

16.16 RISK, INSURANCE AND COMPENSATION

- 16.16.1 A safe and healthy work environment is the constitutional right of every worker, as well as a basic requirement for a productive and efficient workforce. Employers have the responsibility to ensure that workers have decent work by having a safe, healthy and risk-free workplace.
- 16.16.2 According to the International Labour Organisation (ILO), the economic burden of poor occupational safety and health practices is estimated at 3.94 per cent of global Gross Domestic Product each year, without forgetting the 2.78 million deaths and 374 million non-fatal work-related injuries per year due to occupational hazards. This also glaringly indicates the intangible cost of human suffering caused by work-related accidents and diseases.
- 16.16.3 During consultative meetings, the Federations have claimed that employees are still working in unsafe conditions despite the provisions laid down in the previous PRB Reports. We have studied the request and consider that effective implementation of recommendations rests with Management/Employer. Furthermore, as announced in the Government Programme 2020-2024, the Ministry of Public Service, Administrative and Institutional Reforms (MPSAIR) has already set up the Occupational Safety and Health Committee in all Ministries and Departments to look into safety and health matters.
- 16.16.4 To ensure decent work for all workers, we are, once again, laying emphasis on the obligations of both employers and employees as well as on other concomitant factors. Besides, while harping for a safe, healthy and risk-free working environment, the Bureau has incorporated new elements and various measures to cope with unprecedented events like the Covid-19 Pandemic. We have also reviewed the *modus operandi* of the risk assessment exercise in favour of a more decentralised approach such that same would, henceforth, be carried out by the Departmental Safety and Health Committee instead of the Risk Assessment Committee. The Bureau is also advocating '**Prevent now rather than pay later**' as well as paving the way for the setting up of a Risk Insurance Scheme in lieu of a risk allowance. We are holding on the provisions for an appropriate compensation in case of occupational accidents. As regards the Government Medical Insurance Scheme, the Bureau has been apprised that the project has been put on hold.

DUTIES AND RESPONSIBILITIES

- 16.16.5 In view of their significance in the Public Sector, the Bureau is again stressing on the duties and obligations of both employers and employees, which are clearly spelt out in Part II of the Occupational Safety and Health Act 2005. With the emergence of the unprecedented Covid-19 Pandemic and following requests received from various quarters regarding equal opportunities, safe, healthy and productive working environment, the Bureau considers that there is need to address these issues with a view to ensuring a future-fit Public Sector.

Management's Responsibility

- 16.16.6 The Occupational Safety and Health Act 2005 provides that it is the obligation of Employer/Management to provide a safe workplace, protective clothing and equipment, health surveillance and training.
- 16.16.7 In the wake of the Covid-19 Pandemic, Management is also required to ensure a Covid-Safe Workplace so as to protect employees from any risk of infection as well as to maintain the safe and stable functioning of its operations. Such measures include, among others: conducting risk assessment; carrying regular temperature checks for officers and visitors at the entrance of the workplace; maintaining social distancing; cleaning, hygiene and handwashing; ensuring proper ventilation; implementing the Work From Home Scheme and the Flexible Working Hours, subject to satisfying the necessary conditions; suspension of the use of the Electronic Time Readers; and keeping the employees abreast of the Protocol/Standard Operating Procedures to be followed in the event of a suspected case of Covid-19 infection.

Safe Workplace

- 16.16.8 One of the prime responsibility of Management is to provide and maintain a safe workplace with regard to machine and equipment as well as processes and appropriate measures for the protection of employees are taken accordingly.
- 16.16.9 Raising a family is a cherished goal for many working people. In this regard, pregnant working women need to be protected during maternity from any risks to their health or that of their babies. In line with the ILO's Maternity Protection Convention, 2000, the Bureau views that a safe workplace should be a precondition for safeguarding the health of expectant mothers and that employers should ensure their safety.
- 16.16.10 The right of everyone to a world of work free from threatening disruptive behaviour is also a prerequisite for a safe workplace. The Code of Ethics for Public Officers clearly emphasises on the fact that, all officers, at all levels, have the obligation to treat their colleagues with courtesy and respect and not to cause any distress that would affect their physical and psychological states, dignity, family and social environment. **In this regard, the Bureau considers that the responsibility for ethical behaviour for a safe workplace lies with every public officer and holds that it is the duty of each one to ensure the appropriate and conducive work environment.**

Protective Clothing/Protective Equipment

- 16.16.11 Where protectionary measures do not suffice to completely eliminate certain risks, Management/Employer provides protective clothing and equipment to employees, purposively to eradicate, control and reduce injury and adverse health effects. It is also the responsibility of officers who are eligible for protective clothing/equipment to wear/use same while on duty.

16.16.12 Currently, the Standing Committee on Uniforms determines the eligibility for protective clothing and equipment on the basis of the recommendations of the Occupational Safety and Health Unit of the MPSAIR. To that end, authority has been devolved on relevant organisations to deal with this issue. We are, thus, upholding the present provisions.

Recommendation 1

16.16.13 We recommend that:

- (i) **the Standing Committee on Uniforms under the Chairmanship of the MPSAIR and comprising representatives of the Ministry of Finance, Economic Planning and Development and the Pay Research Bureau should be pursued;**
- (ii) **the Standing Committee on Uniforms should continue to determine the eligibility for protective clothing/equipment subject to paragraph 16.14.8 of this Volume; and**
- (iii) **in order to ensure the proper usage of protective clothing/equipment, Management should continue to provide general and specific instructions (both oral and written) to employees.**

Health Surveillance

16.16.14 Health surveillance is a system of ongoing health checks, meant to protect individual employees by the early detection of work-related adverse effect on health. Management, therefore, has the statutory obligations to ensure that regular occupational safety and health audits are carried out by a Safety and Health Officer/Senior Safety and Health Officer in order to identify risks associated with safety and health. **Where employees run the risk of contracting occupational diseases, they should be placed under a Health Surveillance Programme. Appropriate recommendations have been made under relevant Ministries/Departments/Organisations.**

Employee/Worker Responsibilities

16.16.15 Employees are the direct beneficiaries of a safe workplace and as such also have certain duties and responsibilities in maintaining same. Section 14 of the Occupational Safety and Health Act 2005 clearly lays down the duties of employees with regard to having a risk-free workplace.

16.16.16 The investigations, in respect of causes of accidents, carried out by the Occupational Safety and Health Unit, have revealed that, accidents continue to occur due to the negligence of employees. In that regard, we are re-emphasising on the importance of the measures of protection as mentioned below:

Employees/Workers should:

- (1) cooperate with their employer in the discharge of any duty or requirement imposed on the employer;

- (2) comply with all safety instructions including those concerning the correct use of safety devices and protective equipment;
- (3) ensure that their actions or omissions do not present any hazard to their fellow colleagues or for themselves; and
- (4) report cases of accidents/incidents forthwith.

16.16.17 With the Covid-19 Pandemic, employees are, now, required to maintain physical distancing as well as appropriate hygiene and safety practices to ensure the continued safety and wellbeing of the workplace. Furthermore, in case any employee experiences any symptom of Covid-19, he/she should immediately follow the Protocol/Standard Operating Procedures.

Departmental Safety and Health Committee

16.16.18 The establishment of a Departmental Safety and Health Committee is set forth in the Occupational Safety and Health Act 2005. The composition and functions of the Committee are also spelt out in the Act. The guidelines on the proceedings of meetings of Safety and Health Committees are also provided therein. **Management should, therefore, ensure that the Committee is fully operational and carries out its functions in accordance with the provisions laid down in the Act.**

16.16.19 Moreover, the Departmental Safety and Health Committee is, by virtue of section 21 of the Act and the provisions of Circular Letter No. 4 of the MPSAIR dated 14 January 2011, required to bring forth projects pertaining to upgrading works which could be financed through the Enhancement of Work Environment Programme (EWEP). The EWEP has been mounted and organised by the MPSAIR to assist Ministries and Departments in carrying out safety and health improvements for a conducive and safe workplace.

16.16.20 In our previous Report, in addition to the statutory obligations of employers and employees, we highlighted on the outcomes pertaining to the working sessions held with representatives of the Occupational Safety and Health Unit of the MPSAIR. The aim was to take cognizance as to whether the provisions were fulfilling their desired objectives for a risk-free workplace. In the circumstances, we are reiterating the provisions.

Recommendation 2

16.16.21 We recommend that Management/Employer should imperatively ensure that:

- (i) measures recommended by officers of the Occupational Safety and Health Unit are implemented without delay;**
- (ii) all employees should invariably wear/use Protective Clothing/Equipment as provided to them;**
- (iii) all accidents/incidents are reported to the Occupational Safety and Health Unit of the MPSAIR within the prescribed time frame; and**

- (iv) the Departmental Safety and Health Committee of their respective Ministries/Departments/Organisations performs its functions in accordance with the provisions of the Occupational Safety and Health Act 2005.**

Risk Assessment

16.16.22 Safety and Health Officers have the duty to identify risks, assess the need for preventive measures and advise the employer on appropriate measures and course of action to be implemented in order to minimise the risk. However, where the measures and course of action require specialised and professional service, it is up to Management to make the necessary arrangements. We are recommending along these lines.

Recommendation 3

16.16.23 We recommend that Management/Employer should arrange for the assistance of competent authorities whose recommended measures and techniques would help to minimise risk whenever a situation warrants it.

16.16.24 We additionally recommend that Management/Employer should:

- (i) ensure that abstracts or notices indicating hazards are effectively posted in accordance with the law; and**
- (ii) take expedient actions on the advice, report or recommendations of Safety and Health Officers regarding a course of action relating to safety and health.**

Compensation for Risk

16.16.25 Risk varies in degree and may be present in some jobs. It may be prevented through pre-emptive measures.

16.16.26 The element of normal risk is captured in the job evaluation exercise and is reflected in the respective salaries where all officers in a certain grade are faced with the same level of risk. In cases where the degree of risk is based on postings, only that extent of risk that is prevailing in the different postings is reflected in the salary. Moreover, officers are additionally compensated by way of risk allowance where the level of risk is relatively higher in certain postings. For instance, in the Health Sector, only officers posted in specific units such as SAMU, AIDS Units, among others, are paid a risk allowance.

16.16.27 As the level of risk varies according to the specificity of an organisation, the risk element has been dealt with under relevant Chapters for Ministries/Departments/Organisations.

16.16.28 The Bureau has been apprised that the task devolving on the Risk Assessment Committee is cumbersome and that the said Committee is not functioning properly. Hence, the MPSAIR has requested that the Risk Assessment Committee be abolished.

16.16.29 According to our records, some 224 requests for the payment of a Risk Allowance have been received for this review exercise, as depicted below:

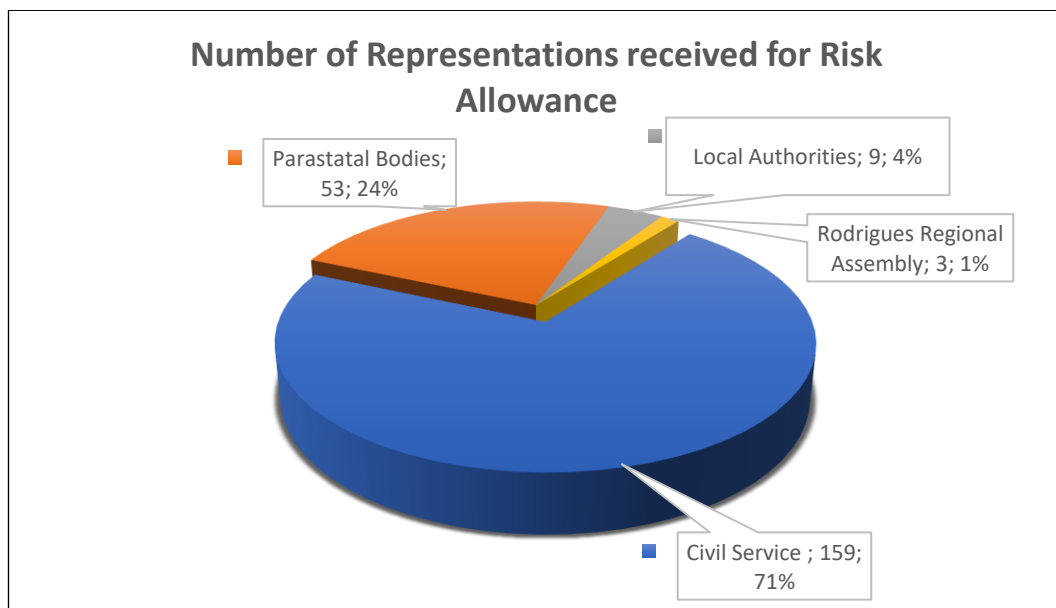


Figure 1: Request for the payment of a Risk Allowance

16.16.30 A glance at Figure 1 reveals that the number of requests received speaks for itself and evokes the reasonableness for a mechanism to assess the level of risk. In the face of such a situation, the Bureau has come up with a more pragmatic and decentralised approach to carry out risk assessment and is recommending accordingly.

Recommendation 4

16.16.31 We recommend that the Risk Assessment Committee should be abolished.

16.16.32 We further recommend that the Departmental Safety and Health Committee:

- (i) should, henceforth, look into cases pertaining to risk and conduct risk assessments;**
- (ii) should re-assess those cases where incumbents are granted a risk allowance, save for officers of the Disciplined Forces, so as to determine the continued eligibility of each grade for the payment of a risk allowance;**
- (iii) may convene any other professional who is deemed to possess the relevant qualification/competence/expertise to enable it to achieve its set objectives; and**
- (iv) should submit its findings, through the Director, Safety and Health of the MPSAIR, to the PRB, for appropriate recommendations.**

16.16.33 In so doing, the Departmental Safety and Health Committee may consider the following set of criteria while conducting a risk assessment:

- (i) the nature of the duties;

- (ii) the degree of risk or physical hardship to which an employee is exposed in the performance of his duties;
- (iii) the duration and likelihood of occurrence of a risky situation; and
- (iv) the degree of control over the risk while ensuring that all necessary health and safety measures (including protective clothing and equipment) have been taken.

“Prevent now rather than pay later”

16.16.34 Potential hazards are rampant in every workplace and may give rise to serious concern including loss of life. Victims of accidents at work are the ones who, primarily, suffer injuries which may sometimes be fatal. Such injuries/accidents may also affect their personal and social lives and reduce their source of income in cases of permanent incapacity. Employers also face collateral losses in respect of high compensation costs to workers, high insurance premium, low productivity, damages to equipment and infrastructure, disruption of work processes, re-training and so on.

16.16.35 However, workplace hazards can be prevented through the combined efforts of all stakeholders including employers and employees. It is better to create a risk free workplace now than to have to bear consequences of all kinds later. In this regard, the Bureau holds the view that it is better to **“prevent now rather than pay later”** and is making appropriate recommendations thereto.

Recommendation 5

16.16.36 We recommend that the Occupational Safety and Health Unit considers the advisability of making the necessary arrangements for:

- (i) the advocacy of a safer workplace and a healthier workforce;**
- (ii) the development of effective healthy work programs focussing on primary prevention;**
- (iii) the dissemination of appropriate information pertaining to hazards and risks;**
- (iv) the sensitisation, counselling, education and training related to prevention of hazards;**
- (v) encouraging Ministries/Departments/Organisations to develop their Safety and Health Policy Statement; and**
- (vi) ensuring the proper implementation of the Occupational Safety and Health Management System in Ministries/Departments/Organisations.**

16.16.37 We further recommend that the Ministry of Finance, Economic Planning and Development, in consultation with the MPSAIR, considers the advisability of setting up a Risk Insurance Scheme which will provide coverage to those incumbents in grades identified by the Departmental Safety and Health Committee.

16.16.38 We also recommend that all eligible officers, who as at the eve of the publication of this Report are drawing a risk allowance, should be given the option to join the Risk Insurance Scheme. However, on joining the Scheme, the payment of the risk allowance should lapse.

16.16.39 We additionally recommend that all officers who would be eligible, as from the date of the publication of this Report, to the payment of a risk allowance should join the Risk Insurance Scheme when it becomes operational. However, pending its setting up, these officers should be paid the risk allowance.

Compensation in respect of Occupational Accidents

16.16.40 Compensation, in respect of occupational accidents, to manual workers and non-manual workers whose salary does not exceed Rs 72000 annually is catered by the Workmen's Compensation Act. While, as employer, the Government assumes responsibility for the occupational risks for public sector employees who draw more than Rs 72000 yearly, including the disciplined forces. It also caters for compensation for occupational accidents on the same basis pursuant to the Workmen's Compensation Act.

16.16.41 Compensation is paid to:

- (i) a public officer in the event of permanent incapacity due to personal injury sustained out of and in the course of duties; and
- (ii) the officer's dependents where there are fatal injuries or death by accident arising out of and in the course of duties.

16.16.42 Considering the importance of the existing measures, we are perpetuating same.

Recommendation 6

16.16.43 We recommend that the following provisions in respect of compensation with regard to occupational accidents be sustained:

- (i) Workers, be it manual or non-manual, whose annual earnings do not exceed Rs 72000 should continue to be compensated according to the Workmen's Compensation Act;**
- (ii) non-manual workers whose earnings are in excess of Rs 72000 a year and members of the Disciplined Forces who sustain permanent incapacity as a result of injury arising out of and in the course of duties, or who contract an occupational disease under conditions specified in section 37 and as listed in the Second Schedule of the Workmen's Compensation Act, be paid a compensation as per rate specified in the First Schedule or under section 7 of the Workmen's Compensation Act up to a maximum of Rs 1.3 million over and above any gratuity or pension covered under the Pension Regulations; and**

- (iii) non-manual employees whose earnings are at a rate in excess of Rs 72000 a year and for members of the Disciplined Forces who sustain fatal injuries arising out of and in the course of duties, or who contract a fatal occupational disease under conditions specified in section 37 and which is listed in the Second Schedule of the Workmen’s Compensation Act, a compensation of six years’ salary at the rate of the deceased last salary drawn before the accident, subject to a maximum of Rs 2 million be paid to the heirs over and above any gratuity covered under the Pension Regulations.

16.16.44 We additionally recommend that:

- (i) the Ministry of Labour, Human Resource Development and Training takes action to amend the Second Schedule of the Workmen’s Compensation Act to include new occupational diseases; and
- (ii) the High Powered Committee may, following amendments to the National Pensions Act, review the ceiling at paragraph 16.16.43 (ii) and (iii) and make such other related recommendations as appropriate.

16.16.45 We further recommend that:

- (i) requests for payment of compensation under paragraph 16.16.43 (ii) and (iii) should be made to the MPSAIR; and
- (ii) the recommendations made at paragraph 16.16.43 (ii) and (iii) in respect of those employees whose earnings are above Rs 72000 annually and who are not governed by the Workmen’s Compensation Act be implemented administratively, pending amendments to the relevant legislation.

