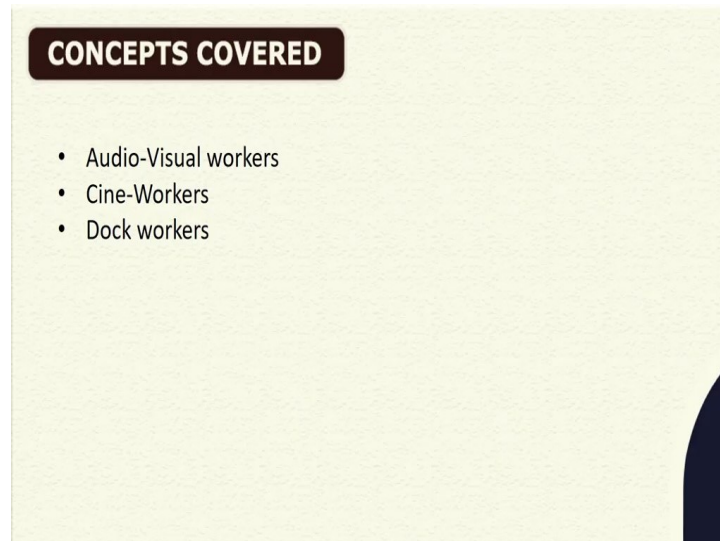


New Labour Codes of India
Professor K. D. Raju
Rajiv Gandhi School of Intellectual Property Law
Indian Institute of Technology, Kharagpur
Lecture 58
Audio-Visual Workers; Cine Workers and Dock Workers

Dear students, today we are going to discuss about Audio-Visual Workers, Cine workers and Dock Workers. So, the inclusion of provisions in the new code with regard to cine, these audio-visual workers are very new. There are no provisions to regulate the working conditions of audio-visual workers in any of the earlier legislation, but we can find several legislations with regard to the cine workers and also dock workers. So, first, we will see these new provisions with regard to audio-visual workers, and then we will see the provisions with regard to cine workers and dock workers in this particular class. So, who are these audio-visual workers?

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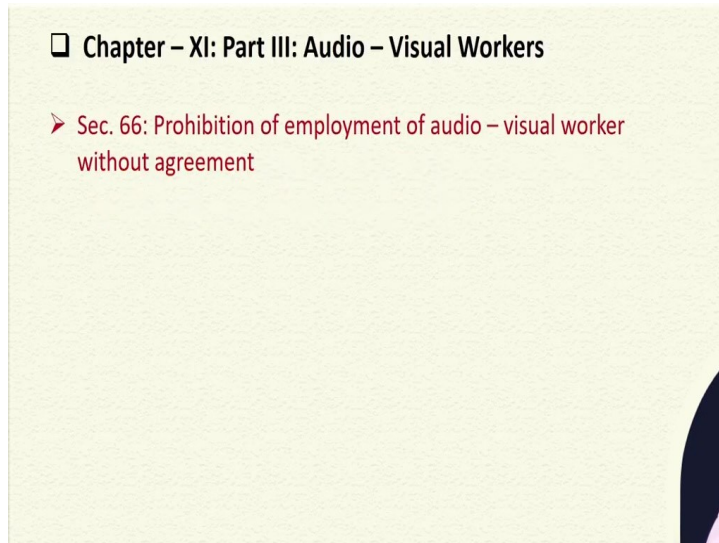
KEYWORDS

- Audio-visual workers
- Cine – workers
- Dock workers
- Agreement
- Cinema Theatre workers
- Prohibition of employment

- **Audio-Visual Workers** under **The Occupational Safety, Health and Working Conditions Code, 2020**

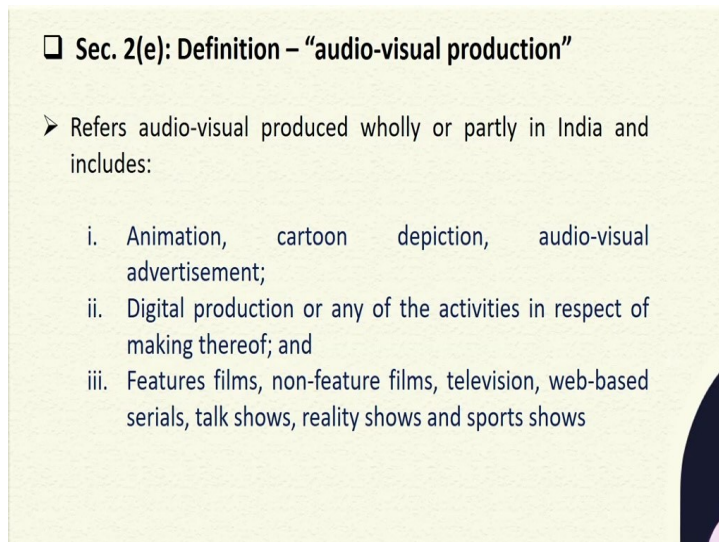
So, we heard about cine workers, but audio-visual workers are included as a separate category for the first time in the Occupational Safety, Health and Working Conditions Code 2020.

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So, Section 66 says the prohibition of employment of audio-visual workers without an agreement, because these audio-visual workers are mostly working on a temporary basis without any agreement, without any appointment orders and without terms and conditions, and without any regular income to the audio-visual workers.

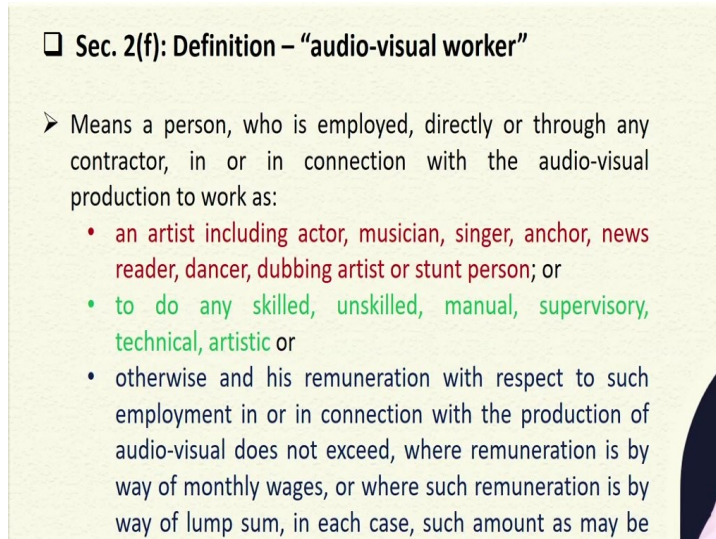
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So, an audio-visual worker or audio-visual production is defined as any work so, produced wholly or partly in India, that includes animation, cartoon depiction, audio-visual advertisement, digital production or any of the activities respected or related to these works. And people who are working in feature films, non-feature films, television, web-based serials, talk shows, reality shows, and sports shows, so, you can very well see that the so,

called cine workers, those who are working in feature films are also included within the audio-visual production.

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□ **Sec. 2(f): Definition – “audio-visual worker”**

➤ Means a person, who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as:

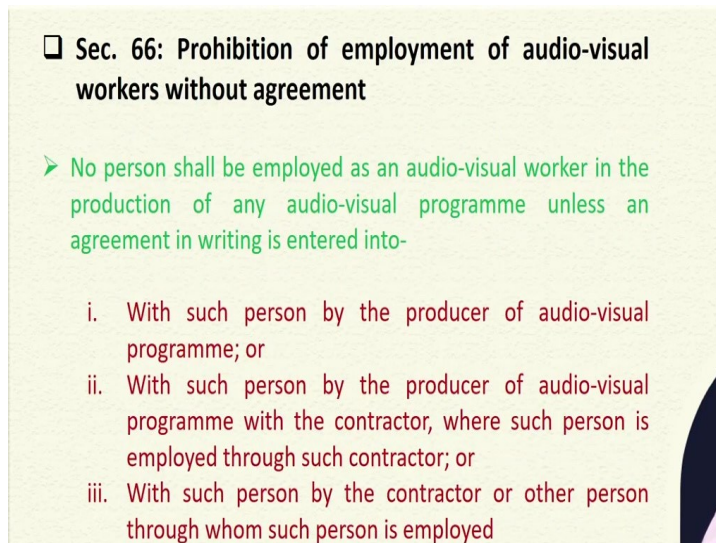
- an artist including actor, musician, singer, anchor, news reader, dancer, dubbing artist or stunt person; or
- to do any skilled, unskilled, manual, supervisory, technical, artistic or
- otherwise and his remuneration with respect to such employment in or in connection with the production of audio-visual does not exceed, where remuneration is by way of monthly wages, or where such remuneration is by way of lump sum, in each case, such amount as may be

As you can see the worker, the audio-visual worker, are basically people who are related to audio-visual production. So, here audio-visual worker, the definition under Section 2(f) of the new code defines an audio-visual worker as a person who is employed directly or through any contractor or in connection with the audio-visual production and is an artist who is including an actor, musician, singer, anchor, news reader, dancer, dubbing artist or stunt person.

So, we know that the news readers claim to be journalists, so, they are included in special legislation, special provisions with regard to the journalist. They can also be considered as an audio-visual worker. They may be doing skilled work and manual work, supervising rework, technical work, artistic work etc for remuneration. And the connection with the production of audio-visual and also there is a ceiling for the monthly wages or remuneration is paid in a lump sum.

And what is this particular ceiling of the lump sum payments will be specified by the Central Government in the new rules. So, here all the people who are related to the production of audio-visual production can be considered as audio-visual workers including the people who are working as mean TV news readers. They also come within the definition of an audio-visual worker.

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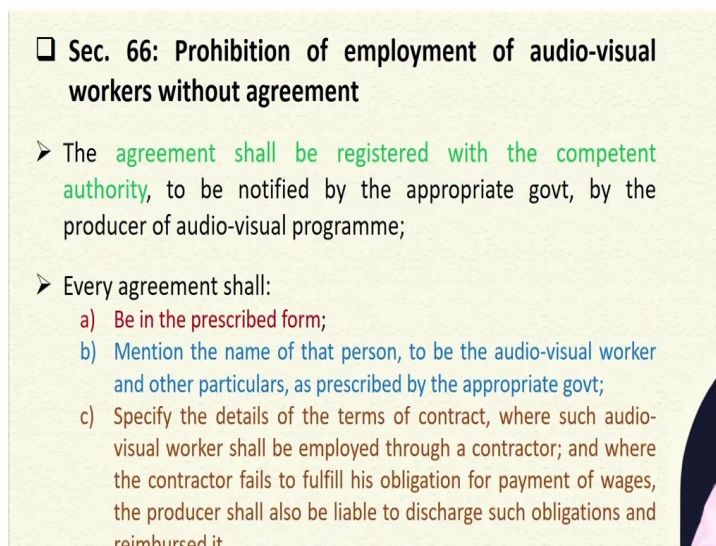
❑ **Sec. 66: Prohibition of employment of audio-visual workers without agreement**

➤ No person shall be employed as an audio-visual worker in the production of any audio-visual programme unless an agreement in writing is entered into-

- i. With such person by the producer of audio-visual programme; or
- ii. With such person by the producer of audio-visual programme with the contractor, where such person is employed through such contractor; or
- iii. With such person by the contractor or other person through whom such person is employed

So, no audio-visual workers should be appointed without an agreement, without an appointment order. So, an agreement must be in writing. So, what audio-visual program they are going to make the agreement must be with the producer of such audio-visual program or with a contractor through which the particular person is working. So, a written agreement is required for working and audio-visual work.

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❑ **Sec. 66: Prohibition of employment of audio-visual workers without agreement**

➤ The agreement shall be registered with the competent authority, to be notified by the appropriate govt, by the producer of audio-visual programme;

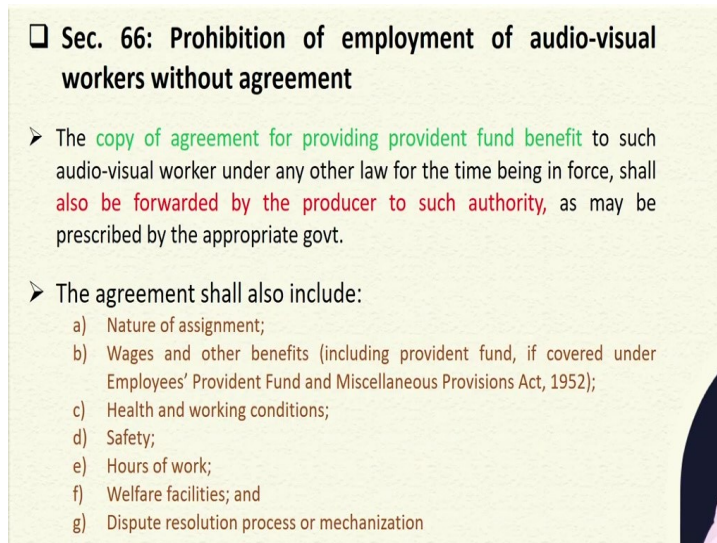
➤ Every agreement shall:

- a) Be in the prescribed form;
- b) Mention the name of that person, to be the audio-visual worker and other particulars, as prescribed by the appropriate govt;
- c) Specify the details of the terms of contract, where such audio-visual worker shall be employed through a contractor; and where the contractor fails to fulfill his obligation for payment of wages, the producer shall also be liable to discharge such obligations and reimburse it

And also you can see that such an agreement should be registered with competent authorities. So, the competent authorities will be notified by the Central Government and State Governments very soon under the rules. And every agreement must be in the prescribed form and which is mentioning about the name of the person and the audio-visual work the

particulars of the audio-visual work and the details of the contract. So, whether the audio-visual worker is employed through a contractor and what are the obligations? So, who has the obligation to pay the payment of wages and who is the producer and who is liable to pay, who is going to discharge these particular obligations under the Act to be mentioned in such written contracts.

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❑ Sec. 66: Prohibition of employment of audio-visual workers without agreement

- The **copy of agreement for providing provident fund benefit** to such audio-visual worker under any other law for the time being in force, shall **also be forwarded by the producer to such authority**, as may be prescribed by the appropriate govt.
- The agreement shall also include:
 - a) Nature of assignment;
 - b) Wages and other benefits (including provident fund, if covered under Employees' Provident Fund and Miscellaneous Provisions Act, 1952);
 - c) Health and working conditions;
 - d) Safety;
 - e) Hours of work;
 - f) Welfare facilities; and
 - g) Dispute resolution process or mechanization

So, this copy of the agreement for providing provident funds and other benefits to the audio-visual worker is forwarded to the authority. So, provident fund social security benefit is available to this audio-visual worker's aspect. So, the agreement should include the assignment, the nature of the assignment, and wages. So, whether he is covered under the PF Act, Employees Provident Fund Act and health and working conditions, safety, hours worked, welfare facilities, and dispute resolution mechanism. All these are to be included in the agreement.

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- Cine – Workers in India



Source – cine workers in India; newsclick.in

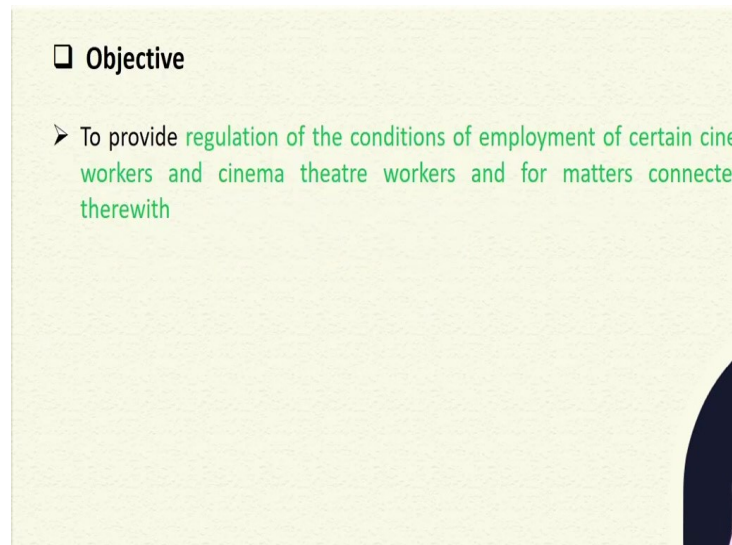
So, the audio-visual workers are now almost all the people who are working whether it is in TV serial or it is in the cine field will come under the purview of these particular provisions. And next, we will see the Cine workers.

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- Safety and Security of Cine workers under **Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 – Repealed**

As we already said that a central law is available for regulating the working conditions of the cine workers Cinema Theatre Workers (Regulation of Employment) Act 1981. And this Act is repealed and the provisions are included in the new code.

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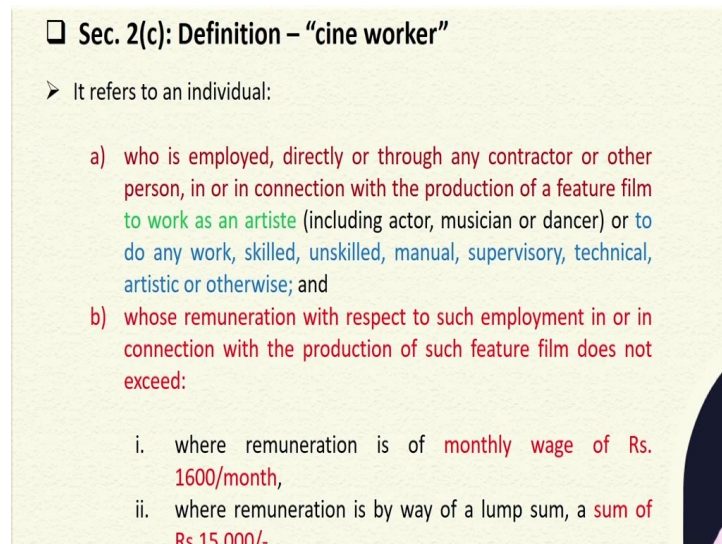


□ **Objective**

- To provide regulation of the conditions of employment of certain cine workers and cinema theatre workers and for matters connected therewith

So, we will see the old provisions and also the new provisions. So, the old special legislation very clearly mentions that this is to provide or regulate the conditions of employment of certain cine workers and cinema theatre workers. So, the audio-visual workers have not included cinema theatre workers, but these provisions come under these all special legislations.

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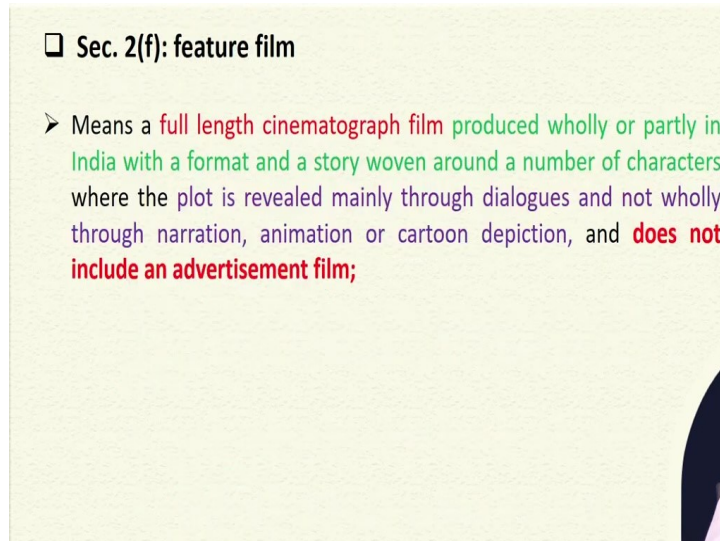
□ **Sec. 2(c): Definition – "cine worker"**

- It refers to an individual:
 - a) who is employed, directly or through any contractor or other person, in or in connection with the production of a feature film to work as an artiste (including actor, musician or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise; and
 - b) whose remuneration with respect to such employment in or in connection with the production of such feature film does not exceed:
 - i. where remuneration is of monthly wage of Rs. 1600/month,
 - ii. where remuneration is by way of a lump sum, a sum of Rs.15,000/-

So, cine workers, you can see that the previous persons those who are employed through any contractor or other persons in connection with the production of a feature film working as an artist, including the actor, musician, dancer, all these people will come within the definition of cine worker. And originally, it included the remuneration of monthly wages of Rs.1600 per

month and where the remuneration may be a lump sum amount of 15,000 rupees, but you know that most of these workers are employed on piecemeal rates in many films anybody is appointed for monthly wages. So, they may be appointed on daily wages or they may be upon ended on lump sum payments.

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So, to what extent these provisions are applicable are the questions. So, a feature film is only applicable to the people who are working with the feature film and a feature film is defined as a full-length cinematograph film. So, whether it is made in India or outside that is not important. So, that means, whether this feature film is manufactured partly in India or partly outside. So, it includes animations, cartoons and advertisement films are not included.

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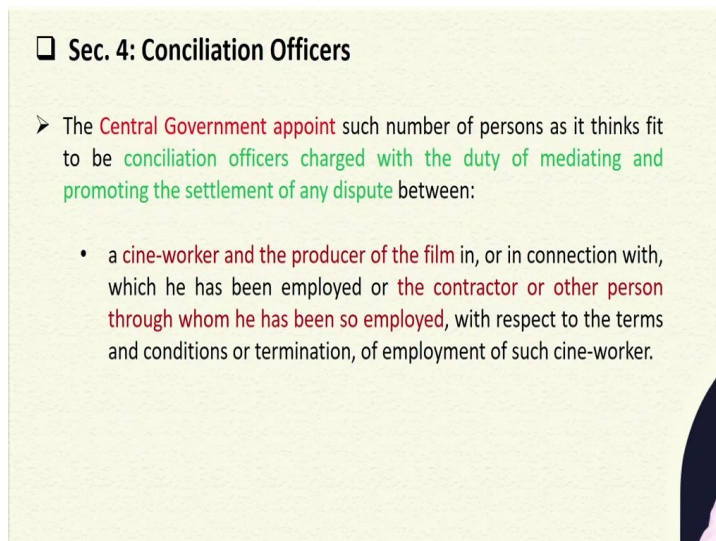


❑ **Sec. 3: Prohibition of employment of cine-worker without agreement**

- No person shall be employed as a cine-worker in or in connection with the production of any feature film unless,—
 - a) an agreement in writing is entered into with such person by the producer of such film; or,
 - b) where such person is employed through a contractor or other person, by the producer of such film and such contractor or other person; and
- Such agreement is registered with the competent authority by the producer of such film.

People who are working on shooting the advertisements, would not come up within the purview of these particular provisions. So, in the case of what you should workers, we saw that no audio-visual worker will be appointed without a written contract. This provision has been taken from the earlier provision here, which very clearly says that no person shall be employed as a cine worker without a written agreement. Even he is working through a contractor. And such agreement must be registered by the producer of that feature film with the competent authorities.

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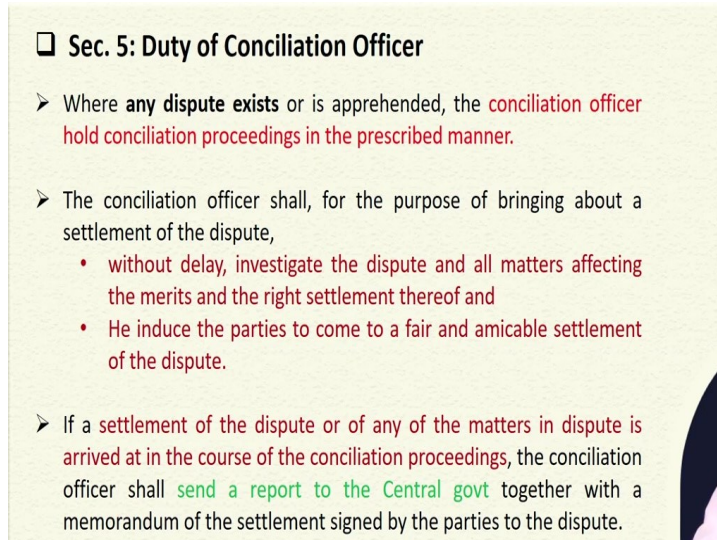
❑ **Sec. 4: Conciliation Officers**

- The Central Government appoint such number of persons as it thinks fit to be conciliation officers charged with the duty of mediating and promoting the settlement of any dispute between:
 - a cine-worker and the producer of the film in, or in connection with, which he has been employed or the contractor or other person through whom he has been so employed, with respect to the terms and conditions or termination, of employment of such cine-worker.

So, provisions are taken from these provisions and also the Cine Workers Act which provides for the appointment of conciliation officers. And the conciliation officer's duty is mediating

and promote the settlement of any dispute between the cine worker and the producer and also with the contractor and the person through whom he worked. So, for any kind of dispute resolution, there is a mechanism for the appointment of cancellation officers.

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□ Sec. 5: Duty of Conciliation Officer

- Where **any dispute exists** or is apprehended, the **conciliation officer hold conciliation proceedings in the prescribed manner.**
- The conciliation officer shall, for the purpose of bringing about a settlement of the dispute,
 - **without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and**
 - **He induce the parties to come to a fair and amicable settlement of the dispute.**
- If a **settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings**, the conciliation officer shall **send a report to the Central govt** together with a memorandum of the settlement signed by the parties to the dispute.

And the duty of conciliation officers includes a complete settlement of the dispute, without any delay. He can investigate the disputes and matters affecting the merits and also he can induce the parties to come to a fair and amicable settlement. So, the settlement of dispute of any of the matters in dispute arrives in the course of conciliation proceedings. The conciliation officer can send a report to the Central Government together with a memorandum of settlement signed by both parties. So, the conciliation officers can appoint, and they can act as a very crucial role in the settlement of disputes between the producer and cine workers or a contractor and cine worker.

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❑ **Sec. 5: Duty of Conciliation Officer**

- If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after closing of the investigation, send to the Central Govt. a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at.
- If, on a consideration of the report the Central Govt. may refer to a Tribunal, and where that Govt does not make such a reference, it shall record and communicate to the parties concerned its reasons therefor.

The duties include an investigation into the matters, sending a report to the central government and ascertaining the facts relating to that particular dispute or bringing the dispute to the supplement the government can also refer the matters to the tribunal for the dispute settlement of matters between the cine worker and the produce under this particular code.

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❑ **Sec. 6: Settlement to be binding and to be enforced by the competent authority**

- Every settlement arrived at in the course of a conciliation proceeding under this Chapter shall be binding on all the parties to the dispute and shall not be called in question in any court and it shall be the duty of the competent authority to enforce the terms of the said settlement.

And the settlement is binding on the parties and will be enforced by the competent authority. So, that means, if a settlement arrived in the course of conciliation proceedings, every settlement shall be binding on the parties and such settlement shall not be questioned in any court. And it is the duty of every comment authority to enforce the terms and conditions of

this particular settlement between the parties. We will see what are the provisions included for the Cine workers in the new Occupational Safety Health and Working Conditions Code 2020.

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❑ **Sec. 120: Effect of law and agreements inconsistent Code**

- The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force; or
- In the terms of any award, agreement or contract of service whether made before or after the commencement of this Code

So, it says that any provisions of any law that is inconsistent with the code for the time being in force are going to be invalid. So, it means the new provisions are going to be taken over the old provisions.

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• **Dock Workers in India**



Source – timeskuwait.com

- Dock Workers under **The Dock Workers (Safety, Health and Welfare Act, 1986 - Repealed**

So, we will see another separate category of workers, which is known as dock workers. And they are also separate classes also because the central government come out with specific legislation for them because they are a separate class of workers, dock workers and the peculiar nature of their work is also a very important factor to pass the legislation in 1986 that is the Dockworker Safety, Health and Welfare Act of 1986. So, the central government come out with a Central Act.

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❑ Objective

- To regulate the employment of dock workers

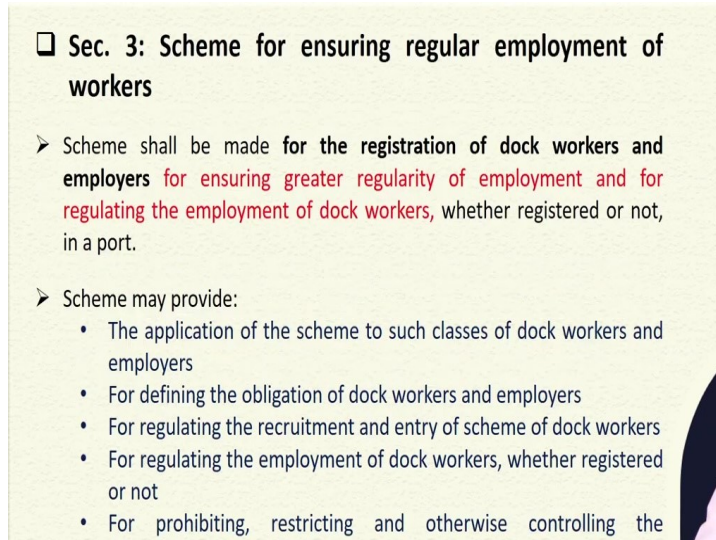
❑ Sec. 2(b): Definition of “Dock Worker”

- Refers to a **person employed or to be employed** in, or **in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port;**

So, the dock worker has been defined under Section 2(b) of the Act. So, the Act is to regulate the employment of dock workers. So, who is the dock worker? The dock worker refers to a person employed or to be employed in the vicinity of or any port on working connection with the loading, unloading, movement or storage of cargoes or work in connection with the

preparation of ships or other vessels for the receipt and discharge of cargoes leaving the port. So, people not really working in the dock, people who were working on the grounds related to the ships or vessels are also under the definition of a dock worker.

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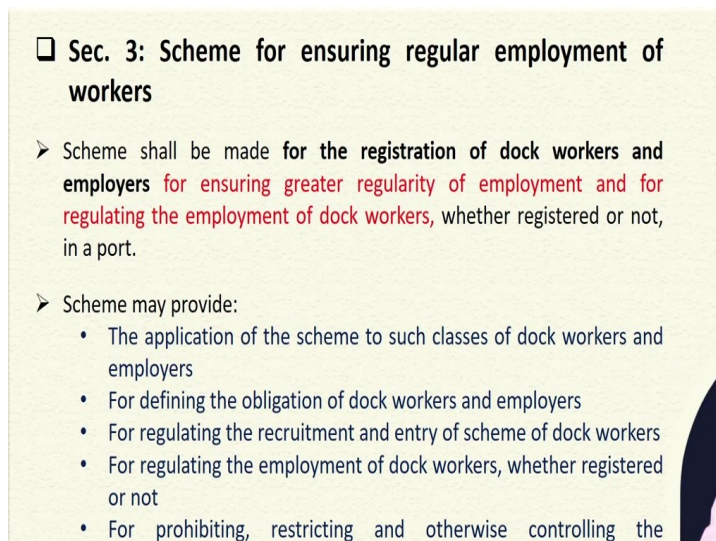


❑ Sec. 3: Scheme for ensuring regular employment of workers

- Scheme shall be made **for the registration of dock workers and employers for ensuring greater regularity of employment and for regulating the employment of dock workers**, whether registered or not, in a port.
- Scheme may provide:
 - The application of the scheme to such classes of dock workers and employers
 - For defining the obligation of dock workers and employers
 - For regulating the recruitment and entry of scheme of dock workers
 - For regulating the employment of dock workers, whether registered or not
 - For prohibiting, restricting and otherwise controlling the

There are various schemes for ensuring the regular employment of workers and registration of dock workers and employees. So, there must be the ensuring regularity of employment. So, the scheme includes the scheme to such classes of dock workers and employees for defining the obligation of dock workers and employees, regulating the recruitment and entry of the scheme of dock workers regulating the employment of dock workers, and prohibiting, restricting and otherwise controlling the employment of dock workers.

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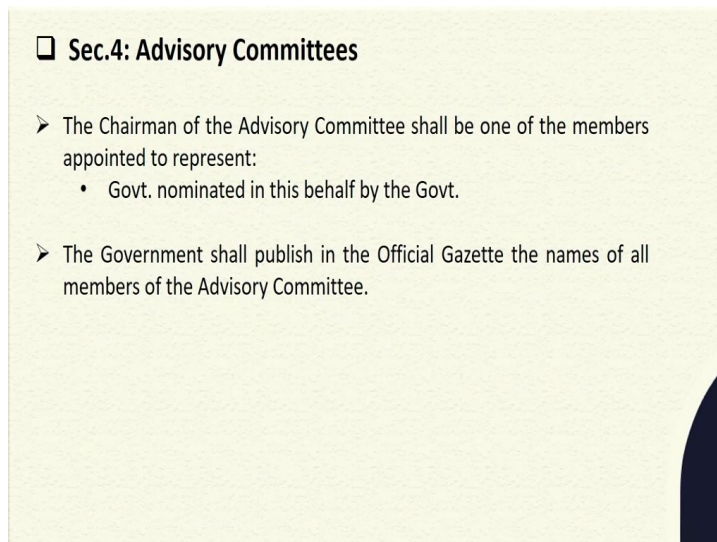
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So, we can see the dock workers are very clearly defined and also the internment of regular working to this particular class of workers. And also we can see that the training of dock workers there is a portion for the training of dock workers and also welfare officers and also the appointment of the Welfare Board and also authorities responsible for the administration of this particular scheme.

So, that means the dockworkers are very clearly mentioned and their working conditions are going to be regulated and advisory committees are appointed under this particular Act. So, the Central Government constitute advisory committees and gives recommendations to the Central Government with regard to dockworkers and also shipping companies.

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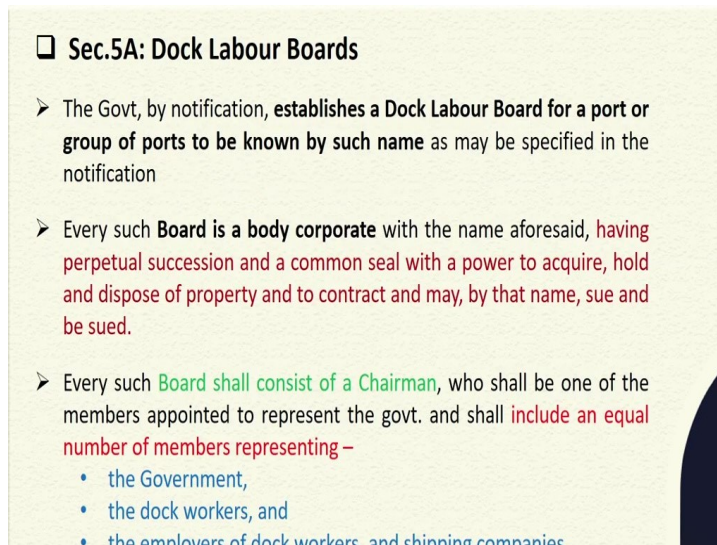


□ Sec.4: Advisory Committees

- The Chairman of the Advisory Committee shall be one of the members appointed to represent:
 - Govt. nominated in this behalf by the Govt.
- The Government shall publish in the Official Gazette the names of all members of the Advisory Committee.

So, the chairman of the advisory board is to be nominated by the Central Government and Central Government will publish the members of the administrative or this particular advisory committee in the gazette.

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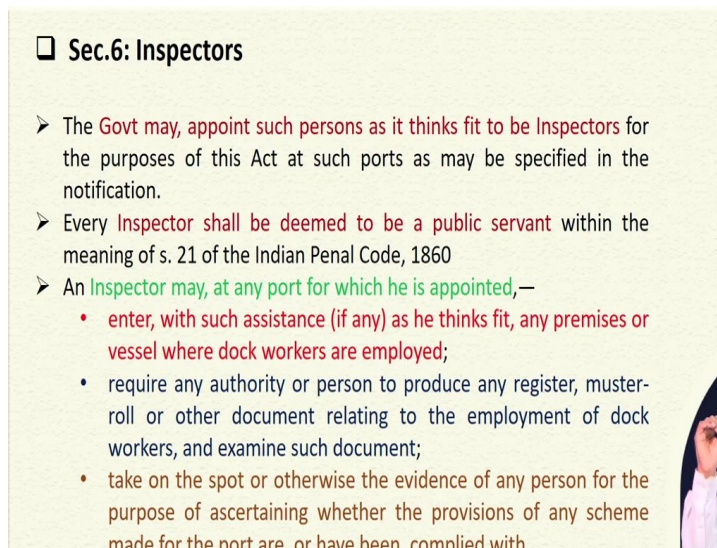


□ Sec.5A: Dock Labour Boards

- The Govt, by notification, **establishes a Dock Labour Board for a port or group of ports to be known by such name** as may be specified in the notification
- Every such **Board is a body corporate** with the name aforesaid, **having perpetual succession and a common seal with a power to acquire, hold and dispose of property and to contract and may, by that name, sue and be sued.**
- Every such **Board shall consist of a Chairman**, who shall be one of the members appointed to represent the govt. and shall **include an equal number of members representing –**
 - the Government,
 - the dock workers, and
 - the employers of dock workers and shipping companies

And we can see the Dock and Labour Welfare Boards being considered by the Central Government from time to time. And the Boards are considered to be a body corporate and having perpetual succession and a common seal. They can acquire properties, sell properties and enter into contracts. And the Board has consisted of a chairman and such number of members to be appointed by the Central Government and also includes an equal number of members representing the government dockworkers and the employees of dock workers. So, it is purely a tripartite body.

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□ Sec.6: Inspectors

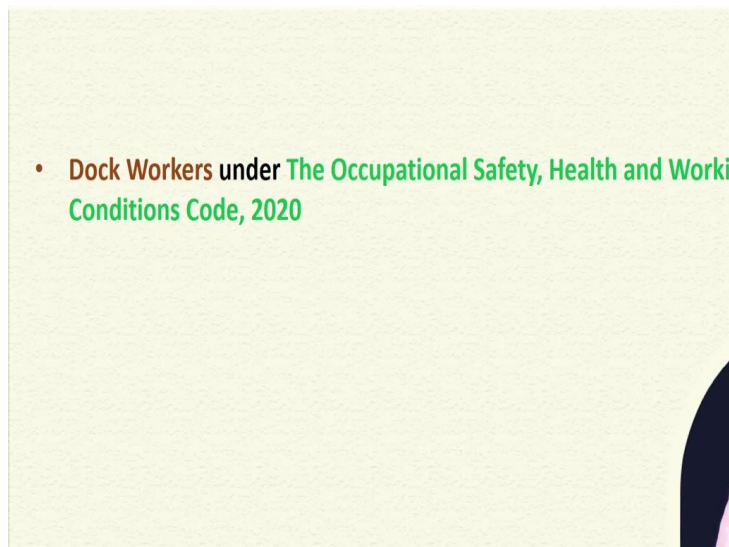
- The **Govt may, appoint such persons as it thinks fit to be Inspectors** for the purposes of this Act at such ports as may be specified in the notification.
- Every **Inspector shall be deemed to be a public servant** within the meaning of s. 21 of the Indian Penal Code, 1860
- An **Inspector may, at any port for which he is appointed, –**
 - **enter, with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed;**
 - require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document;
 - take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are or have been complied with

So, for the labourers, dock workers and every labour legislation the role of Inspector is very important. So, the provision says that government may appoint such persons as the things fit

to be the Inspectors. So, Inspectors appointed can take the assistance of others to enter the premises and also the dockworkers where they are employed. So, it also the provisions also require any authority or person to produce any register, muster roll, or other documents relating to the employment and to examine such documents.

And also, these workers and you can see the worker's examiner and any person for the purpose of ascertaining whether the provisions of the scheme are applicable or not. Not only in the port, but in any other place, the inspectors can visit to ascertain whether they are dock workers.

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And we will see the specific provisions with regard to the dock workers. So, the Central Government can make regulations or the Central Government can come up with rules specifically with regard to the dockworkers and the Central Government can appoint an Inspector cum facilitator and also the Chief Inspector cum facilitator. And also, we can see that the safety of regular workers of the dock wharf and also the quay and other places of dock workers are very important in the purview of these particular provisions.

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❑ **Sec.136: Power of Central govt to make regulations in relation to dock workers**

- 5) For the efficient lighting of all area of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment
- 6) Providing and maintaining adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed
- 7) Providing for the fire and explosion prevention and protection
- 8) Providing for safe means of access to ships, holds, staging, equipment, lifting appliances and other working places
- 9) Providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the docks which may be dangerous to them

And provision says that there must be efficient lighting of all the dark areas, ship any other vessel, dock structure, and working places, sufficient lighting and also providing and maintaining adequate ventilation and suitable temperature in every building and enclosure on the ship where the dock workers are employed. And also, we can see that safe means of access to the ship's holds, stagings, equipment, lifting appliances and other workplaces are also provided.

Providing the safety of workers is very important as the opening and closing of hatches and also the protection of ways and other openings in the docks which may be dangerous. So, the Central Government can make rules with regard to these dock workers.

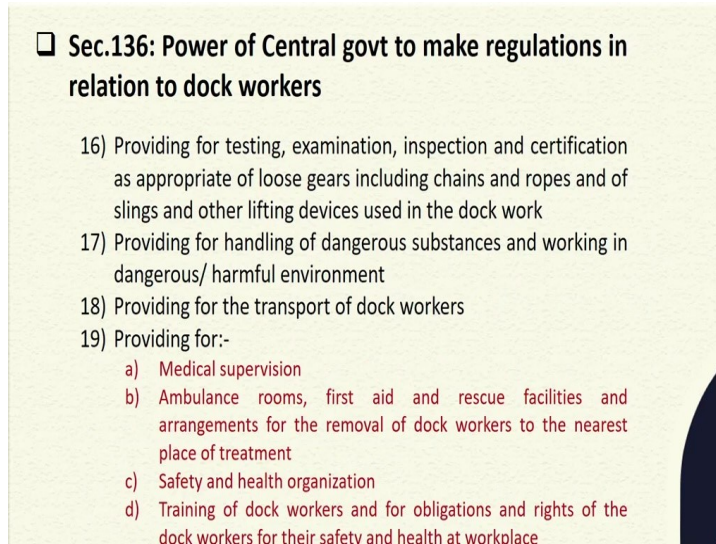
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❑ **Sec.136: Power of Central govt to make regulations in relation to dock workers**

- 10) Providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations
- 11) Providing for the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary
- 12) Providing for the safety of workers employed in freight container terminals or other terminals for handling unitized cargo
- 13) Providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings
- 14) Providing for the construction, maintenance and use of staging
- 15) Providing for the rigging and use of ship's derricks

And the safety of dock workers is very important as the risk of falling overboard and being struck by cargo during loading and unloading operations. And freight containers, terminals and other terminals handling is also very important.

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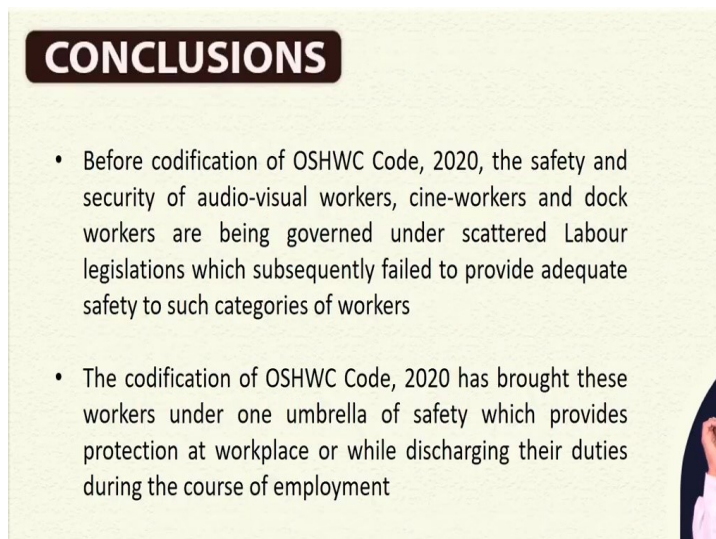


❑ Sec.136: Power of Central govt to make regulations in relation to dock workers

- 16) Providing for testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work
- 17) Providing for handling of dangerous substances and working in dangerous/ harmful environment
- 18) Providing for the transport of dock workers
- 19) Providing for:-
 - a) Medical supervision
 - b) Ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment
 - c) Safety and health organization
 - d) Training of dock workers and for obligations and rights of the dock workers for their safety and health at workplace

And also, we can see these provisions. The power of the Central Government to make regulations with regard to these dock workers is because mostly the docks are working under the Central Government and the State Governments. So, other facilities like medical supervision are to be provided, ambulance rooms, first aid rooms and also Safety and Health Organizations. Safety conditions are to be checked actually for the dock workers and training for dock workers is to be provided.

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CONCLUSIONS

- Before codification of OSHWC Code, 2020, the safety and security of audio-visual workers, cine-workers and dock workers are being governed under scattered Labour legislations which subsequently failed to provide adequate safety to such categories of workers
- The codification of OSHWC Code, 2020 has brought these workers under one umbrella of safety which provides protection at workplace or while discharging their duties during the course of employment

So, the Central Government has a lot of powers and duties to provide all these things. So, when we look into this, the first class, the audio-visual workers, cine workers and dock workers, the common thread is very clear. Now, they are identified and defined very clearly under the new provisions and the audio-visual workers are first time introduced in the particular code. So, the old code as well as the new codes, which talk about cine workers and dock workers very clearly. Some clarity has been made. And that new code has included provisions with regard to this the first category of workers which is the audio-visual workers.

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So, we assume that with this advent of these new provisions, the earlier provisions will be repealed and the new provisions are going to help lakhs of people, those who are working in the normal in the cine film, but also in the audio-visual area, more number of people will note. Thank you.