

01.04.2017

To  
Mr. S. K. Tripathi,  
Under Secretary (LRC),  
Ministry of Labour & Employment,  
Room No. 17, Shram Shakti Bhavan,  
Rafi Marg,  
New Delhi – 110001  
email: sushil.tripathi@nic.in

Sub: Draft Labour Code on Social Security & Welfare –**Quantum of Disablement benefits drastically reduced** - Letter No. 7 - suggestions - sent.

Ref: Memo No. No. Z-13025/ 13 /2015-LRC dated 16.03.2017

Sir,

I have to state that the Disablement benefits under the Code do not match the benefits under the ESI Act, 1948. I submit my observations on the draft Labour Code as under:

Section/ Sub-section/ Clause/ Proviso of the Code	Issue / Problem identified in the clause	Proposed Change / correction that should be made	Reason for proposed change
1	2	3	4
63.1 (a) (a)	Quantum of <b>Dependant's Benefit</b> has been drastically reduced in the Labour Code, when compared with what is available now under the ESI Act, 1948. <i>[even after making allowances due to the definition of the term 'benefit wage' under Sec.2.12 of the Code with reference to the 'Standard Benefit</i>	Sec. 63.1 (a) of the Labour Code must be amended and the quantum of Dependant's Benefit made equal to or more than what is provided for under Sec.. 58.2 of the ESI Act, 1948 read with Rule 2 (7-A) of the ESI (Central) Rules, 1950.	Sec. 58. 2 of the ESI Act, 1948 says, "The daily rate of dependant's benefit shall be ninety per cent of the standard benefit rate in the contribution period corresponding to the benefit period in which the employment injury occurs".  Rule 2 (7-A) of the ESI (Central Rules) 1950 , adds that standard benefit rate means average daily wages obtained by dividing the total wages paid during the contribution period by the number of days for which these wages were

	<p><i>Rate' as per Rule 2 (7-A) of the ESI (Central) Rules, 1950.]</i></p> <p>This is unfair.</p> <p>This becomes unlawful too, when the solemn assurance given to the persons already covered under the ESI Act is snatched away and only the assurance of reduced benefit is attempted to be given, and that too, unnecessarily, through the present Labour Code, in the event of death of the employees due to employment injury.</p>		<p>paid.</p> <p>This works out approximately to 90% of the wages of the deceased employee or, in certain cases, more than that amount.</p> <p>Even in the year 1952, the Dependant's Benefit was about 70 % of the wages. The Sickness benefit itself was about 55% of the wages, then.</p> <p>So, reducing the quantum of Dependant's benefit to 50% of the wages does not show that the intention of the Code-makers is to improve the standard of living of the workforce.</p> <p>This is patently unfair, unjust and unlawful.</p> <p>It is worth-comparing, in the context, that even the Sickness Benefit is 70% of the Standard Benefit Rate under the ESI Scheme, at present.</p>
63. 1 (a) (b)			<p>Sec. 63. 1 (a) (b) of the Labour Code adds, "such amount as may be prescribed, whichever is more".</p> <p>In this case, when the quantum of dependant's benefit assured by the Code has, unnecessarily been, reduced drastically, there is no reason for the people to believe that this uncertain sub-section would be used to provide matching benefits as given</p>

			now under the ESI Scheme.
63.1 (a) (a)	The word "wages" appearing after the phrase "benefit wage" and before the phrase "of the deceased" has to be deleted.	Please delete the extra word interpolated, apparently, through oversight.	The extra insertion of the word "wages" in this Section would become evident when compared with the phrasology of Sec. 63.1 (b) (i) of the Code.
63.1 (b) (i) & 63.1 (b) (ii)	Quantum of <b>Permanent Total Disablement Benefit</b> has been reduced in the Labour Code, when compared with what is available now under the ESI Act, 1948.	Sec. 63.1 (b) of the Labour Code must be amended and the quantum of Disablement Benefit made equal to or more than what is provided for under Sec. 57.3 of the ESI Act, 1948 read with Rule 2 (7-A) of the ESI (Central) Rules, 1950.	<p>When the ESI Act provides almost 90 % of the wages as the benefit for Permanent Total Disablement Benefit and Temporary Total Disablement as per Sec.57 (4) of the ESI Act, 1948, the benefit proposed to be provided under Sec. 63.1 (b) &amp; (d) of the Code is 60 % and 50% of the benefit wage, respectively, which is far less than what is provided under the ESI Act at present.</p> <p>Such a reduction in benefit shows that the Code is not for improving the lot of working population.</p> <p>The benefits under the Code do not match the benefits under the ESI Act, 1948</p>

I request you to kindly consider the suggestion made.

Yours faithfully,