially sound enough to engage a legal practitioner. The Commissioner for Workmen's Compensation goes to the extent of helping illiterate persons or persons, unable to furnish the required information in writing in presenting the application for compensation. Both the tribunals may exempt poor applicants from payment of prescribed fees. These provisions
enable the tribunals to adjudicate disputes quickly, informally and without placing much financial burden on the claimant.

As in England, separate machineries are created by the Employees' State Insurance Act, 1948 for adjudication of non-medical and medical disputes. Further, in the case of medical disputes, a classification is made between disputes, concerning injuries, resulting from occupational accidents and those, resulting from occupational diseases. While the former class of disputes is decided by Medical Boards, the latter is done by Special Medical Boards. For the adjudication of non-medical disputes, Employees' Insurance Court, consisting of persons with prescribed qualifications, is constituted.

Under the Workmen's Compensation Act, 1923, on the other hand, a single machinery, Commissioner for Workmen's Compensation, is constituted to adjudicate all disputes, whether non-medical or medical. However, he is empowered to choose one or more persons, possessing special knowledge of any matter, relevant to the matter under inquiry, to assist him in holding the inquiry. This helps him resolve disputes, relating to a matter, he is not conversant with. But the parties are not given any opportunity to cross-examine the expert on the opinion, expressed by him. This may affect detrimentally the interest of the parties, especially the injured workman. Therefore, Section 20(3) of the Workmen's
Compensation Act, 1923 may be suitably amended, enabling the parties to cross-examine the expert.

The Workmen's Compensation Act, 1923 does not prescribe any qualifications for the post of Commissioner for Workmen's Compensation. It permits the appointment of any person in the post. The person, appointed in the post, has to be competent to discharge the quasi-judicial duty, required by the post. So, it is suggested that Section 20(1) of the Workmen's Compensation Act, 1923 may be amended, providing for appointing only a person, who has been a judicial officer for five years or is a legal practitioner of ten years' standing as Commissioner for Workmen's Compensation.

The most important objective behind the establishment of a special tribunal is speedy justice. The Commissioner for Workmen's Compensation has to discharge administrative duties, in addition to adjudicatory ones. At present generally, Commissioners for Workmen's Compensation and Employees' Insurance Courts have to hold sittings at more than one place. These obstacles stand in the way of their rendering speedy justice to injured workman. So, the Commissioner for Workmen's Compensation should be entrusted with adjudicatory duty only. Moreover, there should be Commissioner for Workmen's Compensation and Employees' Insurance Court for each district. In those districts, where the incidence of industrial injuries is more, there should be at least two Commissioners for Workmen's Compensation and two
Employees' Insurance Courts. Provision should be incorporated in both the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948, requiring the adjudicatory authority under the Acts, both original and appellate to dispose of a case within six months of its institution.

For rendering justice efficiently, it is suggested that the Employees' Insurance Court may consist of an equal number of employers' and employees' representatives, in addition to judges. The employers' and employees' representatives may be selected by the State Government, in consultation with their respective organisation, having the largest membership. Section 74(2) of the Employees' State Insurance Act, 1948 may be suitably amended for the purpose. Section 20(3) of the Workmen's Compensation Act, 1923 may be amended suitably, requiring the Commissioner for Workmen's Compensation to hear employers' and workmen's representatives as experts in any case, where the dispute involves a question of an occupational character and in particular, the question of the degree of incapacity for work.

In England, appeals are permitted from the decision of the lowest tribunal to two higher tribunals. But in India, appeals lie from the Commissioner for Workmen's Compensation and Employees' Insurance Court not to higher tribunals as in England but to the High Court. This involves delay and heavy expenses in seeking relief through appellate proceedings. It is suggested that appeals from the decisions of those tribunals may lie to higher tribunals, as in England.
Provision should be made under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948 for the appointment of an ombudsman, specialised in Social Security Law. He should have free access to official records. The procedure before this authority should be informal and inquisitorial rather than adversarial.

In the absence of provision for legal aid, the provisions, conferring right to compensation on injured workmen, may not prove beneficial to them in all cases. So, provision should be made for providing compulsory legal aid to injured workmen under the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948, as in western countries. In each district, there should be at least one legal practitioner, appointed by the State Government to conduct cases before Commissioner for Workmen's Compensation and Employees' Insurance Court, on behalf of injured workmen or their dependants, who require such service. The High Court should also have an advocate, appointed by the State Government, to represent workmen or their dependants, who need such legal assistance, before it.

Under the Workmen's Compensation Act, 1923, the question whether the parties should make an attempt at settlement, before proceeding to submit an application to the Commissioner, is subject to conflicting decisions. If applications are made to the Commissioner without attempting to settle disputes by the parties themselves, that will increase the work-load
of the Commissioner and lead to delay in the disposal of cases by him. So, Section 22(1) of the Workmen's Compensation Act, 1923 may be amended, clarifying that the parties should have made an attempt at settlement, before proceeding to submit an application to the Commissioner.

Under the Workmen's Compensation Act, 1923, the claim for compensation has to be preferred before the Commissioner within two years of the occurrence of the accident or in case of death, within two years from the date of death. But, under the Employees' State Insurance Act, 1948, the period of limitation for filing an application to the Employees' Insurance Court is three years from the date of the cause of action.

The cause of action, in respect of a claim for benefit, arises, when the benefit is claimed within a period of twelve months, after the claim became due or within such further period as the Employees' Insurance Court may allow on reasonable grounds. Thus, an injured employee under the Employees' State Insurance Act, 1948 gets a minimum of at least four years from the date of the accident, causing the injury, for approaching the Employees' Insurance Court. But, an injured workman under the Workmen's Compensation Act, 1923 gets only two years for approaching the Commissioner. Entertainment of a claim by the Commissioner, after two years, is left to the discretion of the Commissioner. Section 10(1) of the Workmen's Compensation Act, 1923 may be amended, enabling an injured workman to prefer a claim for compensation before the Commissioner.
within three years from the date of the cause of action, which should be held to arise on the date, when the parties fail to reach an agreement, regarding payment of compensation.

Under the Workmen's Compensation Act, 1923, if the Commissioner is prevented from writing the memorandum of evidence himself, he can cause such memorandum to be made in writing from his dictation and sign the same, after recording the reason for his inability to write it himself. Writing of the memorandum by the Commissioner himself may cause delay, the Commissioner being busy. So Section 25, Proviso I of the Workmen's Compensation Act, 1923 may be amended, enabling the Commissioner to prepare the memorandum of evidence by dictation, whether he is able or unable to make the memorandum himself.

Under the Employees' State Insurance Act, 1948, appeal lies to the High Court from an order of Employees' Insurance Court, if it involves a substantial question of law. But, under the Workmen's Compensation Act, 1923, appeal lies only from certain specified orders of a Commissioner. So, it is suggested that Section 30(1) of the Workmen's Compensation Act, 1923 may be amended, providing for appeal from all orders of the Commissioner, if a substantial question of law is involved in them.

The question, whether the insurance company should comply with the requirement of deposit of the amount of
compensation, payable, with the Commissioner, for filing an appeal under the Workmen's Compensation Act, 1923, is subject to conflicting judicial decisions. If the employer is liable to comply with the said requirement for filing an appeal, the insurance company, which steps into the shoes of the employer, should also be made liable to comply with the requirement so as to protect the interests of the injured workman. So Proviso III to Section 30(1) of the Workmen's Compensation Act, 1923 may be amended, clarifying that the insurance company also should deposit the amount of compensation, payable under the order appealed against, with the Commissioner, for filing an appeal.

In Proviso III to Section 30(1) of the Workmen's Compensation Act, 1923, reference is made only to an appeal under Section 30(1)(a) i.e., an order, awarding as compensation a lumpsum or disallowing a claim for a lumpsum. Formerly, no appeal was provided against an order, awarding interest or penalty under Section 4-A. Subsequently, sub-clause (aa) was added to Section 30(1), providing for an appeal against an order, awarding interest or penalty under Section 4-A. Now the position is that while the employer has to deposit the amount of compensation for an appeal under clause (a), he need not do so in respect of an appeal under clause (aa). It is desirable that Proviso III to Section 30(1) be amended suitably so as to provide for deposit of the amount, payable by way of interest and penalty under
Section 4-A, with the Commissioner, for filing an appeal against an order, awarding interest or penalty.

Though the inspector, under the Employees' State Insurance Act, 1948, has wide powers of inspection, the question of exercise of such powers is left to the discretion of the inspector. The penalties for the violation of the provisions for ensuring provision of compensatory benefits have been made stringent by Act No.29 of 1939. But the question, whether the violator should be proceeded against, depends upon the Insurance Commissioner or other authorised officer of the Corporation. As under the Workmen's Compensation Act, 1923, in the Employees' State Insurance Act also, there is nothing that compels the inspector or Insurance Commissioner or authorised officer of the Corporation to switch on the enforcement machinery. It is suggested that Section 45 of the Employees' State Insurance Act, 1948 may be amended, empowering the Employees' State Insurance Corporation to constitute in each local office an Inspectorate, consisting of one inspector, appointed by the Corporation and one employees' representative, selected by the Corporation, in consultation with employees' union, having the largest membership, instead of the existing provision for appointing inspectors. For initiating prosecution for offences, provision may be incorporated in the Employees' State Insurance Act, 1948, empowering the Corporation to constitute in each local office a Prosecuting Agency, consisting of one authorised
official of the Corporation and one employees' representative, selected by the Corporation, in consultation with employees' union, having the largest membership. Conducting inspections regularly and initiating prosecution promptly should be made the mandatory duty of the Inspectorate and Prosecuting Agency respectively.

Provision may be made in the Workmen's Compensation Act, 1923, empowering the State Government to constitute in each district an Inspectorate, consisting of one inspector, appointed by the State Government and one workers' representative, selected by the State Government, in consultation with workers' organisation, having the largest membership, of employments, covered by the Act and in the absence of any workers' organisation in the employments, covered by the Act, one workers' representative, selected by the State Government and entrust it with the mandatory duty of conducting inspections and enforcing the provisions of the Act. Provision may be incorporated in the Workmen's Compensation Act, 1923, empowering the State Government to constitute in each district a Prosecuting Agency, consisting of an official, appointed by the State Government and the workers' representative, in the Inspectorate, proposed under the Workmen's Compensation Act, 1923. It should be made the mandatory duty of the Prosecuting Agency to institute prosecutions for offences under this Act.
From the empirical study on the application of the Acts for compensating industrial injuries, it is concluded 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. Hence, 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 important provisions of the Workmen's Compensation Act, 1923, in the vernacular language, compulsorily at the work-place or at the employer's office/residence/place of business, as the circumstances permit.

The inspectorate, proposed for enforcing the Workmen's Compensation Act, 1923, should inspect the work-place or the employer's office/residence/place of business to examine, whether this provision is being complied with. It should also be made responsible for inspecting the work-places 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.

Private employers, covered by the Workmen's Compensation Act, 1923, have shown a tendency to insure 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 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, on their behalf and see that their liability for compensation 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, proposed above, about the comparative advantages of periodical payments.

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

It is also suggested that provision may be made in the Workmen's Compensation Act, 1923 for the expeditious despatch of amendments of the Workmen's Compensation Act, 1923, the Workmen's Compensation Rules, 1924 and the Schedules, 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, it is suggested that administration of medical benefit should be undertaken by the Employees' State Insurance Corporation. Appropriate changes may be made in the Employees' State Insurance Act, 1948 for the above purpose.

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

Changes in the law, on the lines suggested above, are imperative to make the system of compensation for industrial injuries prove effective and beneficial to injured workmen.