

## 18.15 RISK, INSURANCE AND COMPENSATION

- 18.15.1 Safety at work is a sine-qua-non for a healthy and productive work force. According to the International Labour Organisation (ILO), about 153 workers have work related accidents every 15 seconds. Many of these tragedies are preventable through sound prevention, reporting and inspection practices followed by immediate corrective measures.
- 18.15.2 Workplace accidents have a direct cost to the organisation together with associated problems in terms of arrangements to ensure its smooth running. Besides, it also has an impact on the employee's health and daily life.
- 18.15.3 In view of the far reaching consequences that workplace accidents or occupational diseases may have, we are, in this Report, highlighting provisions that are related thereto. Concerning risk, we are making provision for a mechanism for the assessment of same. We are further making provision for compensation in respect of occupational accidents and we are also reporting on the Government Medical Insurance Scheme.

### DUTIES AND RESPONSIBILITIES

- 18.15.4 Part II of the Occupational Safety and Health Act 2005 deals with the duties and responsibilities of parties essential for maintaining a safe working environment. This includes the duties and obligations/responsibilities of employers' as well as those of employees. We are, in this Chapter, laying emphasis on those provisions, recourse to which is recurrent in the public sector. We are further examining the status of workplace safety and after an assessment thereof, we are making recommendations with a view to improve same.

#### Management's Responsibility

- 18.15.5 The statutory obligations devolving on Employer/Management are clearly spelt out in the Occupational Safety and Health Act 2005. Broadly, these pertain to the provision of a safe workplace, protective clothing and equipment, Health surveillance and Training.

#### Safe Workplace

- 18.15.6 Management is responsible for a safe workplace including machine and equipment and processes and that appropriate measures of protection are taken.

#### Protective clothing and equipment

- 18.15.7 Management/Employer attempts at making workplace as safe as possible. However, where there are certain risks which cannot be eliminated completely, Management/Employer provides protective clothing and equipment to eligible

staff members with a view to eliminating, or at least controlling and reducing risk of accidents and adverse effects on health.

- 18.15.8 The Uniform Committee bases itself on the recommendations of the Safety and Health Unit of the MCSAR to determine eligibility for protective clothing/equipment. To expedite matters, authority has been devolved on the organisations.

### **Recommendation 1**

#### **18.15.9 We recommend that:**

- (i) the Uniform Committee under the Chairmanship of the MCSAR and comprising representatives of the Ministry of Finance and Economic Development and the Pay Research Bureau should be maintained;**
- (ii) subject to paragraph 18.13.12, the Committee should continue to determine the eligibility for protective clothing/equipment; and**
- (iii) Management should further provide general and specific instructions (both oral and written) to employees in connection with the proper usage of protective clothing/equipment.**

#### **Health Surveillance**

- 18.15.10 One of the statutory obligations of Management is to have regular occupational safety and health audits carried out by a Safety and Health Officer/Senior Safety and Health Officer so as to identify risks to safety and health. Subsequently, employees who run the risk of contracting occupational diseases are placed under a Health Surveillance Programme. Recommendations thereto have been made under the relevant Ministry/Department/Organisation.

#### **Employee/Worker Responsibilities**

- 18.15.11 A safe workplace is first and foremost enjoyed by employees themselves. For any hazard at the workplace, it is the employees who are at risk. Consequently they do have certain duties and responsibilities towards rendering the workplace safe. Section 14 of the Occupational Safety and Health Act 2005 provides for the duties of employees.
- 18.15.12 According to the Occupational Safety and Health Unit, investigation into the causes of accidents have also revealed that in some cases employees have failed to comply with these provisions. As these protection parameters are of paramount importance, we have deemed it crucial to reproduce certain of these provisions hereunder:

**Employees/Workers should:**

- (1) **comply with all safety instructions including those concerning the correct use of safety devices and protective equipment;**
- (2) **ensure that their actions or omissions do not present any hazard to their fellow colleagues or for themselves; and**
- (3) **report cases of accidents/incidents forthwith.**

**Departmental Safety and Health Committee**

18.15.13 The Occupational Safety and Health Act 2005 also provides for the establishment of a Departmental Safety and Health Committee with a defined composition. It further elaborates on the functions of that Committee and also provides clear guidelines on proceedings with respect to the meetings of Safety and Health Committees. **It is, therefore, incumbent upon Management to ensure that the Committee is fully operational and carries out its functions as per the Act.**

18.15.14 In pursuance of Section 21 of the Act and in line with the provisions of Circular Letter No. 4 of the MCSAR dated 14 January 2011, the Departmental Safety & Health Committee is also responsible to come up with projects relating to upgrading works which could be financed through the Enhancement of Work Environment Programme (EWEP). This particular programme has been mounted by the MCSAR to assist Ministries and Departments in carrying out safety and health related improvement works with a view to render the work environment conducive to productivity.

18.15.15 In successive Reports we have highlighted the statutory obligations of employers as well as those of employees. For this Report, besides highlighting those provisions which we consider to be of great importance, we have also held working sessions with representatives of the Occupational Safety and Health Unit of the MCSAR. The objective of the working sessions was first of all, to take stock of the situation and also to assess whether the present provisions are adequately being implemented so that the goal of a safe workplace may be achieved. Therefore, based on the findings so obtained, we have made appropriate recommendations.

**Findings**

18.15.16 Subsequent to safety and health audits, the Bureau was apprised that many Ministries/Departments fail to comply with measures recommended by officers of the Occupational Safety and Health Unit. This may be a serious concern and source of threat to employees' safety and health. However, in spite of the fact that there are shortcomings, yet, there is no reprimand in as much as the Occupational Safety and Health Unit is not vested with powers of enforcement.

- 18.15.17 It was also pointed out that despite the fact that protective clothing and equipment have been provided on time by Management, yet some employees do not wear/use them. Accidents resulting directly from the non-use of protective equipment proved to be detrimental to the employees themselves.
- 18.15.18 Another point of concern is that although Ministries/Departments are required, by virtue of provisions of the Occupational Safety and Health Act 2005, to notify the Occupational Safety and Health Unit of accidents/incidents within a given time frame, yet, they fail to do so. The notification is done after quite some time and in the meantime the surrounding circumstances of the accident/incident have changed. Hence the investigation would not truly reveal the proper causes thereof and the Report would not be of great help for future action to be taken.
- 18.15.19 Meetings of Safety and Health Committees are required by law to be held at least once every two months. However, it has been reported that in many Ministries/Departments this provision is not being implemented. This implies that the duties and responsibilities that devolve on the Safety and Health Committees are not being attended to.
- 18.15.20 This, together with all the shortcomings discussed above converge to conclude that the safety and health of employees may be at risk.
- 18.15.21 In the circumstances, we are making appropriate recommendations to address all these issues.

### **Recommendation 2**

- 18.15.22 We recommend that Management/Employer should mandatorily ensure that:**
- (i) measures recommended by Officers of the Occupational Safety and Health Unit following a safety and health audit, are implemented promptly;**
  - (ii) all employees in receipt of Protective Clothing/Equipment should invariably wear/use same;**
  - (iii) all accidents/incidents are expediently reported to the Occupational Safety and Health Unit of the MCSAR; and**
  - (iv) the Departmental Safety and Health Committee of their respective Ministries/Department meets and carries out its functions as per the provisions of the Occupational Safety and Health Act 2005.**

### **Risk Assessment**

- 18.15.23 Safety and Health Officers are required to identify risks, assess the need for preventive measures and advise the employer on appropriate measures and techniques to be implemented with a view to minimising risk. However, there may be cases where the appropriate measures and techniques to be recommended necessitate specialised and professional knowledge and

experience. In that case, Management/Employer needs to make appropriate arrangements to enlist such services.

### **Recommendation 3**

**18.15.24 We recommend that Management/Employer should, where circumstances warrant, seek the assistance of competent authorities whose recommended measures and techniques would help to minimise risk.**

**18.15.25 We additionally recommend that:**

**(i) Management/Employer should ensure that abstracts or notices indicating hazards, that need to be posted by law, are effectively posted; and**

**(ii) Management/Employer should take expedient action on the advice, Report or recommendations of Safety and Health Officers pertaining to a course of action in respect of safety and health.**

### **Compensation for risk**

18.15.26 Risk is the probability or threat of injury or illnesses, loss or any occurrence that is caused by external or internal vulnerability and that may be avoided through pre-emptive action. It is present in varying degree in many jobs.

18.15.27 The element of risk is a compensable factor and is, therefore, a determinant of salary. When all the incumbents in a certain grade are subject to the same level of risk, it is, therefore, captured in the job evaluation exercise and is reflected in the salary thereof. However, in grades where the extent of risk depends on the posting, only that level of risk that is prevalent in all the different postings is reflected in the salary. Where the level of risk is higher in certain postings, officers in these posts are compensated additionally by way of a risk allowance, commensurate with the level of risk. For instance, in the health sector, Paramedical Staff of the Brown Sequard Hospital and Chest Clinic have been granted risk allowance while in the Police Force, only postings in certain specific units (ADSU, VIPSU) qualify incumbents for same.

18.15.28 The risk allowance payable varies as per the level of risk and Ministry/Department/Organisation. Therefore, it has been dealt with under relevant chapters for Ministry/Department/Organisation where we have also revised the risk allowances that are being paid.

18.15.29 In the context of the present Report, all representations pertaining to risk have been duly analysed. Representations not supported by strong justifications were, at the outright, discarded. However, it is considered that where the risk is higher than the normal level, there may be need for the payment of a risk allowance. A proper risk assessment should therefore be carried out and on the basis of its findings the Bureau may make appropriate recommendations. For consistency in the treatment of all such cases it is vital to have a committee set up which would be empowered to tap such resources as necessary for the

purpose of this assessment. It would be responsible to assess the extent of risk involved in the job in accordance with the framework it has established and submit its findings to the Bureau for action to be taken.

#### **Recommendation 4**

##### **18.15.30 We recommend that:**

- (i) a Risk Assessment Committee be set up under the Chairmanship of the MCSAR and consisting of representatives of the relevant Ministry/Department and the Safety and Health Department as member;**
- (ii) the Committee may convene any other professional who is deemed to possess the relevant qualification/competence/expertise to enable it to take appropriate decisions; and**
- (iii) the findings of the Risk Assessment Committee should be submitted to the PRB which, acting on the said findings would make appropriate recommendations.**

#### **Compensation in respect of Occupational Accidents**

18.15.31 In relation to occupational accidents, compensation to manual workers and non-manual workers whose salary do not exceed Rs 72000 annually is provided for by the Workmen's Compensation Act. Whereas for public sector employees who draw more than Rs 72000 yearly, including the disciplined forces, the Government as employer, assumes responsibility for the occupational risks. Furthermore, it also provides compensation for occupational accidents on the same basis as stipulated by the Workmen's Compensation Act.

18.15.32 Compensation is paid to:

- (i) a public officer in case of permanent incapacity resulting from personal injury sustained out of and in the course of duties; and**
- (ii) the officer's dependents in cases of fatal injuries or death by accident arising out of and in the course of duties.**

18.15.33 According to information obtained, the preparation of a bill aiming at amending further the Workmen's Compensation Act is underway. We are, therefore, not proposing to bring any change to the present provisions. However, we are providing certain measures to improve the existing conditions.

#### **Recommendation 5**

**18.15.34 We recommend that the following provisions pertaining to compensation in respect of occupational accidents be maintained:**

- (i) all manual workers as well as non-manual workers whose annual earnings do not exceed Rs 72000 should continue to be compensated according to the Workmen's Compensation Act;**

- (ii) non-manual workers whose earnings are in excess of Rs 72000 a year and members of the Disciplined Forces who sustain permanent incapacity as a result of injury arising out of and in the course of duties, or who contract an occupational disease under conditions specified in Section 37 and as listed in the Second Schedule in the Workmen's Compensation Act, be paid a compensation as per rate specified in the First Schedule or under Section 7 of the Workmen's Compensation Act up to a maximum of Rs 1.3 million over and above any gratuity or pension covered under the Pension Regulations;**
- (iii) non-manual employees whose earnings are at a rate in excess of Rs 72000 a year and for members of the Disciplined Forces who sustain fatal injuries arising out of and in the course of duties, or who contract a fatal occupational disease under conditions specified in Section 37 and which is listed in the Second Schedule of the Workmen's Compensation Act, a compensation of six years' salary at the rate of the deceased last salary drawn before the accident, subject to a maximum of Rs 2 million be paid to the heirs over and above any gratuity covered under the Pension Regulations.**

**18.15.35 We further recommend that:**

- (i) the Ministry of Labour and Industrial Relations initiates action to update the Second Schedule of the Workmen's Compensation Act with a view to including new occupational diseases as recommended by the Committee chaired by the Director of the Occupational Health Unit of the Ministry of Health & Quality of Life;**
- (ii) the High Powered Committee may, in the wake of amendments to the National Pensions Act, review the ceiling at paragraph 18.15.34 (ii) and (iii) and make such other related recommendations as appropriate.**

**18.15.36 We also recommend that:**

- (i) requests for payment of compensation under paragraph 18.15.34 (ii) and (iii) should be made to the Ministry of Civil Service and Administrative Reforms;**
- (ii) pending amendments to the relevant legislation, the recommendations made at paragraph 18.15.34 (ii) and (iii) in relation to those employees whose earnings are above Rs 72000 annually and who are not governed by the Workmen's Compensation Act be implemented administratively.**

**Government Medical Insurance Scheme**

- 18.15.37 Recommendation for the introduction of a contributory medical scheme for public officers willing to join was first made in the 2008 PRB Report. In our last report, we subsequently recommended that the MCSAR, in consultation with the relevant stakeholders, looks into the implementation modalities of the scheme and apprise public officers of the procedures to be followed to join same. It should be noted that the 2012 Budget had already provided for employees to use their monthly National Savings Fund contributions as payment of private health insurance. The EOAC Report, in turn, also highlighted on the setting up of the Scheme and made provision for public officers to use their accumulated passage benefits for the payment of premiums under the scheme.
- 18.15.38 To give effect to the above recommendations, a Committee was set up under the chairmanship of the MCSAR comprising representatives of the SICOM, Ministry of Social Security, National Solidarity and Reform Institutions, MOFED, Ministry of Health and the PRB to examine the various schemes submitted by SICOM and make appropriate recommendations regarding the implementation modalities of the GMIS. It is important to highlight that the proposals from SICOM were used solely as a basis to devise the policy of government contribution to match employee contribution. However, it is understood that the insurance company that will submit the most competitive and responsive proposal at a competitive bidding exercise will be selected.
- 18.15.39 In the light of the submissions of the Committee, it has been reported to the Bureau that the GMIS would consist of a Basic Plan and a Catastrophe Plan and that the Government has given its consent for the scheme to be on a cost sharing basis, that is, the 50% Government contribution to be matched by 50% employee contribution. Further, it has been proposed that the GMIS be introduced on certain terms and conditions which are hereunder reproduced:-**
- (i) the scheme would be optional, that is, public officers who so wish may join the scheme;**
  - (ii) the 50% Government contribution would be limited to the basic plan only. However, subscribers may in addition to the basic plan contribute to a catastrophe plan at their own cost;**
  - (iii) those who would not opt to join the scheme would have no claim to the 50% Government contribution; and**
  - (iv) an officer would not be allowed to take advantage of two or more policies concurrently. Where an officer already holds a medical insurance policy, he would be allowed to join the GMIS on termination/end of the policy and he would be entitled to the 50% Government contribution only upon joining the GMIS.**

**We are recommending accordingly.**

18.15.40 It is to be noted that the finalization of the modalities and terms and conditions may take some time and that the scheme may be implemented as from January 2017.

18.15.41 In the circumstances it is imperative that the Committee monitors all the procedures to ensure that civil servants are provided with the best option and that due diligence is done in finalising all procedures.

**Recommendation 6**

**18.15.42 We recommend that:**

- (i) the Committee under the chairmanship of the MCSAR comprising the Ministry of Finance and Economic Development, the Pay Research Bureau continues to look into the modalities and terms and conditions of the scheme;**
- (ii) upon selection of the insurance company, a representative thereof should form part of the Committee which should then look at the implementation aspect.**

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