

New Labor Courts of India
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Lecture 37
Different benefits under the ESI Scheme

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The slide features a central image of a building with a clock tower, framed by a stylized house-like shape. To the right, there are logos for NPTEL and IIT Kharagpur. The text on the slide includes the course title, professor's name, and the specific lecture topic.

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New Labour Codes of India
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Lecture 37: Different Benefits under the ESI Scheme

CONCEPTS COVERED

- Schemes Covered Under ESI
- Different Benefits under ESI Scheme

KEYWORDS

- Medical treatment
- Maternity benefits
- Dependents benefits
- Employment injury
- Occupational diseases

- **Benefits Under ESI Act, 1948 - Repealed**

Dear students and today we are going to discuss the various benefits available under the ESI scheme and also these various benefits which include not only medical benefits but also other benefits like dependent benefits, maternity benefits, employment injury benefits, occupational diseases and even expenses for funeral and other benefits which is available in the ESI scheme. So, in the last class we talked about the ESI Corporation and today we will discuss specifically with regard to these benefits.

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❑ Objective

➤ To provide limited benefits to employees in case of:

- i. Sickness,
- ii. Maternity,
- iii. Employment injury

❑ Mode of Discharging Benefits

➤ Broadly, the benefits under ESI scheme are categorized under two categories, namely:

- i. CASH BENEFITS – For sickness, maternity, disablement (Temporary/ Permanent), funeral expenses, rehabilitation allowance, vocational rehabilitation and medical bonus
- ii. NON – CASH BENEFITS – Through medical care

❑ Mode of Discharging Benefits

- ❑ Medical benefit
- ❑ Sickness benefit
- ❑ Maternity benefit
- ❑ Disablement benefit
- ❑ Dependents benefit
- ❑ Funeral Expenses
- ❑ Other benefits

❑ Medical Benefits

1. System of Treatment
2. Scale of Medical Benefit
3. Benefits to Retired IPs
4. Administration of Medical Benefits in a State
5. Domiciliary treatment
6. Specialist consultation
7. In-Patient treatment
8. Imaging Services
9. Artificial Limbs & Aids
10. Special Provisions
11. Reimbursement

❑ Maternity Benefit



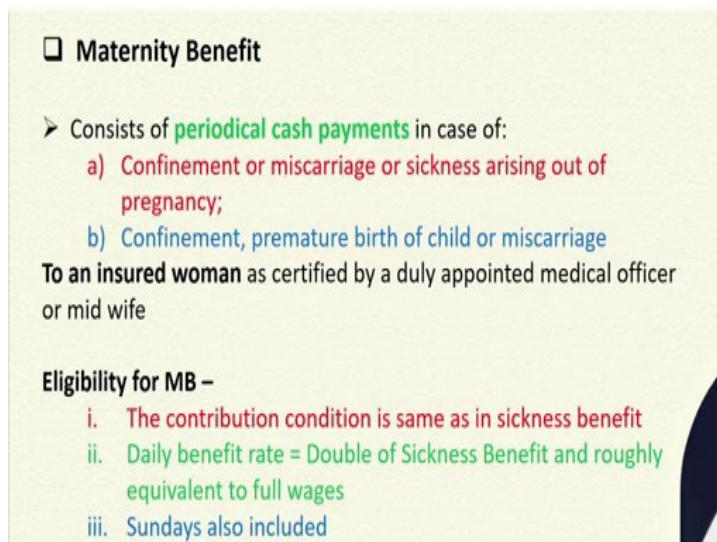
So, the objective is very clearly saying that what is the objective of the ESI schemes to provide sickness benefits, maternity benefits, and employment injury benefits, these are the 3 main categories of benefits under the scheme. So, if we look into these different benefits, we can categorize them into 2 main categories that are cash benefits and non-cash benefits. So mostly it is cash benefits which include sickness, maternity, disablement, funeral expenses, rehabilitation allowances, vocational rehabilitation, medical bonus, et cetera.

The non-cash benefit is medical care and this medical care is the most important service which is provided by the ESI Corporation through its chain of hospitals and medical colleges all over the country, so we will see one by one. So here we can categorize this into the different areas medical benefits, sickness benefits, maternity benefits, disablement, dependent benefit, funeral expenses and other benefits, which I have already mentioned.

So here are the medical benefits, within the medical benefits we can see different schemes for example the system of treatment, then the medical benefits and the benefits to the retired people, retired persons, so the administration in the states and also the other treatments, for example, the specialized consultations.

So, ESI hospitals are now coming out with specialized consultations, in-patient treatments; then artificial limbs and aids because most of the beneficiaries are from occurring in factories and other companies and special provisions and reimbursement, which we can see a bunch of benefits under the medical benefit. Also, we will see what are the other treatments and one of the most important benefits under the ESI scheme is the maternity benefit, last class also talked about the medical maternity benefit that can be availed under the ESI scheme or under the maternity benefit.

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☐ Maternity Benefit

➤ Consists of **periodical cash payments** in case of:

- a) **Confinement or miscarriage or sickness arising out of pregnancy;**
- b) **Confinement, premature birth of child or miscarriage**

To an insured woman as certified by a duly appointed medical officer or mid wife

Eligibility for MB –

- i. **The contribution condition is same as in sickness benefit**
- ii. **Daily benefit rate = Double of Sickness Benefit and roughly equivalent to full wages**
- iii. **Sundays also included**

❑ Maternity Benefit

➤ Payment Distribution

- i. For Child Delivery – total period of 26 weeks beginning not more than 6 weeks before the expected date of child birth
- ii. For Miscarriage – period of 6 weeks following the date of miscarriage
- iii. For sickness arising out of pregnancy, confinement, premature birth of a child, or miscarriage – additional period of 4 weeks

❑ Maternity Benefit

➤ Medical Bonus –

❑ Lump sum payment made to an insured woman or the wife of an insured person in case of she does not avail medical facility from an ESI hospital the time of delivery.

❑ Amount of Bonus – Rs. 2500/-

❑ Sickness Benefit



❑ Sickness Benefit

- **Extended Sickness Benefit(ESB)** : SB is extendable upto two years in the case of 34 malignant and long-term diseases at an enhanced rate of 80 percent of wages.
- **Enhanced Sickness Benefit**: Enhanced Sickness Benefit equal to full wage is payable to insured persons undergoing sterilization for 7 days/14 days for male and female workers respectively.

The maternity benefit includes periodical cash payments and in certain cases like confinement, miscarriage, sickness arising out of pregnancy, then confinement and premature childbirth, miscarriage and all these circumstances there can be cash payments and also definitely it will be subject to the certificate of a medical officer or a midwife. And maternity benefits you can see that its contribution is the same, there is no separate contribution for availing this particular benefit and the term of calculation which includes Sundays also so the period of cash payments includes Sundays in the case of maternity benefit, so we already said that it is 26 weeks, this 26 weeks includes even holidays as well.

In the maternity benefit, we can say that a total 26 weeks of the total paid holiday is allowed and 6 weeks before the expected time date of childbirth and for miscarriage, it is only for a period of 6 weeks following the date of miscarriage and sickness we can say that the additional period of 4 weeks can be allocated in the case of sickness arising out of pregnancy, confinement, premature birth of the child, miscarriage, etc.

So there are various periods are mentioned as paid holidays in case of cash payments, also based upon this particular, so 26 weeks are the total paid holiday which is allowed for the maternity benefit and then it is proportionate with regard to other reasons like sickness or it is premature birth and miscarriage, etc. There is the newly introduced provisions are like a medical bonus, a lump sum payment of 2500 rupees is paid to the insured woman or the wife of an insured person in case she does not avail of the medication facility from the ESI hospital if they have any other the schemes or they are not availing the ESI hospital, a medical bonus of Rs.2500 even though it is a small amount but this is a new introduction of

this medical bonus introduced for the benefit of people those who are not availing the ESI hospitals.

The most important benefit is the sickness benefit and sickness benefits are availed through various schemes or various cash compensation and components and even 70 percent of the wages are payable to the insured worker during the period of certified sickness for a maximum period of 91 days in a year. So, the number of days is fixed to 91 days, he can avail of the sickness benefit and also that is 70 percent of the wages is available or he is eligible to get 70 percent of the wages that he is getting on the usual other days. So to qualify for this sickness benefit, the insured worker is required to contribute 78 days minimum in a period of 6 months; he should work at least for 78 days during a contribution period of 6 months. So that means it is the pre-requirement that he works for some time to avail of this sickness benefit for 90 days in a year.

So, we can calculate that in a 6-month period average is 40 days, not 40 days it's 45 days average, so we can see that the sickness benefit can be availed if he is contributed for 70 days in a contributing period of 6 months. So, there is an extended sickness benefit so this extended sickness benefit is up to 2 years in the case of 34 malignant or long-term diseases so the long term diseases are in the schedule at an enhanced rate of 80 percent of wages.

So extended sickness benefit is available to 34 malignant, long-term diseases and the employees are eligible to get 80 percent of wages during the extended sickness benefit period and enhanced sickness benefit is equal to full wages. It is payable to the insured persons and undergoing sterilization for 7 days to 14 days for male and female workers respectively. So the enhanced sickness benefit is available to people who are undergoing sterilization operations for 7 days and 14 days respectively for males and females, so they are eligible to get the full wages for this specific benefit in order to avail of this particular benefit.

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❑ Disablement Benefit



❑ Disablement Benefit

- Applied for **disablement caused by employment injury**
- **Temporary disablement benefit (TDB)** : From day one of entering insurable employment & irrespective of having paid any contribution in case of employment injury. Temporary Disablement Benefit at the rate of 90% of wage is payable so long as the disability continues.
- **Permanent disablement benefit (PDB)** : The benefit is paid at the rate of 90% of wage in the form of monthly payment depending upon the extent of loss of earning capacity as certified by a Medical Board

❑ Dependents Benefit

- (e) **Dependants Benefit(DB)** : DB is paid at the rate of 90% of wage in the form of monthly payment to the dependants of a deceased Insured person in cases where death occurs due to employment injury or occupational hazards.

❑ Other Benefits

➤ Funeral Expenses

1. Funeral Expenses: An amount of Rs.15,000/- is payable to the dependents or to the person who performs last rites from day one of entering insurable employment.

➤ Confinement Expenses

- ❑ Confinement Expenses: An Insured Woman or I.P.in respect of his wife in case confinement occurs at a place where necessary medical facilities under ESI Scheme are not available

So another benefit which is provided by the ESI scheme is the disablement benefit, so disablement benefit is always for people who are disabled due to employment injury. So there are disablement are 2 categories one is temporary disablement and another one is permanent disablement, accordingly, there is a temporary disablement benefit and a permanent disablement benefit.

So, for the temporary disablement benefit, the insured employed is eligible irrespective of having paid any contribution, so earlier we saw that there is a minimum of 78 days' contribution to the work, but here he is eligible to get it from the day one he is entering into this employment. So that means he is contributing if his work is started his contribution is started then he can avail of this temporary disablement benefit. So, temporary disablement benefit is at the rate of 90 percent of the wages, as long as the disability is continuous.

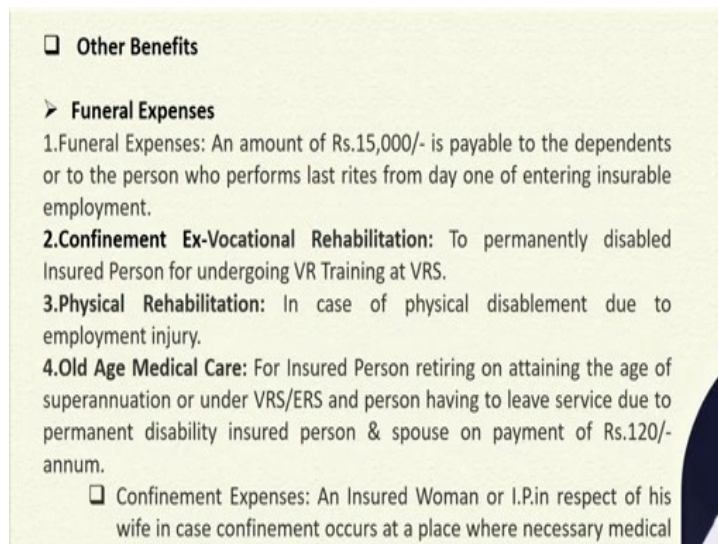
When it comes to a permanent disablement benefit it is paid at the rate of 90 percent of wages in the form of monthly permanent depending upon the extent of loss of earnings, so in the last class also we talked about the percentage of loss of earnings; the loss of earning capacity will be certified by a medical board, a medical board constituted under the new provisions of this scheme.

So permanent disablement is also 90 percent which is provided to the disabled employee who avails the schemes and another very peculiar or unique to the ESI scheme is dependent benefits. So dependent benefits are paid again at the rate of 90 percent of the wages in the form of monthly payment to the dependent of the deceased insured person. In cases where death occurs due to an employment injury or due to occupational hazards or occupational diseases.

So if a worker has died during the course of employment then the dependents are eligible to get dependent benefits up to 90 percent of the wages and other benefits include and in the category of other benefits which includes funeral expenses, the funeral expenses are now increased to 15 thousand rupees to the dependents on the person who is performing the last rites, and also from the day one of entering the unstable employment so that means the earlier it was 5 thousand rupees and now it is increased to 15 thousand rupees and another category in the other benefits are the confinement expenses.

So, if an insured woman in respect of the insured person in respect of his wife in case of confinement occurs and it is the medical benefit is our schemes are not available then the confinement expenses to be born by this particular scheme, so this will also come under the other benefits this is other than the bonus which we mentioned earlier. So, the bonus also is the insured is not availing so in the case of maternity so 2500 rupees bonus will be given to the employee insured.

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Other Benefits

- **Funeral Expenses**
 1. **Funeral Expenses:** An amount of Rs.15,000/- is payable to the dependents or to the person who performs last rites from day one of entering insurable employment.
 2. **Confinement Ex-Vocational Rehabilitation:** To permanently disabled Insured Person for undergoing VR Training at VRS.
 3. **Physical Rehabilitation:** In case of physical disablement due to employment injury.
 4. **Old Age Medical Care:** For Insured Person retiring on attaining the age of superannuation or under VRS/ERS and person having to leave service due to permanent disability insured person & spouse on payment of Rs.120/-annum.
- ☐ **Confinement Expenses:** An Insured Woman or I.P.in respect of his wife in case confinement occurs at a place where necessary medical

❏ Contribution

- Presently, the **employee's contribution rate** = 0.75% of their wages and
- the **employer's contribution rate** = 3.25% of the wages paid/payable for the employees.
- The employer makes the **contribution from its own share** in favor of those employees whose daily average wage is Rs 137
- As **these employees are exempted from own contribution**
- The employer is required to pay his contribution and deduct employees' contribution from wages and deposit the same with ESIC within 15 days from the last day of the calendar month in which the contribution fall due

• Benefits Under The Code on Social Security 2020

See funeral expenses which we already talked about and also exvocational rehabilitation, to permanently disabled insured persons undergoing vocational training and rehabilitation, so one is physical rehabilitation and the other which we can see also this medical rehabilitation. So in the case of physical rehabilitation so physical disablement due to employment injury and another benefit is old age medical care. So old age medical care is a big problem in the country and the ESI scheme is to solve this particular problem and those who are insured persons under the scheme.

So old age is medical care so after retirement or attending the age of superannuation or whether he is taking VRS and also he is having to leave the service due to the permanent disability of the insured person and his wife, so just paying 120 rupees and they are eligible to get old age medical care and this confinement expenses which we already talked about, so in

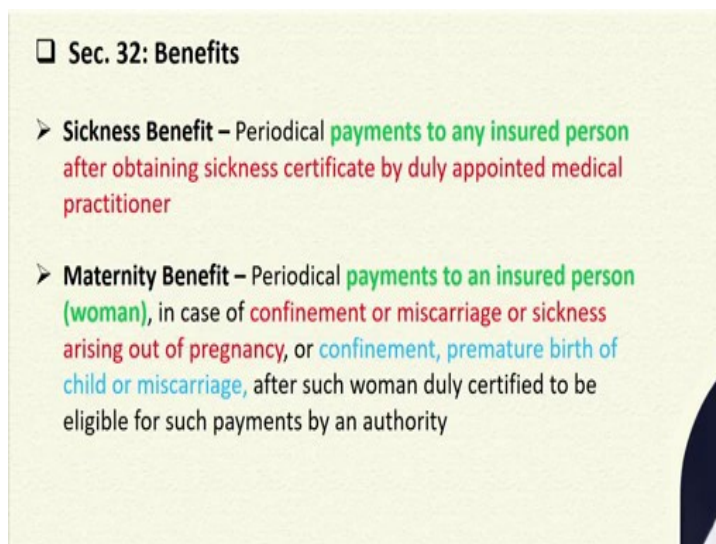
the case of the wife of the person who occurs and necessary medical facilities are not available so they are eligible to get the confinement expenses.

If you look into the ESI contributions which we already looked into but as again the contribution to the ESI scheme so the employees' contribution rate is only 0.75 percent of their wages and the employer contribution is at the rate of 3.25 percent of the wages paid, so it is the chunk of the contribution is paid by the employer and a very small fraction of the contribution is paid by the employee.

Also, we can say that the daily wages are the employer makes this contribution so it will share in favour of these particular employees also we have certain contributions certain employees are exempted from contribution so we already said that there is a salary ceiling for contribution to the ESI scheme, also it is the duty of the employer to deduct the contribution and then deposit within the next 15 days with the ESI Corporation. So, the contribution will fall due within 15 days of deduction from the employees.

So we can see that we have seen all these provisions on the ESI scheme in the previous legislation and also we will see what are the provisions which are taken from the old legislation to the new legislation under the Code on Social Security and the additional provisions which are added to the new scheme.

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□ **Sec. 32: Benefits**

- **Sickness Benefit** – Periodical **payments to any insured person** after obtaining **sickness certificate** by **duly appointed medical practitioner**
- **Maternity Benefit** – Periodical **payments to an insured person (woman)**, in case of **confinement or miscarriage or sickness arising out of pregnancy**, or **confinement, premature birth of child or miscarriage**, after such woman duly certified to be eligible for such payments by an authority

❑ Sec. 32: Benefits

- **Medical Benefit** – Provides **medical treatment for and attendance of insured person**
- **Funeral Expenses** – Providing **payment to the eldest surviving member of the family of an insured person, who has died for the expenditure on the funeral of the deceased insured person, or**

In case, where the **insured person did not have a family or not living with family at the time of his death = payment shall be made to that person who performs the last rites and incurs the expenditure of his funeral**

❑ Sec. 32: Benefits

- ❑ **PROVIDED** – The **amount of benefits shall not exceed the prescribed amount by Central government.**
- ❑ The **claim of such payment** should be made **within 3 months of the death** of IP or up to that period decided by the Corporation.
- ❑ In **case of medical benefit**, its **amount can be extended to the family of an insured person**
- ❑ The qualification of a person to claim, rate and period of payments of sickness benefit, maternity benefit, disablement benefit and dependent's benefit shall be done, according to the prescribed manner, notified by the Central government

❑ Sec. 37: References to medical board

- Any question on whether –
 - Accident resulted in permanent disablement; or**
 - The extent of loss of earning capacity can be assessed provisionally or finally; or**
 - The proportion of the loss of earning capacity is provisional or final; or**

Shall be **determined by a medical board**, constituted for this purpose and such question refers here – **Disablement question**

- The insured person for a permanent disablement benefit, referred by the Corporation to such medical board for determining and assessing the amount of compensation

□ Sec. 37: References to medical board

- Any **decision of medical board can be reviewed further**, if it found at later stage that the previous decision was the result of **non-disclosure** or **misrepresentation** or of **material fact**, irrespective that whether it is fraudulent or not
- Any **assessment to the extent of disablement**, may be **reviewed by the medical board**, if such assessment observed the **presence of substantial** and **unforeseen aggravation** of relevant injury
- **Medical board shall not review** any assessment **except with the leave of the medical appeal tribunal**. The **application of such assessment** shall be **made within 6 months to 5 years** from the date of decision of **medical board**

Here we can see that exactly the sickness benefit or maternity benefit and all these provisions are taken as such to the newly made drafted code as well, so there are no changes and it depends upon also the other than the sickness benefit, the maternity benefit, disablement benefit and dependents benefit also is kept it as such and also here the medical expenses or medical benefits, the medical treatment for an insured person is kept as such and the funeral expenses also so it is kept and we already said that it is now the government is fixed it as 15000 rupees. So another provision says that in the case where the insured person did not have a family or not living with the family at the time of his death the payment shall be made to the person who performed the last rites and incurs the expenditure of funeral.

So even though a family person is an insured person those who do not have a family also can claim a person who knows the last rites also can claim these funeral expenses from the scheme. Here these we can see that the number of benefits will be always prescribed by the central government and also any claim with regard to the ESI should be made within 3 months time so if anybody wants to make any claim with the corporation under the scheme they should make their claim within 3 months and also in case of the medical benefits and the medical benefits can be extended to all family members of the insured person. So the family also is defined as the family that includes all sons, daughters those who are not married or in the case of all others even the father, mother and other siblings who are not married.

So the qualifications of the people who claim they are the legal heirs and all the people who are claiming or dependent benefits must be the legal heirs in accordance with the existing law and the central government will make the list of people who are eligible to make the claims under the particular Act and also we can see that the references to the medical boards in

certain cases. So all permanent disablements or temporary disablements the question of the percentage of his earning capacity, and loss of earning capacity will be always decided by a medical board duly constituted under the scheme. So, the proportion of the loss of earning capacity will be decided by the medical board either provisionally or it is finally. So, for all purposes of the scheme, the medical board's decision is final.

So, the question of disablement is decided in accordance with the decision of the medical board. So, the insured person is definitely eligible for the disablement benefit and referred by the corporation on the recommendation of the medical board. So ultimately the corporation will decide the benefit, permanent disablement benefit on the recommendation of the medical board. So, what is exactly the percentage of loss of earning capacity it will depend upon the recommendation of the medical board? The medical board is an important part of the decision-making system.

So the decision of the medical board can also be even reviewed further if it was found that in the later stage the previous decision was the result of some kind of non-disclosure or misrepresentation or the lack of material fact or irrespective of whether it is fraudulent or not, not but the medical board may not get the sufficient documents, non-disclosed of documents or sometimes misrepresentation they make the document in that cases only ground of the medical board decision can be reviewed again.

So, the assessment of the disablement should be made by the medical board always very carefully, so the assessment is definitely in the presence of substantial unforeseen aggravation of our relevant injury. So, the percentage of the loss of earning capacity will be determined by the medical board very carefully and the medical board shall not review any assessment except with the leave of the medical appeal tribunal. In such cases, the application of such assessment shall be made within 6 months to 5 years from the date of the decision of the medical board. So, there is a medical appeal tribunal, so an appeal lies to the medical appeal tribunal from the decision of the medical board, so there is always a scope for review of the decision of the medical board.

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❑ **Sec. 37: References to medical board**

- If the **insured person or the Corporation is aggrieved by any decision of the medical board**, the insured person or the Corporation, as the case may be approach to –
 - i. **The Medical Appeal Tribunal**
 - ii. **The Employee's Insurance Court**

No appeal shall lie – if the insured person has already used the disablement benefit, based on medical board

❑ **Sec. 2(24): Definition of "Dependant" –**

- Following **persons are called the dependants of deceased employee:**
 - i. **Widow, minor legitimate/ adopted son, an unmarried legitimate/ adopted daughter, widow mother;**
 - ii. **Legitimate/ adopted son or daughter who is infirm, would be dependent up to 25 years;**

❑ **Sec. 2(24): Definition of "Dependant" –** Following persons are called the dependants of deceased employee:

In case of wholly or partly dependent on the earnings of the employee at the time of the death, -

- a) **Widower;**
- b) **Parent other than widowed mother;**
- c) **Minor illegitimate son, unmarried illegitimate daughter or daughter legitimate/ illegitimate/ adopted, if married and minor or widowed and a minor;**
- d) **Widowed daughter-in-law;**
- e) **Minor child of pre-deceased son;**
- f) **Minor child of pre-deceased daughter where no parent of child is alive;**
- g) **Grandparents, if parents of deceased is not alive**

❑ Sec. 38: Dependent's Benefit

- If an insured person died due to employment injury, dependent's benefit shall be payable to his dependents
- If the insured person died without leaving behind him dependents, then the dependent benefit shall be paid to other dependents of the deceased at such rate and condition, prescribed by Central government
- If the Corporation satisfied that the dependent's benefit has been given on non – disclosure or misrepresentation by the claimant or by any other person on material facts, then such dependent benefit can be reviewed
- On such review, the dependent benefit can be continued, increased,

Also, you can see that if any insured person is aggrieved by the corporation's decision and they can appeal to the medical appeal tribunal or the employee's insurance courts. So the last class also saw that it is the duty of every state government to constitute employees insurance courts or designated insurance courts. So, the employees can hold the decisions of the medical board they can appeal to the medical appeal tribunal and for all other decisions they can appear in its Employee's Insurance Court. So, the insured person is already using the disablement benefit based on the decision of the medical board no appeals shall lie. So, you cannot enjoy the fruits and then complain, so if you are taken this already use the disablement benefit and no appeal will lie; so, the appeal will lie to the medical board as well as to the insurance courts.

So, the dependent if you look into the definition of dependent in the new Act, so the dependents are very clearly defined, dependents of the deceased employee which include widow, minor, legitimate, adopted son and unmarried legitimate adopted daughter and widow mother, legitimate adopted son or daughter who is infirm, would be dependent up to 25 years. So, the limitations are very clear, so it should be widow, minor, it can be adopted son also, unmarried daughter, widow mother, legitimate or adopted son or daughter up to the age of 25 years. It is not lifelong the dependents are not going to get the benefits, so if it is a son or daughter it is up to 25 years. So, the dependents are clearly defined under section 224 of the Social Security court.

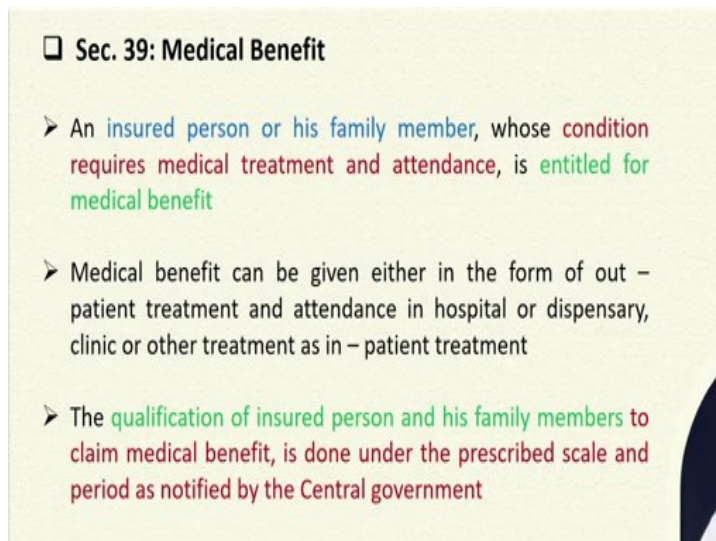
For all the minors, we can say that in the case of dependent earnings of the employee so we already said that it is a widower and parent other than widowed mother, minor illegitimate son and unmarried legitimate daughter or legitimate or illegitimate or adopted son or

daughter and if married minor or widowed and minor, so widowed daughter-in-law, minor child of a pre-deceased son, minor child of pre-deceased daughter where no parents of the child are alive, grandparents if parents of deceased are not alive.

So, you can see that so dependents of the deceased employee in the case of 224 have a long list now of dependent people, so it is not only the son or daughter or his parents or the widow or the widower. So, we can see a set of people who are considered to be dependents, so a large number of people are eligible for those who are closely related or dependents on the diseased person. So, section 224 is clearly said that who is going to be the dependents of the deceased person.

Here the dependence benefit as I told you dependent benefits should be paid to his dependents and to the dependents of the deceased at such rate and conditions prescribed by the central government also you can see that such dependent benefits can be reviewed in the case of a lack of disclosure or non-disclosure misrepresentation or fraud which is committed on the earlier decision. So, on such review, such dependence benefit can be continued, discontinued, increased or reduced. So, the dependence benefits can be reviewed from time to time.

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❑ **Sec. 39: Medical Benefit**

- An insured person or his family member, whose condition requires medical treatment and attendance, is entitled for medical benefit
- Medical benefit can be given either in the form of out – patient treatment and attendance in hospital or dispensary, clinic or other treatment as in – patient treatment
- The qualification of insured person and his family members to claim medical benefit, is done under the prescribed scale and period as notified by the Central government

❑ **Sec. 40: Provision of medical treatment by State government or by Corporation**

- In case of default of agreement between the Corporation and the State government to share the medical expenses, it shall be shared between them after determined by an Arbitrator, who shall be appointed by the Central government in consultation with State government

❑ **Sec. 41: General Provisions for Benefits**

- Person entitled for sickness benefit or disablement benefit (except permanent disablement) –
 - i. Remain under medical treatment at dispensary, hospital, clinic or other institution;
 - ii. No need for medical treatment, which might retard or prejudice his chances of recovery;
 - iii. Shall not leave medical premises without the expressed permission of medical officer or any other authority;
 - iv. Can be examined by any duly appointed medical officer or other person authorized by the Corporation

❑ **Sec. 41: General Provisions for Benefits**

- At the same time, an Insured Person is not entitled to –
 - i. Both sickness benefit and maternity benefit;
 - ii. Both sickness benefit and disablement benefit for temporary disablement;
 - iii. Both maternity benefit and disablement benefit for temporary disablement
- An insured person has to choose one benefit if he is entitled to more than one benefit

❑ **Sec. 43: Liability of owner or occupier of factories for excessive sickness benefit**

➤ The owner of factory or establishment is liable for payment of amount of extra expenditure incurred by the Corporation as sickness benefit, in case:

❑ The incidence of sickness among insured persons is excessive due to default or neglect of owner

❑ **Sec. 44: Scheme for Other Beneficiaries**

➤ It provides other beneficiaries and the members of the families the scheme of medical facilities in any hospital established by the Corporation

➤ It shall be applicable to that area which is underutilized

➤ It shall be operated on the terms and conditions made by the Central government

Medical benefits, so we can see that the medical benefits already they are entitled to and as prescribed by the corporation and also notified by the central government, medical benefits are available. So, State Government Corporation so you can see that so all the state governments with the approval of the corporation arranged for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions and also the amount of sickness benefit payable to the insured person exceeds the all India average, the excess amount shall be shared between the corporation and the state government.

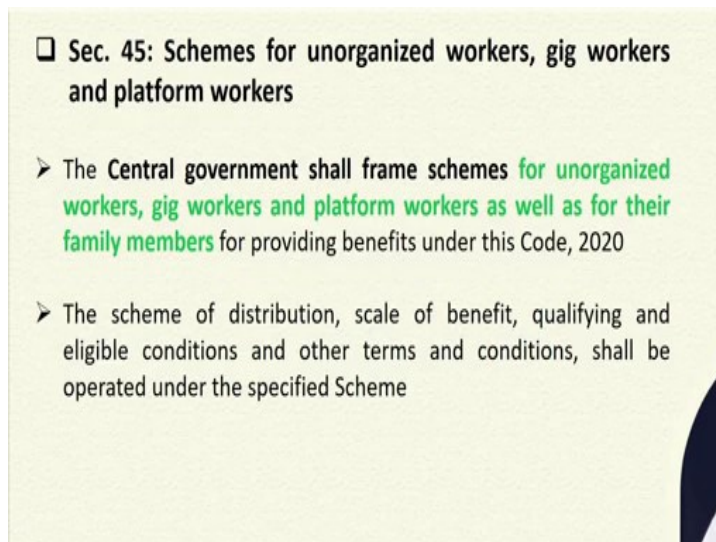
So now it is not only the corporation so in join with the state governments also you can make the medical treatment provision in collaboration with state governments by the corporation. So this will increase the ambit of treatment even in state government hospitals. So there can be a collaboration between the corporation and state governments in the case of sickness benefits and medical benefits.

And Medical treatment or corporations the agreement between this corporation and the state governments to share the medical expenses, so they have to determine if there is any dispute between the state governments and the corporation then the dispute settlement is through arbitration. So, the arbitrator will be appointed by the central government in consultation with the state governments, now there is a provision which is included very clearly for the collaboration of ESI Corporation with the state governments.

So, they can use the state government hospitals also can be considered as ESI hospitals other than the designated ESI hospitals. So general provisions we can see that the medical treatment at dispensaries, hospitals, clinics, and other institutions, again you can see that the medical premises and also the other facilities can be used by the people for availing general medical benefits.

Also, we can see that all other benefits are included in the new code as well like sickness benefits, disablement benefits, whether it is temporary or permanent, the maternity benefit and also incorporated, but at the same time the provision very clearly Section 41 very clearly says that insured person cannot avail 2 benefits at a time under 2 legislations. So at the time, he cannot claim benefits under 2 legislations. Here again, the owner of the factories is liable for payment of the amount of extra expenditure required by the corporation as sickness benefit, it is the duty of the employer to pay the extra amounts which are paid by the corporation in the case of sickness. So if it is excessive due to default or negligence of the owner so sickness benefits are also the excess amount to be paid by the employers.

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□ **Sec. 45: Schemes for unorganized workers, gig workers and platform workers**

- The Central government shall frame schemes for unorganized workers, gig workers and platform workers as well as for their family members for providing benefits under this Code, 2020
- The scheme of distribution, scale of benefit, qualifying and eligible conditions and other terms and conditions, shall be operated under the specified Scheme

CONCLUSIONS

- ❑ The Beneficial Schemes establishes the beneficial Labour Legislation in India, in which its objective is to provide those benefits to the workers, especially those who sustained employment injury
- ❑ The legislative intention behind the drafting of “Beneficial Legislation” is to impose strict liability on the employer to provide benefits, to workers or his nominated dependants, for a certain period of time, who sustained an injury or caused death, during the course of their employment

REFERENCES

- The Employee’s State Insurance Act, 1948
- The Code on Social Security, 2020

We can see that in the case of specific provisions with regard to gig workers and platform workers, so this is an additional welcome development which is included in the code section 45, so the central government should frame it especially for the unorganized workers, gig workers and platform workers and for their family members. So, special provision is included to include the unorganized sectors and the special class of employees in the ESI scheme. So, all the benefits are available to this class of employees as well in the coming future.

So in conclusion we can say that this ESI scheme, the different schemes which are available in the ESI Act provisions which are included in the new code is very comprehensive in nature and the insurers, the people who are taking the scheme are able to get sickness benefit, they are eligible to get maternity benefit, they are eligible to get the dependent benefit, they are eligible to get other benefits which are available in case of employment injuries.

So we already said that there are special provisions with regard to the unorganized sector and the central government has to make rules for availing this scheme by the new sect of people that is the unorganized sector, gig workers, platform workers, etc. under this particular scheme. Thus, the comprehensive provisions are included in the new code for availing the Employee State Insurance and in the scheme throughout the country and the collaboration with the state governments is going to increase the ambit and extent of this particular insurance scheme throughout the country, thank you.