

Employee State Insurance:

For a handful of contribution, a bagful of benefits

M Gopinath & Hari Krishna

Introduction

The Employee State Insurance Act, [ESIC] 1948, is a piece of social welfare legislation enacted primarily with the object of providing certain benefits to employees in case of sickness, maternity and employment injury and also to make provision for certain others matters incidental thereto. The Act in fact tries to attain the goal of socio-economic justice enshrined in the Directive principles of state policy under part 4 of our constitution, in particular articles 41, 42 and 43 which enjoin the state to make effective provision for securing, the right to work, to education and public assistance in cases of unemployment, old age, sickness and disablement. The act strives to materialise these avowed objects through only to a limited extent. This act becomes a wider spectrum than factory act. In the sense that while the factory act concerns with the health, safety, welfare, leave etc of the workers employed in the factory premises only. But the benefits of this act extend to employees whether working inside the factory or establishment or else where or they are directly employed by the principal employee or through an intermediate agency, if the employment is incidental or in connection with the factory or establishment.

In this project I have tried to analyse two important questions i.e. what is ESIC all about? And whether the ESIC in Delhi is catering to the needs of its employees. The ever expanding industrial horizon and reciprocal uprising of labour consciousness necessitate the employee and employer to be conversant with the current labor legislation that govern their relationship, rights and obligation.

The Beginning

The Employee State Insurance act was promulgated by the Parliament of India in the year 1948. To begin with the ESIC scheme was initially launched on 2 February 1952 at just two industrial centers in the country namely kanpur and Delhi with a total coverage of about 1.20 lac workers. There after the scheme was implemented in a phased manner across the country with the active involvement of the state government.¹

Applicability

The ESIC Act applies to non-seasonal, power using factories or manufacturing units employing ten or more persons and non-power using establishments employing twenty or more persons. Under the enabling provisions of the act, a factory or establishment, located in a geographical area, notified for implementation of the scheme, falls in the purview of the act. Employees of the aforesaid categories of factories or establishments, but drawing wages only up to Rs 6,500 a month are entitled to health insurance cover under the ESI act. The wage ceiling for purpose of coverage is revised from time to time; to keep pace with rising cost of living and subsequent wage hikes. The present ceiling of Rs 6,500 has been effective from 1 January 1997 the appropriate government state or central is empowered to extend the provision of the ESI Act to various classes of establishment, industrial, commercial, agricultural or otherwise in nature. Under these enabling provisions most of the state governments have extended the ESI act to certain specific classes of establishments. Like shops,

¹ESI Act.1948. Sec.1

hotels, restaurants, cinemas, employing 20 or more persons.² But no industry has the right to opt out of the scheme.

Wage ceiling for coverage

The monthly wage limit for coverage under the ESI act would be such as prescribed by the central government in the ESI [central] rules, 1950. The existing wage ceiling for coverage [excluding remuneration for over-time work] is Rs.6500 per month [rule 50 of ESI central rules, 1950]. An employee who is covered at the beginning of a contribution period shall continue to remain covered till the end of that contribution period notwithstanding the fact that his wages may exceed the prescribed wage ceiling at any time after the commencement of that contribution period. **Wage ceiling for purpose of coverage is revised from time to time by the central government on the specific recommendation of the corporation, at present the corporation has recommended for the increase of the wage limit to Rs 10,000 and its implementation is awaited.**

Bar against recovery of compensation or damages under any other law

An insured person or his dependants shall not be entitled to receive or recover, whether from the employer or any other person, any compensation or damages under the Workmen's Compensation act or Provident Fund act or any other law for the time being in force, in respect of an employment injury sustained by the insured person as an employee under this act.³ If there is any change in the provident fund act, it doesn't affect the ESIC Act. The difference between employee and insured person is that employee is the person who makes the contribution to the scheme and get benefits and IP's may or may not be the contributors to the scheme but are entitled to the benefits by virtue of earlier contribution or insured employment.

Coverage

With the implementation of ESI scheme, at just two industrial centres in 1952, namely kanpur and Delhi, there was no looking back since then in terms of its geographic reach and demographic coverage. Keeping pace with the process of industrialization, the scheme today stands implemented at over 679 centres in 25 states and union territories. The Act now applies to 230 thousand factories and establishments across the country, benefiting about 8.30 million family units of workers in the wage brackets. As of now, the total beneficiary population stands at about 32 million.⁴

Administration

The comprehensive and well-designed social security programme is administered by an apex corporate body called the Employee State Insurance Corporation. It comprises members representing vital interest groups that include, employee, employers, the central and state government, besides, representatives of parliament and medical profession. The corporation is headed by the union minister of labour, as its chairman, where as, the director general, appointed by the central government functions as its chief executive officer. A standing committee constituted from amongst the members of the corporation, acts as an executive body. The medical benefit council, constituted by the central government, is yet another statuary body that advises the corporation on matters related to effective delivery services to the beneficiary population. The corporation with its central head quarters at New Delhi, operates through a network of 26 regional and sub- regional offices located in various state. The respective state governments take care of the administration of medical benefit. Except in case of Delhi and Noida, greater Noida areas of Uttar pradesh, where, the corporation administers medical facilities directly.⁵

² ESI Act.1948.Sec.1

³ ESI Act.1948. Sec.53&61

⁴ 2001-2002. ESI Annual Report

⁵ ESI Act 1948. Sec 8,9,10.

Finance

Like most of the social security schemes, the world over, ESI scheme is a self-financing health insurance scheme. Contributions are raised from covered employees and their employers as a fixed percentage of wages. As of now, covered employees contribute 1.75% of the wages, whereas as the employers contribute 4.75% of the wages, payable to the insured persons. **Employers earning less than Rs 40** a day as daily wage are exempted from payment of their share of contribution. The state government as per the provision of the act contributes 1/8 of the expenditure on medical benefit within a per capita ceiling of Rs.600 per insured person per annum. Any additional expenditure incurred by the state government, over and above the ceiling, and not falling within the shareable pool, is borne by the state governments concerned.⁶ The contribution is deposited by the employer in cash or by cheque at the designated branches of some nationalised banks. The responsibility for payment of all contributions is that if the employer with a right to deduct the employees share of contribution from employees wages relating to the period in respect of which the contribution is payable.⁷

Contribution periods and benefit period

Workers, covered under the ESI Act, are required to pay contribution towards the scheme on a monthly basis contribution period means a six-month time span from 1 April to 30 October and 1 November to 31 March. Thus, in a financial year there are two contribution periods of six months duration. Cash benefits under the scheme are generally linked with contribution paid. The benefit period starts their months after the closure of a contribution period,

<u>Contribution period</u>	<u>corresponding benefit period</u>
1 April to 30 September	1 January to 30 June of the following year
1 October to 31 March	18 July to 31 December

Registration

Simultaneously with his or her entry into employment in a covered factory or establishment, an employee is required to fill in a declaration form. The employee is then allotted a registration number, which distinguishes and identifies the person for the purposes of the scheme. A person is registered once and only upon his entry in insurable employment.⁸ But **recent SC's judgement in Balakrishna v ESIC** has held that a worker covered under the act would be entitled to benefit from the date of his employment and not from the date of registration after contribution by the employer.

Identity card

On registration every insured person is provided with a 'temporary identification certificate' which is valid ordinarily for a period of three months but may be extended, if necessary, for a further period of 3 months. Within this period, the insured person is given a permanent 'family photo identity card' in exchange for the certificate. The identity card serves as a means of identification and has to be produced at the time of claiming medical care at the dispensary/ clinic and cash benefit at the local office of the corporation. In the event of change of employment, it should be produced before the new employer as evidence of registration under the scheme to prevent any duplicate registration. The identity card bears the signature/thumb impression of the insured person.

Since medical benefit is also available to the families of Insured persons, the particulars of family members entitled to medical benefit are also given in the identity card affixed with a postcard size family photo. If your identity card is lost, a duplicate card is issued on payment as prescribed.⁹

⁶ ESI Act 1948. Sec 38.

⁷ Employees Guide-2003 'Know Your Scheme'

⁸ ESI Act 1948. Sec.11.

⁹ Employees Guide- ESIC.

Appointment of office bearers

The doctors in the ESI hospitals, staffs and other office bearers of ESIC are appointed by the respective state governments, except in Delhi where they are appointed by the ESI Corporation.

Local office

A network of local office has been established by the corporation in all implemented areas to disburse all claims for sickness, maternity, disablement and dependents benefit. The local office answers all doubts and inquiries and assists otherwise in filling in claim forms and completing other action necessary in connection with the settlement of claims. These office also interact with the employers of the area. The local offices are managed by a manager and work under the control of the regional office.

Infrastructure

Ever since its inception in 1952, the infrastructural network of the scheme has kept expanding to meet the social security requirements of an ever-increasing worker population. ESI corporation has, so far, set up 138 hospitals and 43 hospital annexes with about 26,000 beds for inpatients services are provided through network of 1,443 ESI dispensaries, 3,000 panel clinics and over 300 diagnostic centres, the corporation has set up five occupational disease centers, one each at Mumbai, Delhi, Calcutta, Chennai, Nagda for early detection and treatment of occupational diseases prevalent among workers employed in hazardous industries. For payment of cash benefits, the corporation operates through a network of over 840 local offices and cash offices, whose functioning is supervised by the regional/ sub-regional offices. At the grass root level, services delivery units, comprising dispensaries, clinics, hospitals and local offices etc are the mainstay of the huge service intensive set-up.¹⁰

Social security benefits

Quantum, scale and contributory conditions

Employees covered under the scheme are entitled to medical facilities for self and dependents. They are also entitled to cash benefits in the event of specified contingencies resulting in loss of wages or earning capacity. The insured women are entitled to maternity benefit for confinement. Where death of an insured employee occurs due to employment injury or occupational disease, the dependents are entitled to family pension.

Various benefits that the insured employees and their dependents are entitled to, the duration of benefits and contributory conditions therefor are as under

1. Medical benefit

Full medical facilities for self and dependents are admissible from day one of entering insurable employment. Whereas, the primary, out patient, in patient and specialist services are provided through a network of panel clinics, ESI dispensaries and hospitals, super specialty services are provided through a large number of advanced empanelled medical institutions on referral basis.

Eligibility to medical benefit

- From day one of entering insurable employment for self and dependents such as spouse, parents and children own or adopted.
- For self and spouse on superannuation subject to having completed five years in insurable employment on superannuation or in case of having suffered permanent physical disablement during the course of insurable employment.
- The rate of contribution for superannuated/ disabled is Rs 1,220 per annum payable in lump sum at the local office for availing full medical care for self and spouse.¹¹

¹⁰ An Introduction- ESIC Scheme of India.

¹¹ ESI Act 1948. Sec 56.

2. Sickness benefit [cash]

Sickness benefit is payable to an insured person in cash, in the event of sickness resulting in absence from work and duly certified by an authorised insurable medical officer/ practitioner.

- The benefit becomes admissible only after an insured has paid contribution for at least 78 days in a contribution period of 6 months.
- Sickness benefit is payable for a maximum of 91 days in two consecutive contribution period.[one year]
- Payment is to be made by the local office within 7 days of certificate of sickness at a standard rate, which is not less than 50% of the wages.¹²

[The logic behind fixing of 78 & 91 days of contribution is based on certain statistics worked by the corporation to give cash benefits. But the officials in the corporation don't know how it is fixed.]

3. Extended sickness benefit [cash]

Extended sickness benefit is payable to insured persons for the period of certified sickness in case of specified 34 long-term diseases that need prolonged treatment and absence from work on medical advice.

- For entitlement to this benefit an insured person should have been in insurable employment for at least 2 years. He/ she should also have paid contribution for a minimum of 156 days in the preceding 4 contribution periods or say 2 years.
- ESI is payable for a maximum period of 2 years on the basis of proper medical certification and authentication by the designated authority.
- Amount payable in cash as extended sickness benefit is payable within 7 days following the submission of complete claim papers at the local office concerned.¹³

4. Enhanced sickness benefit [cash]

This cash benefit is payable to insured persons in the productive age group for undergoing sterilisation operation, viz., vasectomy/ tubectomy.

- The contribution is the same as for the normal sickness benefit.
- Enhanced sickness benefit is payable to the IP's for 14 days for tubectomy and for seven days in case of vasectomy.
- The amount payable is double the standard sickness benefit rate that is, equal to equal to full wages.

5. Maternity benefit [cash]

Maternity benefit is payable to insured women in case of confinement or miscarriage or sickness related thereto.

- For claiming this an insured woman should have paid for at least 70 days in 2 consecutive contribution periods i.e. 1 year.
- The benefit is normally payable for 12 weeks, which can be further extended up to 16 weeks on medical grounds.
- The rate of payment of the benefit is equal to wage or double the standard sickness benefit rate.
- The benefit is payable within 14 days of duly authenticated claim papers.¹⁴

6. Disablement benefit [cash]

Disablement benefit is payable to insured employees suffering from physical disablement due to employment injury or occupation disease.

- An insured person should be an employee on the date of the accident.

¹² ESI Act 1948. Sec 49.

¹³ ESIC Scheme of India Citizens Charter

¹⁴ ESI Act 1948. Sec 50.

- Temporary disablement benefit at 70% of the wages is payable till temporary disablement lasts and is duly certified by authorised insurance medical officer.
- In case of permanent disablement, the cash benefit is payable for life. Amount payable is worked out on the basis of earning capacity determined by a medical board.
- Disablement benefit is payable within one month of submission of the complete claim papers.¹⁵

7. Dependents benefits [cash]

Dependents benefit [family pension] is payable to dependents of a deceased insured person where death occurs due to employment or occupational disease.

- A widow can receive this benefit on a monthly basis for life or till remarriage.
- A son or daughter can receive this benefit till 18 years of age.
- Other dependents like parents including a widowed mother can also receive the benefit under certain condition.
- The rate of payment is about 70% of the wages shareable among dependents in a fixed ratio.
- The first installment is payable within a maximum of 3 months following the death of an insured person and thereafter, on a regular monthly basis.¹⁶

8. Other benefits

a. a. Funeral expenses

On the death of an insured person subject to a maximum of a Rs. 2,500 payable at the local office.

b. Vocational rehabilitation

In case of disabled insured persons under 45 years of age with 40% or more disablement.

- c. **Free supply** of physical aids and appliances such as crutches, wheelchairs, spectacles and other such physical aids.
- d. **Preventive health cares** services such as immunization, family welfare services, HIV/AIDS detection, treatment etc.
- e. **Medical bonus** Rs250 is paid to an insured woman or in respect of the wife of an insured person in case she does not avail hospital facilities of the scheme for child delivery.¹⁷

Employee State Insurance Corporation, Delhi region

The scheme was implemented in Delhi on 24 February 1952. As on 31 March 2002 4.94 lac employees and 5.65 lac insured persons are covered. The numbers of beneficiaries including insured in Delhi are 21.95 lac. The scheme is administered through the regional office located at Delhi Development Authority's Commercial-cum-office complex, Rajendra Bhawan, Rajendra Place, New Delhi. The cash benefits are disbursed through a network of 12 local offices. The medical care is administered by the corporation itself in the national capital territory of Delhi.

¹⁵ ESI Act 1948. Sec 51.

¹⁶ ESI Act 1948. Sec 52

¹⁷ ESIC Scheme of India, Citizens Charter

Coverage

The coverage position of Delhi region as on 31-3-2002 is as under:

[Figures in lacs]

YEAR	1999	2000	2001	2002
No of employees	5.43	5.32	5.27	4.94
No of insured persons	5.78	5.68	5.62	5.65
No of beneficiaries	22.44	22.04	21.82	21.95
No of employers	00.25	00.22	00.22	00.28

We can clearly find in the above column, that year by year, Number of Employees and number of Beneficiaries covered are decreasing, the reason given the Assistant director of ESIC, Delhi **P N khaul** is that, there has been a change in the pay scale yearly and as and when the pay scale increases above Rs 6,500 the Number of Employees who come under the act are reduced, but he has also failed to note an important point that number of new employees coming under the act are also increasing yearly.

Income and expenditure

It should be noted that the ESI Corporation controls the whole fund of the ESIC directly and the regional office in particular state has no say with regard to financial administration. The corporation has one budget yearly and it allocates the fund to particular state on the basis of total number of beneficiaries, expenditure of the preceding year and requirement of the next year.

The position of contribution income realised and expenditure incurred by the Delhi corporation during the last 3 years is shown below:[figures in lacs]

YEAR	Contribution income	EXPENDITURE			
		Cash & other benefit excluding medical benefit	Administrative expenditure	Total expenditure on revenue account excluding medical benefit	ESI MEDICAL DELHI
1999-2000	9279.89	759.84	992.12	1751.97	8385.19
2000-2001	9601.16	930.43	900.25	1830.69	9168.92
2001-2001	9466.05	933.18	952.95	1886.13	9044.92

Note: the above figures do not contain the capitalised value expenditure in medical care during the years.

Expenditure includes expenditure on medical benefit, cash and other benefits, administrative expenses and total expenditure of drugs and dressing with pay and allowances but excluding rent of building.

Make payment of arrears to assistant cadre as per CAT order.

It should be noted that the findings from the above table are very clear, that the expenditure is more than the revenue of the corporation. The reason given for this by Mrs Thomas, director, ESIC Delhi is that, it is only in Delhi, which has 4 major hospitals, including a super specialty hospital in Rohini, which caters the needs of employees through out north India.

Reserve funds and investment of ESIC funds

The investments made by the corporation pertaining to different reserve funds and ESIC general reserve funds as on 31-3-2002 were as under:

SL.NO	NAME OF THE FUNDS	AMOUNT AS ON 31-3-2002[Rs lacs]
1	ESIC PROVIDENT FUND	23959.99
2	ESIC GROUP INSURANCE FUND	31.84
3	PENSION RESERVE FUND	71,964.70
4	DEPRECIATION RESERVE FUND OF OFFICE BUILDINGS AND STAFF QUARTERS	532.55
5	DEPRECIATION RESERVE FUND OF HOSPITAL BUILDINGS	10230.42
6	STAFF CARS REPLACEMENTRESERVE FUND	250.91
7	REPAIR AND MAINTENANCE RESERVE FUND FOR OFFICE BUILDING AND STAFF QUARTERS	449.86
8	REPAIR AND MAINTENANCE RESERVE FUND FOR HOSPITAL BUILDINGS	4005.87
9	PERMANENT DISABLEMENT BENEFIT RESERVE FUND	109381.31
10	DEPENDANT BENEFIT RESERVE FUND	53161.88
11	CAPITAL CONSTRUCTION RESERVE FUND	46754.81
12	CONTINGENCY RESERVE FUND	7500.00
13	INVESTMENT OF ESI GENERAL RESERVE FUND	407873.92
	TOTAL	736108.06

It should be noted from the above table that ESIC has a huge amount of reserve fund. The reason for such excess amount in the corporation is that, it is less than 50% of the employees potentially use the benefit offered to them. Most of the employees prefer to go to private hospitals rather than wait for the corporation to approve their benefit. I have found that getting a sanction for the medical or cash benefit is such a cumbersome procedure that it takes months to get the approval. Moreover most of the employees are illiterate who are not in the position to file an application in the office.

Infrastructure for delivery of medical care

The medical scheme in Delhi is being administered by the Corporation through a separate directorate headed by director [medical] Delhi. In national capital territory of Delhi full medical care comprising of 'out patient services' specialists services and hospital services is provided under ESI scheme

through services dispensaries/ diagnostic centres and ESI hospitals. The expenditure on medical care is shared between the ESI Corporation and government of NCT of Delhi in ratio of 7:1. The medical infrastructure in the national capital territory of Delhi as under:

1. No. of ESI hospitals with bed strength as on 31-3-2002

S.NO	NAME OF THE HOSPITAL	BED STRENGTH
1.	ESI HOSPITAL, BASIDARAPUR, NEW DELHI	550+50 BEDS FOR OCCUPATIONAL DISEASE CENTER.
2.	INDIRA GANDHI ESI HOSPITAL, JHILMIL, DELHI	240+10 BEDS FOR INDIGENOUS SYSTEM OF MEDICINES
3.	ESI HOSPITAL OKHLA, NEW DELHI	262 BEDS [100 BEDS COMMISSIONED]
4.	ESI HOSPITAL, ROHINI, NEW DELHI	270 BEDS [100 BEDS COMMISSIONED]

2. Reserved beds in other hospitals as on 31-3-202

S.NO.	NAME OF THE HOSPITAL	NO.OF.BEDS
1.	R.B.T.B. HOSPITAL, KINGSWAY CAMP, NEW DELHI	40[TB BEDS]
2.	L.R.S.T.B. HOPITAL, MEHRAULI, DELHI	65[TB BEDS]

3. NUMBER OF ESI DISPENSARIES:

- a. Full time dispensaries :33
- b. Mobile dispensaries :01
- c. Ayurvedic wings :09
- e. Diagnostic centres :04

4. Position of type of medical care as on 31-3-2002

Name of the state	Restricted medical care	Expanded medical care	Full medical care Unit?
Delhi	-	-	5,65,950

5. No. of IMO's/ specialists/ para medical and other categories staff in ESI hospital/ dispensaries, diagnostic centres, Ayurvedic wings, family welfare projects, central

NO	Name of the posts	ESI hospital Basaidarapur	ESI hospital, Jilmil		ESI hospital, okhla		ESI hospital, Rohini		
		SANC TI- ONE D	POSIT IO-N	SANC TIONE D	POSIT ION	SANC TIO-- NED	POSITI ON	SANCTI ONE-ID	POSITI ON
1	GENERAL DUTY OFFICERS	120	51	84	44	35	32	84	26
2	SPECIALISTS	46	30+2 PT	23	15	16	18	23	120
3	DENTAL SURGEON	3	2	1	1	1	-	-	-
4	SENIOR RESIDENTS	59	48	23	15	10	7	20	10
5	JUNIOR RESIDENTS	60	56	14	14	-	1	-	-
6	PARA MEDICAL& NURSING STAFF	789	645	330	217	202	150	307	114
7	OTHER CATEGORY STAFF	369	307	195	116	73	69	115	53

6. OCCUPANCY OF HOPITAL BEDS AND SERVICES UTILISATION ATTENDANCE IN Hospitals, specialists centre, investigations, Number of Admissions from 1 APRIL 2001 to 31 MARCH 2002.

a. Hospitals

SN	ESI hospital	Beds	Occupancy	Attendance	Admissions	Investigation
1	Basaidarapur	600	86%	584670	30544	972026
2	Jhilmil	250	83%	227689	12329	276159
3	Okhla	262[100] commissio ned	149%	200244	9865	176441
4	Rohini	272[100] commissio ned	96%	130831	5477	90096

b. Attendance in dispensaries up to 31-3-2002:

Attendance of IP's		Attendance of family members		Total
New	old	New	old	
977198	853605	1469897	1317011	4617711

C. ATTENDANCE IN AYURVEDIC WINGS UPTO 31-3-2002:

NEW	OLD	TOTAL	ADMISSION
48820	60220	109042	133

d. Diagnostic centre

Total number of Cases examined at the diagnostic centres up to 31-3-2002 are 38,911.

e. Emergency centres

Total 3620 cases examined at emergency centre up to 31-3-2001.

f. Average recurring costs per bed per day in the ESI hospital during the year 2001-2002

Basaidarapur-	Rs 1,397
Jhilmil -	Rs 1,245
Okhla -	Rs 986
Rohini -	Rs 1907

7. Expenditure incurred on provision of medical benefit during 2001-2002**Number of IP's as on 31-3-2002-5,64,200**

Total Exp. Incurred by the state [lacs] -6.417.90

Per capita -1,137.52

8. Incidence of sickness benefit and maternity benefit claims in 2001-2002

No. Of. Employees deemed exposed to risk for sickness/ extended sickness benefit -5,27,900

- **Total no of Cash benefit payments -1,02,323.**
 - Average no of Cash benefits payments per employee per annum -0.19
 - Average daily benefit rate Rs. 60.21
 - Maternity benefit, average amount paid per confinement Rs11,429

Number of workers who became permanently disabled and die at work in 2002

Permanent disablement - 594

No of death cases -38

Position of on going construction projects**Plots acquired for construction projects**

1. Wazir Pur, 20-5-99 – plans approved by MCD on 30-7-2002.
2. Arjun nagar, 1-3-86- Boundary wall constructed. Plans with MCD, NOC granted by DDA up to 23-6-2003.
3. Mayur vihar, 13-7-92 – plans with HQRS/MCD for approval.

Position of pending reimbursement cases, number and amount as on 31-3-2002

379 -Rs.24,47,002¹⁸

On papers, the ESI Corporation in Delhi appears gigantic with 5,69,950 insured persons 21,95,900 beneficiaries, four major hospitals with 1,115 beds, 33 dispensaries, 560 doctors with annual revenue of 94.66 crores. In reality, the Corporation is riddled with problems. Lack of proper service, unfriendly doctors, and cumbersome procedures restrict employees from using their benefits to full potential.

¹⁸ ESIC Annual Report 2001-02

Doctors do not give proper treatment and prefer to attend to the paying patients. As a result, employees are often forced to pay more than their monthly contributions. The dispensaries do not have enough medicines in stock and persuading a doctor to authorise the purchase of medicines elsewhere is a cumbersome and time-consuming process. Doctors are very often absent and hospital equipments are broken for extended period. Patients suffering from occupational disease have difficulty finding proper treatment. Workers complain of being treated as beggars at the ESIC office.

For instance, when I visited KALKAJI dispensary I found a patient [Jugal gopee] who was suffering from some lungs problem being denied admission in the hospital, the reason given by the doctor was that he had no serious problem to be admitted in the hospital. The doctors were busy having snacks for half an hour even though the patients were in a long queues. In Mayapur dispensary out of 10 doctors on duty only 3 doctors were present, condition of the toilets were pathetic. The story of Sham Lal is precarious, he had a basic problem suffered by a human being like fever and headache, the doctor had written for a Paracetamol and Neimusulide. But to my surprise I found that Sham Lal did not get Neimusulide tablets because the tablets were out of stock. One should imagine that if a dispensary doesn't have tablet of such nature, what might the real condition of these dispensaries? Many dispensaries are provided with a water cooler, but I found that in most of the dispensaries these coolers are not working.

These are only few instances, which have been quoted. But this is not the same case in all hospitals, for instance ESI hospital in Basaidarapur is doing its best, hats off to **Martin Matthew, medical superintendent**. Majorities of the employees are not satisfied with the functioning of the corporation. In 2002 the corporation had the revenue of Rs 94.5 crore, Despite its robust finances, its hospitals consisted of dingy rooms, dirty toilets and lacked proper medical infrastructures.

I had met a few of the members of employees union in ESI Corporation, kalkaji and spoke to their president and secretary. One fact which I came through them was that of '**contractor system**'. All rights available to the workers under the law of the land are skillfully violated by the owners through the use of contractors at the work place. Once workers are employed through the contractor and not directly from the factory management, they lose all their right due to various government legislation. The factory maintains no records about contract labour, nor does the contractor, which in effect means that though a worker might be actually working in any factory there will be no legal proof of this fact. Even in case of permanent employees, the management employs a time-tested method to clear itself of all legal obligations. They strike off the name of every worker from the roll list once he has worked for a period of up to 89 days. Even though, in many cases, the same employee is taken back within a week, the roll-list now shows his name as a fresh employee. Therefore at any point in time, though hundreds of workers are actually working in the factory, the roll-list would not contain the names of the majority of them since they are all de jure employed for less than 3 months. **This what happened to Mahesh a machine operator, who gets no benefit from the ESI, even though he is contributing for the corporation?** I had met a person by name Narayana, whose fingers was cut off while operating a machine some 11 years back. Till now he has neither got medical nor the cash benefit. His case is pending from the past 11 years. The story of S.K.Gupta, Ram kabir, Gurvindar are all-similar whose cases are pending from past many years. God knows the plight of all these employees!

Poor cash management:

During the course of audit of Delhi region of ESIC, audit noticed that 295 employers deposited a sum Rs 33.29 lacs into the State bank of India, Shahdara, Delhi during 1988 to 1990. But the bank failed to credit this amount in the account of ESIC. To resolve this, three meetings between officers of SBI and ESIC were held during may 1998 and march 2001, till now this amount has not been credited in the account of ESIC. Thus failure to protect its financial interests resulted not only in losing Rs 33.29 lacs but also loss of interest of Rs 45.19 lacs. Apart from this ESIC in Delhi has failed to recover Rs. 93.87

crore from Delhi government on account of expenditure incurred on medical care by ESIC Delhi. In Delhi, where the scheme is directly run by the ESI Corporation, the entire expenditure on medical care is incurred initially by the corporation and is subsequently shared with government of Delhi. Expenditure incurred beyond the amount bearable by ESIC is recoverable from the government of Delhi in due course. The government of NCT of Delhi had been sharing and paying 1/8 share of expenditure on medical care plus expenses incurred over and above the ceiling up to the year 1989-90. Subsequently the government of NCT of Delhi did not pay their share from the year 1990-91 on the plea that they are not liable to pay the expenditure beyond the ceiling in the absence of agreement. The issue has been taken up with government of NCT of Delhi at the highest level. The government of Delhi has not committed to pay its so far.

Even though there has been change in the methodology of selecting units for inspection the Number of Inspection, which was to be held as on 2002, was 13,321 but till now only 2736 inspections were conducted. This is one of the main reasons for ESIC Delhi being in arrears of Rs 20.32 crore as on 31-3-2002. Apart from this the ESIC annual reports are speaking the mantra of computerisation of ESI dispensaries and local offices, but to the best of my knowledge I could not find a single computer in local office or the dispensaries. Now where does all this money go? **The expenditure of the corporation is more than its revenue from the past four years, if this state continues, what is the future of ESIC in Delhi?** The ESIC in Delhi has set a HIV/AIDS cell with the assistance of NATIONAL AIDS CONTROL ORGANISATION in the year 1999, In order to prevent/ control spread of HIV/AIDS amongst ESI beneficiaries. But even after three years it has not come up with any official data. **Is the cell really functioning? Dr Raju** in charge of the cell has no answer for this question. The ESIC Delhi has set up a public grievances commission to look into the grievances and difficulties faced by the employees, but has the commission been successful in solving the problems of the employees is the question to be answered by the commission. Thus the employees' state insurance corporation in Delhi has become a '**legalised way of duping the employers and the employees at large**' clearly, it needs a fundamental changes so it is more fruitful to the employees. Even as there has been a sea of change in the industrial sector, the ESI scheme is continued with the same provisions. The system cannot be made more viable and useful without the participation of the employees. One of the reasons for the failure of the corporation is lack of active participation by the employees. For instance there is no stable employees union or organisation to look into the functioning of the corporation. One of the best ways to improve the functioning of the corporation is to privatisate the management of the newly constructed hospitals, which the state government has failed to commission on time. If proved successful, the scope of privatisation would be extended to other ESI hospitals whose performance is below standard. In fact the Sathyam committee which was formed to look into the discrepancies in the functioning of ESI hospitals had recommended that surplus capacities could be leased or rented to the private sector. Three TPA'S Chennai-based Apollo hospital, Mumbai-based Segdwicks Parek health management services and Pune based ICAN Medicare Pvt. LTD has made a bid for the scheme. But there has hardly been any headway on this front. Some of the recommendations given by **VERMA COMMITTEE** to take steps to make the system more viable and useful are like enhancement of wage ceiling for purpose of coverage from the present Rs 6,500 to a minimum of Rs 9,000. For up gradation of medical services under the scheme, the committee has recommended enhancement on expenditure of medical benefit from the present Rs 600 to Rs. 850, the new ESI hospitals should not be constructed as long as any additional services requirements could be out-sourced through tie-up arrangement with government of private medical institutions issuing of national identity card, which could enable a beneficiary to utilise the treatment facilities from the ESI hospitals or institution across the country, the employees should be allowed to utilise private medical facilities, instead of only going to ESI hospitals and dispensaries, the present system which is tardy needs to be controlled by ESI employers and employees. The role of finance, labour and health departments should be cut down.¹⁹

¹⁹ Tribune News Service, 22 Oct.

The strategy

Thus the only way to achieve this goal is by participation of citizens groups and other non-profit agencies that advocate for workers' health care rights. These groups can pressurise ESIC at the local level to improve medical services, the supply of medicines, and benefits related to accidents and occupational disease. Many of the agencies are addressing this aspect, but overall coordination has been lacking. These lobbying groups should join force with the workers' watchdog committee and start a bigger movement to generate pressure on the ground for legalised rights of workers in helping them to form and monitor the ESIC. Change can only come about on the basis of building up consistent grassroots-based pressure groups regionally and nationally. The media, which has shown favor towards the contributing employees regarding the issue of the ESIC in the past, will also be leveraged effectively. Together they can work to broaden the scope of the ESIC coverage to the informal sector through the 73 amendment of the constitution, which calls for local self-governance from the village to the district levels.

Acknowledgement

P.N. Kaul, public relation officer, ESIC head office-New Delhi.

Nalini Thandan, medical officer, ESIC head office- New Delhi.

Mangala, accounts department, ESIC head office-New Delhi.

Thomas, director, ESIC Regional office-New Delhi.

Mr. Joon, deputy director, ESIC regional office-New Delhi.

Dr Raju, head of HIV cell department, ESIC regional office-New Delhi.

Dr Martin Mathew, medical superintendent, ESIC hospital, Basaidarapur-New Delhi.

Dr Rekha Ararwal, ESIC dispensary, kalkaji.

Pralad Malavadkar, researcher and trainer of workers on ESIC-Mumbai.

Mr Narayan, secretary, employee union-New Delhi.

Yeshwanth Shenoy, Advocate-Mumbai.

Reference

ESIC Annual Report-2001-2002

Financial Statement and Performance Budget-2002-2003

ESIC Bare Act 1948

Standard Note on ESI Scheme of India-2002

Employers Guide March-2003

ESIC Citizens Charter

Employees Guide-2003

Brief procedure for claiming cash benefits

Newspaper article on Verma Committee Report

Newspaper articles on ESIC

Annual Report of ESIC Hospital Basaidarapur