

LABOUR LAW – Paper III

• HEATH PROVISIONS

UNDER THE

FACTORIES ACT, 1948

• OCCUPATIONAL DEASEASES AND INDUSTRIAL INJURIES

UNDER THE

EMPLOYERS COMPENSATION ACT, 1923

Name: Samatina A. Fernandes

S.Y. LL.M

G. R Kare College of

Law.

INDEX

Sr. No.	Title	Page
I	<u>Introduction</u>	1-2
	<u>ILO conventions</u>	3
II	<u>Definitions</u>	4
III	<u>Purpose/Aims/ Objectives</u>	5
IV	<u>Health Provisions under the Factories Act, 1948</u>	6-11
V	<u>Chemical Hazards</u>	12
	<u>Provisions relating to hazardous processes</u>	13-15
	<u>Protection from chemical hazards</u>	15
VI	<u>Occupational Health/ Diseases and industrial injuries under the Employers Compensation Act, 1923:-</u>	16-19
	<u>Schedule III - List of Occupational Diseases</u>	17
VII	<u>Conclusion</u>	20
	<u>Management to take steps</u>	20

I. INTRODUCTION:

Occupational health deals with all aspects of health and safety in the workplace and has a strong focus on primary prevention of hazards. The health of the workers has several determinants, including risk factors at the workplace leading to accidents, musculoskeletal diseases, cancers, respiratory diseases, hearing loss, circulatory diseases, stress related disorders and communicable diseases and others. Employment and working conditions in the formal or informal economy embrace other important determinants, including, working hours, salary, workplace policies concerning maternity leave, health promotion and protection provisions, etc.

The research and regulation of occupational health and safety are a relatively recent phenomenon; as labor movements arose in response to worker concerns in the wake of the industrial revolution, worker's health entered consideration as a labor-related issue. In 1833, HM Factory Inspectorate was formed in the United Kingdom with a remit to inspect factories and ensure the prevention of injury to child textile workers.

In 1840 a Royal Commission published its findings on the state of conditions for the workers of the mining industry that documented the appallingly dangerous environment that they had to work in and the high frequency of accidents. The commission sparked public outrage which resulted in the Mines Act of 1842. The act set up an inspectorate for mines and collieries which resulted in many prosecutions and safety improvements, and by 1850, inspectors were able to enter and inspect premises at their discretion.

Otto von Bismarck inaugurated the first social insurance legislation in 1883 and the first worker's compensation law in 1884 – the first of their kind in the Western world. Similar acts followed in other countries.

The Constitution of WHO stipulates the fundamental right of all people to the highest attainable standard of health. In addition, article 2 of Chapter II - of the Constitution specifies prevention of accidental injuries and the pro- motion of improvement of working conditions as functions of WHO. WHO has had a special programme for occupational health since 1950 and close coordination and collaboration has taken place with ILO. The Alma Ata Declaration emphasized the need to organize primary health care services (both preventive and curative) "as close as possible to where people live and work". The Declaration emphasized that in the organization of such services, high priority should be given to the people most in need, including the working populations at high risk. In 1979 a new

strategy for the further development of occupational health was launched when the World Health Assembly adopted Resolution WHA32.14 on the Comprehensive Workers' Health Programme. In 1980, Resolution WHA33.31 encouraged countries to integrate occupational health and primary health care services to cover underserved populations, particularly in developing countries. In the same resolution a need for further development of occupational health services, training and research was emphasized.

Health and Safety occupy a significant place in India's Constitution, which prohibits employment of children under the age of 14 in factories, mines and hazardous occupations. This policy aims to protect the health and strength of all workers by discouraging employment in occupations unsuitable to the worker's age and strength. It is the policy of the State to make provisions to secure just and humane conditions at work. The Constitution provides a broad framework under which policies and programmes for occupational health and safety can be established.

Legislation on occupational health and safety has existed in India for over 50 years. The principal health and safety laws are based on the British Factories Act. The Factories Act, 1948 has been amended from time to time, especially after the Bhopal gas disaster, which could have been prevented. The amendment demanded a shift away from dealing with disaster (or disease) to prevention of its occurrence. The Factories (Amendment) Act came into force on December 1, 1987. A special chapter on occupational health and safety to safeguard workers employed in hazardous industries was added. In this chapter, pre-employment and periodic medical examinations and monitoring of the work environment are mandatory for industries defined as hazardous under the Act. A maximum permissible limit has been laid down for a number of chemicals.

ILO conventions:

The International Labour Organisation frames key conventions for protecting the rights of workers; many of them are specifically on occupational health and safety. These conventions, once ratified by member states, form the guiding principles, for the formulation of national policies and laws.

The ILO has 18 conventions that are targeted at addressing the issue of occupational safety and health (OSH). Though India has ratified 41 ILO conventions and treaties on labour welfare and labour rights to date, out of the 13 conventions on OSH, it has ratified only four conventions¹.

Convention No. 115- Radiation Protection Convention, 1960

Convention No. 127- Maximum Weight Convention, 1967

Convention No. 136- Benzene Convention, 1971

Convention No. 174- Prevention of Major Industrial Accidents Convention, 1993

India is still to ratify important conventions like Convention 155 on occupational safety and health and the working environment, Convention 161 on occupational health services, Convention 167 on safety and health in construction, Convention 176 on safety and health in mines, Convention 184 on safety and health in agriculture, Convention 187, the promotional framework for occupational safety and health.

¹ <http://www.mfcindia.org>

II. DEFINITION:

As defined by the World Health Organization (WHO) "occupational health deals with all aspects of health and safety in the workplace and has a strong focus on primary prevention of hazards"².

Occupational health is a multidisciplinary field of healthcare concerned with enabling an individual to undertake their occupation, in the way that causes least harm to their health.

Since 1950, the International Labour Organization (ILO) and the World Health Organization (WHO) have shared a common definition of occupational health. It defines it to be, "The highest degree of physical, mental and social well-being of workers in all occupations".

It was adopted by the Joint ILO/WHO Committee on Occupational Health at its first session in 1950 and revised at its twelfth session in 1995.

The definition reads:

Occupational health should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations; the prevention amongst workers of departures from health caused by their working conditions; the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological capabilities; and, to summarize, the adaptation of work to man and of each man to his job.

The main focus in occupational health is on three different objectives:

- (i) The maintenance and promotion of workers' health and working capacity;
- (ii) The improvement of working environment and work to become conducive to safety and health and
- (iii) Development of work organizations and working cultures in a direction which supports health and safety at work and in doing so also promotes a positive social climate and smooth operation and may enhance productivity of the undertakings³.

² <http://en.wikipedia.org>

³ <http://en.wikipedia.org>

III. PURPOSE/AIMS/ OBJECTIVES:

The discipline of occupational health is concerned with the two-way relationship between work environment and health.

The philosophy aims to promote and maintain the highest degree of physical, mental and social well-being of workers in all occupations: to prevent departures from health caused by their working conditions; the protection of workers in their employment from risk resulting from factors adverse to health; the placing and maintenance of the workers in an occupational environment adapted to his physiological and psychological make-up.

Its main aim⁴ was to-

- To reduce industrial accidents.
- To prevent occupational hazards/ diseases.
- To achieve maximum human efficiency and machine efficiency.
- To reduce sick absenteeism.

Its main objective⁵ was to-

- To maintain and promote the physical, mental and social well being of the workers.
- To prevent occupational diseases and injuries.
- To adapt the work place and work environment to the needs of the workers i.e. application of ergonomics principle.
- It should be preventive rather than curative.

⁴ Dr. Selvaraj I.R. M.S., Senior Divisional Medical Officer southern Railways, India, in his PPT Presentation on Occupational Health.

⁵ Dr. Selvaraj I.R. M.S., Senior Divisional Medical Officer southern Railways, India, in his PPT Presentation on Occupational Health.

IV. Health Provisions under the Factories Act, 1948:

Introduction: - Factories produce several kinds of goods useful to the society. They in call the highest technology in the process of production, so also new means and methods are introduced in the factors which produce huge quantities of obnoxious gases and effluents causing danger to the workers.

The first Factories Act was enacted in 1881 which was replaced by the Act of 1934. The 1934 Act revealed a number of defects and weaknesses which hampered effective administration of the Act, therefore the Factories Act, 1948 was passed.

The Act is in tune with the spirit of the Constitution of India i.e. article 24, 39(e), 39(f), 42 and 48A.

Health Provisions: - Provisions relating to the health and cleanliness under the Factories Act, 1948 are contained in Chapter III of the Act.

1. Cleanliness: - Section 11 of the Act deals with Cleanliness it prescribes certain standard of cleanliness which every factory has to maintain. It says that every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance. The duties in particular are as follows:
 - a) Accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;
 - b) The floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;
 - c) Where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
 - d) All inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall-
 - i. Where they are painted otherwise than with washable waterpaint or varnished, be repainted or revarnished at least once in every period of five years.
 - ia. Where they are washable waterpaint, be repainted with a least one coat of such paint at least once in every period of three years and washed at least once in every period of six months.
 - ii. Where they are painted or varnished or where they have smooth impervious surfaces, be cleaned atleast once in evry period of fourteen months by such method as may be prescribed;

- iii. In any other case, be kept white washed or colour washed, and the white washing or colour washing shall be carried out at least once in every period of fourteen months.
 - dd) all doors and window frames and other wooden or metallic frame work and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years.
 - e) The date on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

Section 11(2) lays down, if in view of the nature of the operations carried out in a factory or class or description off factories or any part of a factory or any class or description of factories, it is not possible for the occupier to comply with all or any of the provisions of sub section (1), the state government may by order exempt such factory or class or description of factories or part thereof from any of the provisions of that sub-section and specify alternate methods for keeping the factory in a clean state.

- 2. Disposal of wastes and effluents: - Section 12 of the Act deals with Disposal of wastes and effluents. It states that effective arrangements must be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on it, so as to render them innocuous. Where the drainage system of a factory is proposed to be connected to the public sewage system, prior approval of the arrangements must be obtained from the local authority. In case of other factories prior approval of the arrangements made for the disposal of trade-wastes and effluents must be obtained from the Health Officer.
- 3. Ventilation and temperature: - Section 13 of the Act deals with Ventilation and temperature. It states that effective and suitable provisions must be made in every workroom for securing and maintaining:
 - a) Adequate ventilation by circulation of fresh air, and
 - b) Such temperature as will secure to workers reasonable comfort and prevent injury to their health.

The walls and roofs should be of such type as to keep the temperature low. Where the nature of work carried on in the factory is likely to produce excessively high temperatures, practicable measures should be taken to protect the workers by separating such process from the work-room by insulating hot parts or by other means.

The state Government may prescribe-

- a) Standards of adequate ventilation and reasonable temperature and direct a thermometer to be maintained as specified.
 - b) Where excessive high temperatures can be reduced by white-washing, spraying or insulating and screening outside walls or roofs or windows, or by raising the level of the roof or by insulating the roof, such or other methods as shall be adopted in the factory.
4. Dust and fume: - Section 14 of the Act deals with Dust and fume. According to Section 14, where dust or fume or impurity of such a nature is given off as a result of the manufacturing process which is likely to be injurious or offensive, effective measures must be taken to prevent its inhalation and accumulation in a workroom and if an exhaust appliance is necessary for this purpose, it shall be applied very near to the point of origin which must be enclosed.
An internal combustion engine which is stationary shall not be operated unless the exhaust is conducted into the open air. No internal combustion engine shall be operated in any rooms unless effective measures have been taken to prevent accumulation of fumes which are injurious.
5. Artificial humidification: - Section 15 of the Act deals with artificial humidification. It says that in respect of all factors in which the humidity of the air is artificially increased, the State Government may make rules-
- a) Prescribing standards of humidification;
 - b) Regulating the methods used for artificially increasing the humidity of the air,;
 - c) Directing prescribed test for determining the humidity of the air to be correctly carried out and recorded;
 - d) Prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

Section 15(2) states that in any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

Section 15(3) further states that if it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under Sub-Section (2) is not effectively purified he may serve on the manager of the

factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring that they be carried out before the specified date.

6. Overcrowding: - Section 16 of the Act deals with overcrowding in the factories. According to it-

- (1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed there.
- (2) There shall be an every workroom of a factory in existence on the date of the commencement of the Act at least 9.9 cubic meters and of a factory built after the commencement of the Act at least 14.2 cubic meters of space for every worker employed in it.
- (3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.
- (4) The Chief Inspector by order in writing exempt, subject to such conditions, if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance with it in respect of the room is unnecessary in the interest of the health of the workers employed there.

7. Lighting: - Regarding lightning in the factories, section 17 of the Act provides that in every part of a factory where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

Section 17(2) states that in every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and this is subject to the requirements of Section 13 as to ventilation and temperature.

Section 17(3) states that in every factory effective provision shall, so far as is practicable, be made for the prevention of –

- a) Glare, either directly from a source of light or by reflection from a smooth or polished surface;
- b) The formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

The State Government shall prescribe standards of sufficient and suitable lighting for factories of any class or description of factories or for any manufacturing process.

8. Drinking water: - Section 18 provides that a sufficient supply of wholesome drinking water must be provided and maintained at suitable and convenient points which shall be marked 'drinking water' in the language understood by a majority of workers.

No such point shall be within 7.5 meters of any working place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

In the factory where more than 250 workers are ordinarily employed, effective arrangements must be made for cooling drinking water during hot weather, and its distribution.

The State Government may make rules for securing compliance with above provisions and for examination of the supply and distribution of drinking water in factories.

9. Latrines and Urinals: - According to section 19, in every factory sufficient and separate latrines and urinals as prescribed for male and female workers must be provided.

The State Government is empowered to prescribe the number of latrine and urinals to be provided in any factory, in proportion to the number of male and female workers employed.

Further these must be adequately lighted and ventilated and no latrine or urinal shall, unless specially exempted by the Chief Inspector in writing, communicate with any workroom except, through an intervening open space or ventilated passage.

Such accommodation must be kept in a clean and sanitary condition, and sweepers must be employed for keeping latrines, urinals and washing places clean.

In factories where more than 250 workers are ordinarily employed-

- i) All latrines and urinals accommodation shall be prescribed sanitary types,
- ii) The floors and walls up to height of 90 cms of the latrines and urinals and the sanitary blocks shall be in glazed tiles or otherwise provided with a smooth polished impervious surface.
- iii) The floors, portions of the walls and blocks and sanitary pans of latrines and urinals shall be thoroughly washed and clean at least once in every 7 days with suitable detergents or disinfectants or both.

The State Government may provide for further matters of sanitation including the obligation of workers in this regard.

10. Spittoons: - Spittoons as prescribed by the State Government shall be provided at such convenient places and shall be kept in a clean and a hygienic condition.

Section 20 provides that no person shall spit within the premises of the factory except in Spittoons and a notice containing this [provision and the penalty for its violation shall be prominently displayed at suitable places.

Contraventions of this provision are punishable with a fine.

V. Chemical Hazards

There is hardly any industry, which does not make use of chemicals. The chemical hazards are on increase with the introduction of newer and complex chemicals. Chemical hazards form the most important group and comprise over 12000 toxic materials. Such materials may endanger life, affect health adversely, or cause severe discomfort due to their acute effect. Moreover, they may produce long-term disease such as cancer and pneumoconiosis by their chronic effects. Naturally occurring materials such as lead and mercury have been recognized as source of occupational disease for hundreds of years.

With rapid industrial development other minerals like asbestos, radioactive ores, and oil, which are also sources of occupational disease, have been taken from the earth. Growing range of man-made materials such as plastics, synthetic fibers, solvents, fertilizers, and pharmaceutical products all of which may be hazardous to those who make or use them. Plastics of all kinds are now widely used in Ethiopian urban centers and rural communities or villages and their effects are being felt in some areas already. The physical state of a chemical compound is important in determining its toxicity to man and the environment.

The effects of chemical agents are as follows:

1. Asphyxiation
2. Systemic intoxication
3. Pneumoconiosis
4. Carcinogens
5. Irritation

Among all chemical agents in workplace the most notorious and most in contact with the skin or respiratory system that deserve attention is Solvent. The term solvent means materials used to dissolve another material and it includes aqueous or non-aqueous system. Aqueous system includes those based in water.

Example: Aqueous solution of acids, Aqueous solution of alkalis, Aqueous solution of detergents.

Aqueous system has low vapor pressure thus the potential hazard by inhalation and subsequent systemic toxicity is not great.

Examples of non-aqueous systems: Aliphatic hydrocarbons, Aromatic hydrocarbons, Halogenated hydrocarbons, Cyclic hydrocarbons.

The solvent we are concerned in occupational health and safety will include any organic liquid commonly used to dissolve other organic material.

These are: Mineral spirits / Alcohol

Provisions relating to hazardous processes: -

The Provisions relating to hazardous processes are dealt under Chapter IV-A of the Factories Act, 1948.

1. Section 41-A: it requires the state government to appoint a Committee to render advice on applications for permission to start factory involving hazardous process. The Committee is to consist of –
 - a) Chief Inspector of the State as the Chairman;
 - b) A representative of the Central Board for the Prevention and Control of water pollution;
 - c) A representative of the Central Board for the Prevention and Control of air pollution;
 - d) A representative of the State Board appointed under Water (Prevention and Control of Pollution) Act, 1974;
 - e) A representative of the State Board appointed under Air (Prevention and Control of Pollution) Act, 1981;
 - f) A representative of the department of environment in the state;
 - g) A representative of the Meterological department of the Government of India;
 - h) An expert in the field of occupational health;
 - i) A representative of the town Planning Department of the State Government, and not more than five other members who may be co-opted by the State government who shall be–
 - i. A scientist having specialized knowledge of the hazardous process which will be involved in the factory'
 - ii. A representative of the local authority within whose jurisdiction the factory is to be established and
 - iii. Not more than three other persons as deemed fit by the State Government.
2. Section 41-B: This section demands the occupier of every factory involving hazardous process to disclose to the chief Inspector, local authorities and local public all information regarding dangers, health hazards, quantity and characteristics of wastes and disposal modality the measures to overcome such hazards in the manufacturing, transportation and storage process.
3. Section 41-C: Specific responsibility of the occupier in relation to hazardous processes: Every occupier of a factory involving any hazardous process shall-

- a) Maintain accurate and up-to-date health records, or as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxics or any other harmful substances which are manufactured, stored handled or transported or such records shall be accessible to the workers subject to conditions as may be prescribed.
 - b) Appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the workplace all the necessary facilities for protecting the workers in the manner prescribed.
 - c) Provide for medical examination of every worker-
 - i) Before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and
 - ii) While continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may prescribed.
4. Section 41-D: It empowers the central Government to appoint Inquiry Committee in the event of the occurrence of an extraordinary situation involving a factory engaged in hazardous process, to inquire into the standards of health and safety observed in the factory in finding out the causes of any failure or neglect in adopting such standards for the prevention of such extraordinary situations. The Committee shall consist of a chairman and two members. The recommendations of the Committee are advisory in nature.
 5. Section 41-E: Under this section, if the Central government is satisfied that no standards of safety or inadequate standards are prescribed to hazardous process, it may through competent expert bodies, lay down standards which shall be enforceable as if they have been incorporated in the rules under the Act.
 6. Section 41-G: Section 41-G requires the occupier of the factory involving hazardous process, unless exempted by the State Government, to set up Safety committee consisting of equal number of representatives of workers and management to maintain proper safety and health at work.
 7. Section 41-H: If the workers employed in hazardous process have reasonable apprehension of the likelihood of any imminent danger to their lives or health due to any accident, they may bring it to the notice of the occupier, manager or any person in charge and to the Inspector directly or through their safety committee representatives.

On such notice, the occupier, agent or the in-charge shall, if satisfied, take remedial measures and send report of the action taken to the nearest Inspector.

If the occupier or agent is not satisfied of such imminent danger, the matter shall be referred to the nearest Inspector whose decision shall be final.

Protection from chemical hazards:

The management of such factories and establishments need to take at most care to provide for protection from chemical hazards.

The Three basic methods of protection from chemical hazards include: engineering controls, personal protective equipment, and administrative controls⁶. Engineering controls are systems and equipment designed to prevent or decrease contact with a chemical. Examples include chemical fume hoods, ventilation fans, and secondary containers. Personal protective equipment (PPE) is protective clothing that is resistant to specific chemicals and acts as a barrier between the wearer and the chemical he or she is handling. Administrative controls are limitations imposed by supervisors to ensure exposures are minimized or eliminated. The supervisor is responsible for ensuring that appropriate controls are in place and used.

Engineering Controls: Engineering controls are considered the most effective form of exposure control. Before beginning a process or procedure, consider engineering controls that will decrease chemical exposure or risk of harm. Examples include grounding and bonding when transferring flammable liquids; using exhaust ventilation to decrease vapor concentration when using a volatile chemical; and storing hazardous chemicals in cabinets according to hazard class.

Personal Protective Equipment (PPE): PPE should be worn for protection from hazardous chemicals whenever contact is possible. PPE includes: gloves, safety glasses, face shields, Tyvek suits, labcoats, etc. The use of powdered latex gloves is prohibited. PPE must be selected according to the chemical hazard involved.

Administrative Controls: Administrative controls should be used to limit exposure durations. The most common example of administrative control is rotation of workers to minimize the length of time a worker is exposed to a certain chemical. This form of control should only be used under well-documented conditions and after engineering controls have first been considered or used.

⁶ www.extranet.fhcrc.org

VI. Occupational Health/ Diseases and industrial injuries under the Employers Compensation Act, 1923:-

Employment Injury (not industrial injury) has been defined in Employees State Insurance Act in section 2(8) as "a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India".

Under Workmen's Compensation Act, there is no specific definition for industrial/ employment injury. However section 3 of the said Act speaks about Injury as well as Occupational diseases.

The ingredients of Section 3(1) are:

- (a) The injury caused should be personal injury.
- (b) Such an injury should be the result of Accident.
- (c) The Accident arising out of and in the course of employment.
- (d) And the injury must have resulted in either death of employee or in total or partial disablement for a period exceeding three days.

Accident means unintended and unexpected occurrence which has produced hurt or loss. If the mishap is designed, intended or anticipated it is not an injury caused by accident.

Section 3(2) states that If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government 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 be deemed to be an injury by accident within the meaning of this section and, unless the contrary is

proved, the accident shall be deemed to have arisen out of, and in the course of, the employment. Provided that if it is proved,--

- (a) that a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this sub- section for that employment, and
- (b) that the disease has arisen out of and in the course of the employment; the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section.

Thus the List of Occupational Diseases is contained in Schedule III which is divided into three parts. The diseases contracted must be occupational diseases peculiar to the employment.

PART A of Schedule III: - Deals with –

- 1. Infection and parasitic diseases contracted in an occupation where there is a particular risk of contamination.
 - a. And it includes all work involving exposure to health or laboratory work, veterinary work or work relating to handling animal, animal carcass, etc.
- 2. Diseases caused by work in compressed air.
- 3. Diseases caused by lead or its toxic compounds.
- 4. Poisoning by nitrous fumes.
- 5. Poisoning by organ phosphorus compounds.
And it includes all work involving exposure to the risk concerned.

PART B of Schedule III: - Deals with –

- 1. Diseases caused by phosphorous or its toxic compounds.
- 2. Diseases caused by mercury or its toxic compound.
- 3. Diseases caused by benzene or its toxic homologues.
- 4. Diseases caused by nitro and amido toxic derivatives of benzene or its toxic homologues.
- 5. Diseases caused by chromium or its toxic compounds.
- 6. Diseases caused by arsenic or its toxic compound.
- 7. Diseases caused by radioactive substances and ionizing radiations.

8. Primary epitheliomatous cancer of the skin caused by tar, pitch bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.
9. Diseases caused by the toxic halogen derivatives of hydrocarbons.
10. Diseases caused by carbon disulphide.
11. Occupational cataract due to infra-red radiations.
12. Diseases caused by manganese or its toxic compounds.
13. Skin disease caused by physical, chemical or biological agents not included in other items.
14. Hearing impairment caused by noise.
15. Poisoning of dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.
16. Diseases caused by heryllium or its toxic compounds.
17. Diseases caused by cadmium or its toxic compounds.
18. Occupational asthma caused by recognized sensitising agents inherent to the work process.
19. Diseases caused by fluorine or its toxic compounds.
20. Diseases caused by nitroglycerine or other nitroacid asters.
21. Diseases caused by alcohols and ketones.
22. Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulphide.
23. Lung cancer and mesotheliomas caused by asbestos.
24. Primary neoplasm or the epithelial lining of the urinary bladder or the kidney or the ureter.

And it includes all work involving exposure to the risk concerned.

PART C of Schedule III: - Deals with –

1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis, asbes-tosis) and silicotuberculosis provided that silicosis is the essential factor in causing the resultant incapacity or death.
2. Bagassosis.
3. Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust.
4. Extrinsic allergic alveitis caused by the inhalation of organic dusts.
5. Bronchopulmonary diseases caused by hard metals.

And it includes all work involving exposure to the risk concerned.

Section 3 (2A) states that if a workman employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.

Section 3(3) states that the State Government in the case of employments specified in Part A and Part B of Schedule III, and the Central Government in the case of employments specified in Part C of that Schedule, 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 Schedule III, 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 subsection (2) shall apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

VII. CONCLUSION:

The scope of occupational health safety and hygiene includes prevention and control of hazards, curative and rehabilitative programs.

These are: -

1. Establishment of sound sanitary condition within the work place such as Water supply, waste disposal, canteen, cloak room, shower and hand washing facilities, sanitary and safe storage of chemicals.
2. Organization of health services including first aid
3. Health promotion in the work environment
4. Rehabilitation of those that have been injured
5. Prevention, diagnosis, and treatment of occupational related diseases and accidents.

The management of all Factories and establishments shall consider the following steps:-

- Strengthening of international and national policies for health at work and development of policy tools
- Developing healthy working environment
- Developing healthy work practices and promoting health at work
- Establishing support services for occupational health
- Developing occupational health standards based on scientific risk assessment
- Developing human resources for occupational health
- Establishing registration data system and raising public awareness through strengthened public information system
- Developing collaboration in occupational health services and organization

BIBLIOGRAPHY

1. Shrivastava S. C.
Social Security and Labour law,
Eastern Book Company, Lucknow, 1985.
2. Dr. Singh Avtar
Introduction to Labour and Industrial Law,
LexisNexis Buttterworths Wadhwa Nagpur, Second Edition, 2008
3. Mishra S. N.
Labour & Industrial Laws,
Central Law Publications, 24th Edition, 2008.
4. Pillai K. M.
Labour and Industrial Law,
Allahabad law Agency, Tenth Edition, 2005.
5. H. K. Saharay
Industrial and Labour Laws of India, 1987.
6. <http://en.wikipedia.org>
7. http://www.who.int/topics/occupational_health/en