

**CHAPTER V**  
**BENEFITS**

**46. Benefits.** — (1) Subject to the provisions of this Act, the insured persons, <sup>1</sup>[their dependants or the persons hereinafter mentioned, as the case may be,] shall be entitled to the following benefits, namely : —

- (a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner <sup>2</sup>[or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf] (hereinafter referred to as sickness benefit) ;
- <sup>3</sup>[(b) periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit) ;]
- (c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit) ;
- (d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit) ; <sup>1</sup>[\*\*\*]
- (e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit) ; <sup>2</sup>[and]
- <sup>3</sup>[(f) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as <sup>4</sup>[funeral expenses].

Provided that the amount of such payment shall not exceed <sup>5</sup>[such amount as may be prescribed by the Central Government] and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.]

(2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

<sup>6</sup>[47. *When person eligible for sickness benefit.* — \*\*\*]

<sup>1</sup>[48. *When person deemed available for sickness benefit.* — \*\*\*]

<sup>2</sup>[49. *Sickness benefit.* — The qualification of a person to claim sickness benefit, the conditions subject to which such benefit may be given, the rate and period thereof shall be such as may be prescribed by the Central Government.

50. *Maternity Benefit.* — The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government.]

<sup>3</sup>[51. *Disablement benefit.* — Subject to the provisions of this Act <sup>4</sup>[\* \* \*] —

- (a) a person who sustains temporary disablement for not less than three days (excluding the day of accident) shall be entitled to periodical payment <sup>5</sup>[at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government] ;
- (b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment <sup>6</sup>[at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government].

<sup>1</sup>[\* \* \*]

*\*51-A. Presumption as to accident arising in course of employment.* — For the purposes of this Act, an accident arising in the course of <sup>2</sup>[an employee's] employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.

*\*51-B. Accidents happening while acting in breach of regulations, etc.* — An accident shall be deemed to arise out of and in the course of <sup>2</sup>[an employee's] employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if —

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be ; and
- (b) the act is done for the purpose of and in connection with the employer's trade or business.

*\*51-C. Accidents happening while travelling in employer's transport.* — (1) An accident happening while an <sup>3</sup>[employee] is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if —

- (a) the accident would have been deemed so to have arisen had he been under such obligation ; and
- (b) at the time of the accident, the vehicle —
  - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer ; and
  - (ii) is not being operated in the ordinary course of public transport service.

(2) In this section “ vehicle ” includes a vessel and an aircraft.

*\*51-D. Accidents happening while meeting emergency.* — An accident happening to an <sup>1</sup>[employee] in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those

premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperiled, or to avert or minimize serious damage to property.]

<sup>2</sup>[51-E. *Accidents happening while commuting to the place of work and vice versa.* — An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.]

<sup>3</sup>[52. *Dependants' benefit.* — (1) If an insured person dies as a result of an employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury) dependants' benefit shall be payable <sup>1</sup>[at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government] to his dependants specified in <sup>2</sup>[sub-clause (i), sub-clause (i-a) and] sub-clause (ii) of clause (6-A) of section 2.

(2) In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased <sup>3</sup>[at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.]

*\*52-A. Occupational disease.* — (1) If an employee employed in any establishment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an “employment injury” arising out of and in the course of employment.

(2) (i) Where the Central Government or a State Government, as the case may be, adds any description of employment to the employment specified in Schedule III to the Workmen's Compensation Act, 1923\* (8 of 1923) by virtue of the powers vested in it under sub-section (3) of Sec. 3 of the said Act, the said description of employment and the occupational diseases specified under that sub-section as peculiar to that description of employment shall be deemed to form part of the Third Schedule.

(ii) Without prejudice to the provisions of clause (i), the Corporation after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in the Third Schedule and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of this Act shall apply, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(3) Save as provided by sub-sections (1) and (2), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(4) The provisions of section 51-A shall not apply to the cases to which this section apply.]

<sup>1</sup>[53. *Bar against receiving or recovery of compensation or damages under any other law.* — An insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under

the Workmen's Compensation Act, 1923\* (8 of 1923), or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act.]

<sup>1</sup>[54. *Determination of question of disablement.* — Any question —

- (a) whether the relevant accident has resulted in permanent disablement ; or
- (b) whether the extent of loss of earning capacity can be assessed provisionally or finally ; or
- (c) whether the assessment of the proportion of the loss of earning capacity is provisional or final ; or
- (d) in the case of provisional assessment, as to the period for which such assessment shall hold good, shall be determined by a medical board constituted in accordance with the provisions of the regulations and any such question shall hereafter be referred to as the “ disablement question ”.

**54-A. *References to medical boards and appeals to medical appeal tribunals and Employees' Insurance Courts.*** — (1) The case of any insured person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement question and if, on that or any subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

(2) If the insured person or the Corporation is not satisfied with the decision of the medical board, the insured person or the Corporation may appeal in the prescribed manner and within the prescribed time to —

- (i) the medical appeal tribunal constituted in accordance with the provisions of the regulations with a further right of appeal in the prescribed manner and within the prescribed time to the Employees' Insurance Court, or
- (ii) the Employees' Insurance Court directly <sup>1</sup>;

Provided that no appeal by an insured person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefit :

Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board.].]

<sup>2</sup>[55. *Review of decisions by medical board or medical appeal tribunal.* — (1) Any decision under this Act of a medical board or a medical appeal tribunal may be reviewed at any time by the medical board or the medical appeal tribunal, as the case may be, if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

(2) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed 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 result of the relevant injury :

Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the

probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it.

(3) Except with the leave of a medical appeal tribunal, an assessment shall not be reviewed under sub-section (2) on any application made less than five years, or in the case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(4) Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final ; and the provisions of section 54-A shall apply to an application for review under this section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that section and to a decision of the medical board in connection with such case.

**\*55-A. Review of dependants' benefit.** — (1) Any decision awarding dependants' benefit under this Act may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Act due to any birth or death or due to the marriage, re-marriage, or cesser or infirmity of, or attainment of the age of eighteen years by, a claimant.

(2) Subject to the provisions of this Act, the Corporation may, on such review as aforesaid, direct that the dependants' benefit be continued, increased, reduced or discontinued.]

**56. Medical Benefit.** — (1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any <sup>1</sup>[period] for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit <sup>2</sup>[or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations] :

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations :

<sup>3</sup>[Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment of contribution and such other conditions as may be prescribed by the Central Government, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement :

<sup>4</sup>[Provided also that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government.]

**Explanation.** — In this section, “ superannuation ”, in relation to an insured person, means the attainment by that person of such age as is fixed in the contract or conditions of service as the

age on the attainment of which he shall vacate the insurable employment or the age of sixty years where no such age is fixed and the person is no more in the insurable employment].

**57. Scale of medical benefit.** — (1) An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the <sup>1</sup>[State] Government or by the Corporation, and an insured person or, where such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim reimbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations.

**58. Provision of medical treatment by <sup>1</sup>[State] Government.** — (1) The <sup>1</sup>[State] Government shall provide for insured persons and (where such benefit is extended to their families) their families in the <sup>2</sup>[State], reasonable medical, surgical and obstetric treatment :

Provided that the <sup>1</sup>[State] Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any <sup>2</sup>[State] is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the <sup>1</sup>[State] Government in such proportion as may be fixed by agreement between them :

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the <sup>1</sup>[State] Government.

(3) The Corporation may enter into an agreement with a <sup>1</sup>[State] Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the <sup>1</sup>[State] Government.

(4) In default of agreement between the Corporation and any <sup>1</sup>[State] Government as aforesaid, the nature and extent of the medical treatment to be provided by the <sup>1</sup>[State] Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the <sup>2</sup>[High Court <sup>3</sup>[of a State]]) appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the <sup>1</sup>[State] Government.

<sup>4</sup>[(5) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury :

Provided that any reference to the State Government in the Act shall also include reference to the organisation as and when such organisation is established by the State Government.

(6) The organisation referred to in sub-section (5) shall have such structure and discharge functions, exercise powers and undertake such activities as may be prescribed.]

**59. Establishment and maintenance of hospitals, etc., in Corporation.** — (1) The Corporation may, with the approval of the <sup>1</sup>[State] Government establish and maintain in a

<sup>2</sup>[State] such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families) their families.

(2) The Corporation may enter into agreement with any <sup>3</sup>[\*\*\*] local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

<sup>4</sup>(3) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families.]

<sup>5</sup>**[59-A. Provision of medical benefit by the Corporation in lieu of State Government.** — (1) Notwithstanding anything contained in any other provision of this Act, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to insured persons and where such medical benefit is extended to their families, to the families of such insured persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.

(2) In the event of the Corporation exercising its power under sub-section (1), the provisions relating to medical benefit under this Act shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.]

<sup>1</sup>**[59-B. Medical and para-medical education.** — The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employees' State Insurance Scheme.]

## General

**60. Benefit not assignable or attachable.** — (1) The right to receive any payment of any benefit under this Act shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

**61. Bar of benefits under other enactments.** — When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment.

**62. Persons not to commute cash benefits.** — Save as may be provided in the regulations, no person shall be entitled to commute for a lump sum any <sup>2</sup>[disablement benefit] admissible under this Act.

<sup>3</sup>**63. Persons not entitled to receive benefits in certain cases.** — Save as may be provided in the regulations, no person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike.]

**64. Recipients of sickness or disablement benefit to observe conditions.** — A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement) —

- (a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Act, and shall carry out the instructions given by the medical officer or medical attendant in-charge thereof ;