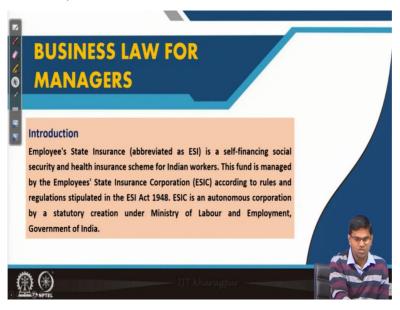
Business Law for Managers Prof. S. Srinivasan Vinod Gupta School of Management Indian Institute of Technology, Kharagpur

Module - 7: Social Securities Lecture - 35 Employee State Insurance (ESI)

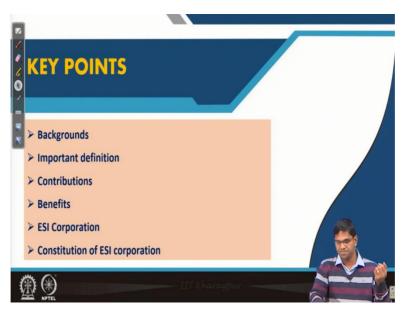
Welcome to lecture 35. This is the last lecture in module 7. We are discussing on social security legislations, wherein this lecture, we are going to discuss about Employees' State Insurance Act. This is one of the social security legislations which are focusing on providing health access and securing in terms of sickness and permanent disablement or a partial disablement of an employee due to workplace accidents. So, what is this Employees' State Insurance? Which is a self-financing social security and health insurance scheme provided to Indian workers.

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This fund is managed by the Employees' State Insurance Corporation which are created under the rules and regulations of the Employees' State Insurance Act of 1948. Employees' State Insurance Corporation which is ESIC, who is an autonomous corporation by a statutory creation under the Ministry of Labour and Employment of the Government of India. So, this ESIC which is a corporation which are governing the, looking after the rules and regulations of the Employees' State Insurance Act.

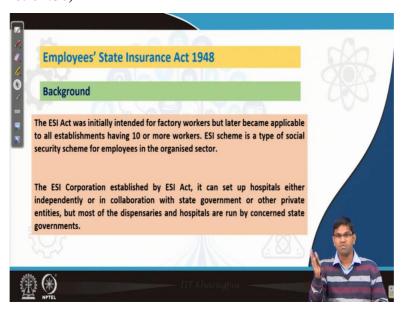
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Now, we are going to discuss about key aspects of this Employees' State Insurance, which is, we will discuss very briefly on background of this ESI and important definition under this legislation. And also, we will see the contribution what is the; it is also contributory law, so, where both the employer and employee contributes for this insurance scheme. So, we will also see what is the portion of the payment from the employee, what is the contribution from the employer on this particular insurance scheme, and we will also see what are the benefits are provided under this health insurance scheme, state insurance scheme.

And we will also discuss about the roles and responsibilities of Employees' State Insurance Corporation, which is ESIC. And we will also see how this ESIC is been constituted under this act.

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Now, so, ESI Act was initially, was opened for only for factory workers, meaning that which

is primarily wanted to restricted only to the factory workers. Later, it has been applicable to

all establishments as like the Gratuity Act which has become applicable to all establishments

if they are having 10 or more workers. So, ESI is typically a social security scheme for

employees in an organised sector.

We are coming back again on organised sector, because which is a contributory law. There is

a definite relationship between employer and employee and employer contributes, because

employer has to register this employee through their organisation, so, it is for an organised

sector. So, ESIC which is ESI Corporation established by ESIC can set up hospitals; they can

set up hospitals or either in collaboration with their State Government or the private entities,

but most of the dispensaries and hospitals are run by the concerned state departments.

Maybe we can also see ESIC has, there are hospitals, even medical colleges run by this ESIC,

where which provides primarily to these members and the dependent family members to

access and have a better health care service. So, a member of an ESIC; who is a member of

an ESIC, Employees' State Insurance Corporation? Any employee who are working in an

organisation which are having more than 10 employees, who are registered body for this

ESIC, they will be contributing, then they become a member.

And the moment they become a member, the employee is a member of the ESIC, he or she

along with their dependent, parents and children and spouse, they are also eligible to have a

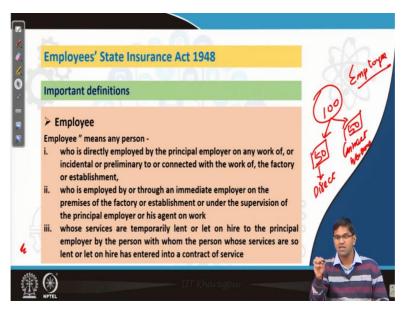
health care services at the designated ESI hospital or a dispensaries or and with the approval

from ESI corporation, they will be able to avail health services in the other hospital also

without a payment where the ESIC will be making the payment; or at a rate which the ESIC

which will be pay and other amount can be borne by the member itself.

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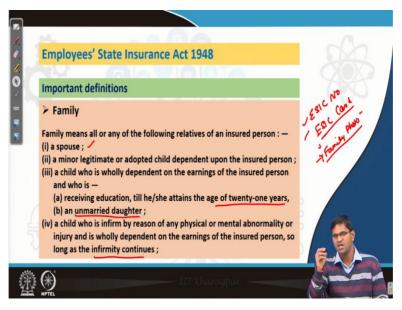


Now, let us also spend, understand the important definitions of this ESIC. So, here employee; what is the definition of the employee? So, employee is the one who is directly employed by the principle employer on any work which is incidental or primarily connected with the work of the factory or an establishment. Anybody who has been working or employed by the occupier of the establishment, then he or she is an employee.

And also, maybe you are employed through a contract agency also is an employer. And you may be serving a temporarily or let hire for a principal employer by the person who, the person whose services or so lent or let hire, entered into a contract of services, even the contract employee is also called as an employee as per this legislation. Let me give an example. So, let us say organisation which has X number of employees.

So, this X number of employees working in an organisation where they find, out of 100 employees, they have 50 employees as, out of 100, 50 are direct company workers and 50 are contract workers. Now, as per the definition of this act, all 100 are employees, whether you are a direct employee which are a factory's or company's direct employee or if you are a contract worker also, then you are also qualified as become an employee under this definition.

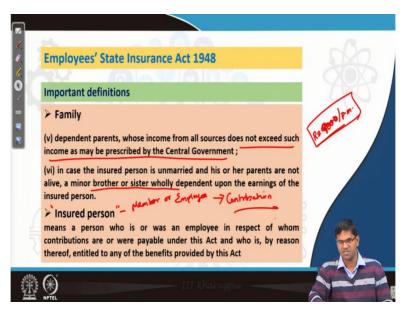
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Now comes another definition of a family, because why these been defined? Because the dependent and family members also included. When an employee become a member of ESIC, they will be getting an ESIC number and they will also get a ESIC card. And for, when I get the ESIC card, so, the organisation has to take a photograph of the family photo; they will ask you to take a family photo and attach with that, so that all family members can also avail all the services and benefits of the ESIC.

That is why the definition of family is important. So, who are been considered as a family as per this legislation? Spouse; minor, legitimate or adopted children dependent on the insured person; and child who is dependent on the earnings of the insured person till the time he or she attains the age of 21 years or an unmarried daughter; all become a part of a family. And any family who has a child who are having some abnormality, mental abnormality or injury, till the time the person infirmity continues, he or she, that baby will be a part of the family.

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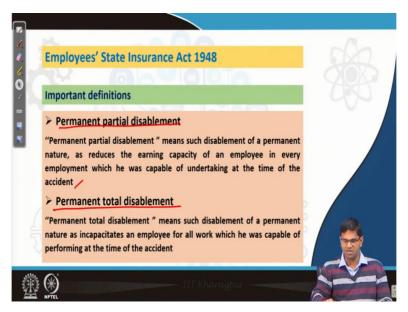


And also, dependent parents whose income of all sources does not exceeds any income which are prescribed by the Central Government. As from the recent input, which is salary of less than 9000 rupees per month, so, they are allowed to be added as a dependent. In case, even if your parents, their other sources of income are less than 9000 rupees per month, then they can also be included a part of a dependent to avail services.

In case of insured person is unmarried, his or her parents are not alive, the minor brother or a sister, they are dependent on his or her earnings, then they can also be considered as a family. So, then comes an insured person. Who is an insured person? Insured person is nothing but a person who is an employee with respect of the contribution they are making under these ESI Corporations.

So, any employee who is making a contribution for the ESI are called an insured person. So, insured person is nothing but a member or an employee. They are called an insured person, because they are making contribution. So, because they are making contribution, they are called an insured person.

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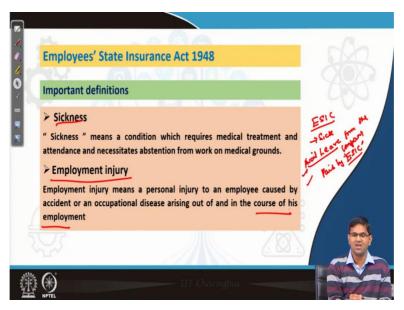


Now comes another some important definition which are permanent partial disablement, which means there is a disablement of a permanent nature. So, because, due to some workplace accident or any other accident, that person has become permanently disabled, partially disabled, meaning that he or she cannot perform all activities, the earning capacity of the member is capable of undertaking at the time of the accident.

So, it actually reduces the earning capacity. When say really, he was some limbs have been impacted and all that, then they become a permanent partial disablement, there is no going back to the previous situations or the health condition, then it has become a permanent partial disablement. There is also instances where we called a permanent total disablement, where such disablement of a permanent nature which incapacitates an employee for all working.

Here, he cannot do any other work, then it becomes a permanent total disablement. If the partial disablement reduces the earning capacity, maybe you cannot do maximum other activities, maybe you will be only restricting to do only this activity or you cannot do the previously what you are doing; so, that become a partial. And the permanent disablement where you cannot do any other work which is before he or she was able to perform the activity; so, it is called permanent total disablement. Why we are learning this definition? Because there are associated benefit with respect to the partial disablement and also with respect to total disablement from the ESI Corporation.

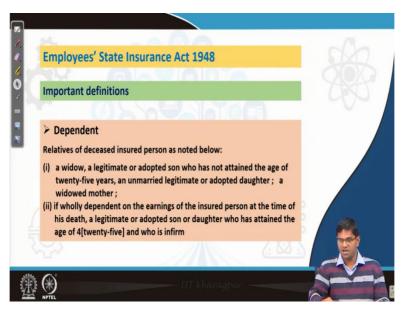
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Now, sickness: Sickness means the condition which requires medical attention and necessitates absent from the work. So, why we are again learning the sickness benefits? Because through this ESIC, when you are sick, you can avail leave from the company and it has to be intimated through a proper channel; that leave will be paid by the ESIC, ESI Corporation will be paying this period which you are sick, because of your ailments, physical bodily ailments that you cannot go for a job or a work; and that period will be paid by the ESI Corporation.

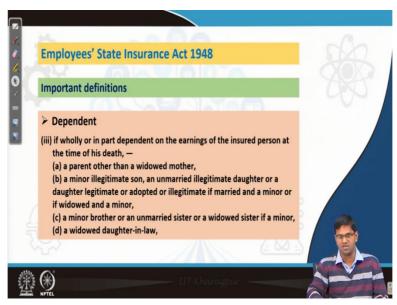
That has to be intimated through a proper channel from your organisation. That is why we are learning the term called sickness. Then employment injury: What is this employment injury? Employment injury is a personal injury to an employee caused by accident or occupational diseases arising out of his or in course of his employment. So, when it is happening during the employment, in course of the employment, that is called an employment injury.

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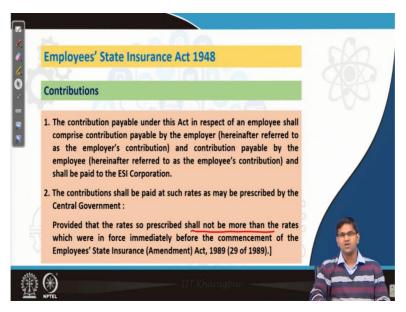
Now, another important is a dependent. Who is a dependent of you? It can be a widow, a legitimate, adopted son and;

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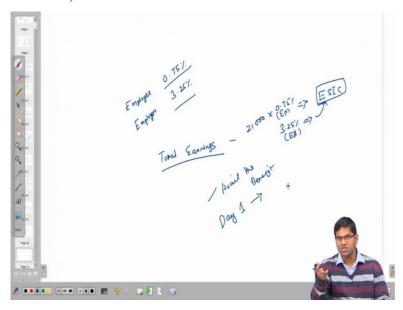
family, parents, children or minor brother or a widowed daughter-in-law. As I said know, the legitimate child till the time they attain the age of 21 years; all of them are the dependent for the member of an ESIC. So, why the dependents also have certain benefits at the time of the total disablement or the time of a death of the insured person? So, that is why these definitions are important, unless otherwise they are not listed down, they cannot get the benefit from the ESI Corporation.

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Now, so, what is the contributions? So, as I said, it is a contributory law; it is a compulsory contributory law where both employee and employer contributes towards the ESI Corporation. Now, see, the contribution made by the employer which is called employer contribution and contribution made by the employee is called employee contribution. Now, we will say what is the contribution amount?

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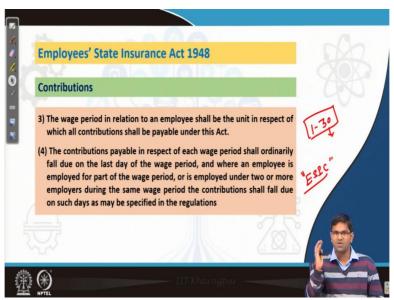


The contribution is, employee make 0.75% and employer make 3.25%. What is this percent? The percentage of total earnings. It is not on basic and DA alone, it is on total earnings. Let us say somebody is earning 21,000. On this, 0.75% will be contributed towards ESIC; similarly, on this, 3.25% by the employer. This is employer, I will put EI; and this is Ep which is employee, contributes towards this ESIC.

This is the contribution amount which are to be paid to avail and enjoy those benefits; to avail the benefit meaning that it is a; anyway, it is compulsory from day 1. When this contribution begins? From day 1 they will calculate. Let us say you have joined this particular month. So, even if you work for a few months, few days also, that deduction has to be made from your salary and then it has to be contributed towards the ESI Corporation; because, during the time, if you happen to have any workplace accidents, you will be covered and your family also be insured under this legislation. That is why the contribution starts from the day 1.

So, as I said know, the rate is; already I discussed the rate, which is 0.75 from the employee and 0.325 from the employer. Why which is time to time it varies? Previously it was the contribution from the employer was little higher, which is 1.75; now it has been brought down to 0.75% which the employee contributes. So, these are the contributions which are made from the employee towards this Employees' State Insurance Corporations.

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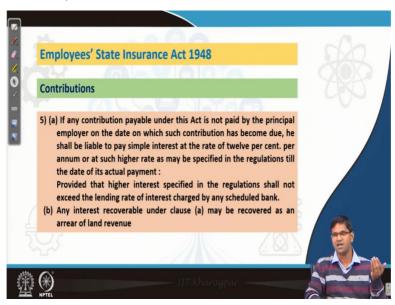
So, the contribution, the wage period relation to employee shall be the unit in respect of the all contribution shall be payable under this act. So, when they should make? Generally, they should make on the last day of the wage period. Let us say, if it is 1 to 30 days is the wage period calculation, on the thirtieth day they should make the wage period has to be deducted and then paid. Generally, what will happen in the working places?

So, once the wage period calculation is over, at time of the salary disbursement, this deduction is made on the employee salary; and along with an employer contribution, it will be deposited on each employee's ESI account. Each employee will have a specific account

associated with the Employees' State Insurance Corporation. They will generate a challan. The employer, means the organisation will generate a challan and they will make the payment to the ESIC, Employees' State Insurance Corporation.

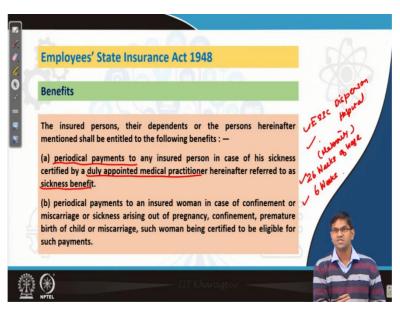
All the contribution will be deposited to each individual ESI account number, because, if there is a lapse and if during the period, if there is no payment is happening, then the member will become an aggrieved or the insured person will become aggrieved person, because you are not being paying for the particular period. So, this is a responsibility of an employer that you deduct the money from employee and you add your contribution on the pool and then deposit on the account for each employee in the ESIC Corporation.

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Now, which I have already discussed, if there is a delay, then 12% interest has to be paid, the simple interest rate that employer has to contribute along when they make a delayed payment.

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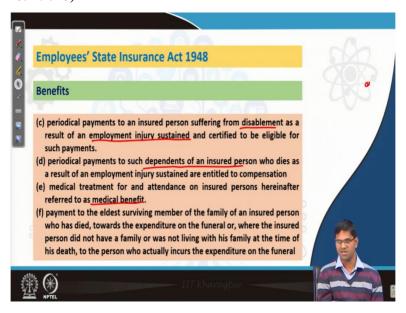
So, now we are going to be discussing about the various benefits, which is a very important section in this lecture. So, what are the benefits which are available for an insured person, for their dependents or person hereinafter mentioned shall be entitled to the following benefits. What are the benefits? See, there is a periodical payment will be paid in case of sickness is certified duly appointed by the medical practitioner.

What will generally happen is, if you are falling sick then you have to visit ESIC dispensary or the hospital, get that sickness treated and that certificate has to be produced, and then your employer will be able to benefit and say, yes, these many days he or she is not appeared or not in job owing to his sickness. So, when that note, that person, the employee will be able to receive the periodical payments for the days they were absent for due to their sicknesses and has been certified by the appointed medical practitioner, then they will be able to get the sickness benefit.

Then, periodical payments is also made to women in case of the confinement meaning the miscarriage or for the pregnancy, post-maternity benefit or miscarriage; so, they will be paid a salary. Now, how many days of salary which are paid for the Maternity Benefit? If a woman for a Maternity Benefit, it is 26 weeks; 26 weeks of wage will be paid for a maternity period.

In case of a miscarriage, 6 weeks; so, this is post or even just before the maternity, that they can take these 6 weeks of; this is for a miscarriage and 26 weeks for a maternity, salary will be paid to a woman. This is also a benefit from this ESIC.

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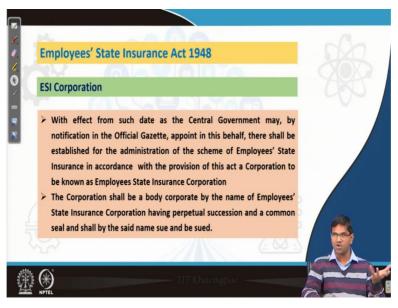


Now, next is, there is also periodical payment will be paid to an insured person if the person is suffering from disablement. When we talked about disablement, we said a partial or full disablement, total disablement. So, based on the employment injury, if a person has result of an employment injury, so, that has to be certified to be in eligible to such payments. Similarly, the periodical payments to the dependent of an insured person who dies as a result of the employment injury, so, then that they are entitled to the compensation.

So, the dependent, as we defined who are all the dependents, they can be able to get these periodical payments, because, if the person dies because of the employment injury. And medical treatment for attendance of insured person hereinafter referred to the medical benefit. They also get the medical treatment, as I said, yes, you can get treated from the private hospital as well and then ESIC will be able to pay the benefit and then you will be able to get the medical benefit.

And there is also payment to the eldest surviving member of the family. In case of an insured person who has died and also, they will also pay towards the funeral expenditure also, they will be paying the certain expenses towards the funeral expenses. These are the benefits, and also other benefits as I said, being a member, then your family members also able to treat at the designated ESI dispensary and also hospitals.

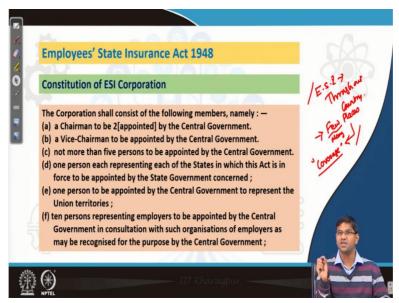
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Now, we are going to talk about the ESI Corporation which is Employees' State Insurance Corporations. With the effect from such day, the government may by notification in official gazette, appoint an established administration where the, administration of this ESI Corporations. Then the corporation shall be a body of a corporate by name of the Employees' State Insurance Corporations.

They will be instituted and they will be governing and regulating all this contribution; they will set up the hospital; they will tie up with the private hospital or the State Governments to set up the dispensary, hospitals and also facilitate all other activities which are required.

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Now, how do they constitute these corporations? The constitution shall consist of the following members: They will have a chairman and to be appointed by the Central

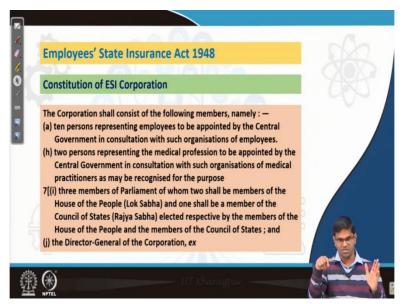
Government; and they will have a vice-chairman to be appointed, again by the Central Government; and that not more than 5% to be appointed by the Central Government. One person representing each state in which this act is enforced; if, I think in the; now, now it is almost in all state which this act is there.

And there are within a state, few places, there are remote places where you do not have ESI coverage, which I think it is important that I should inform. See, the ESI is available throughout the country. There are, but despite, there are few places, still there are many places; I would say not even few, there are many places due to the geographically situations or maybe other things; there are no coverage, ESI hospital is not covered.

So, those places, ESI, it is not a mandatory for an employer where ESI coverage is not available to deduct the contribution from the employee; rather they should have an alternative employment where through Workmen's Compensation Insurance or maybe group insurance to be availed from those employers. Now, coming back to these ESI Corporation which is very important that I thought it should be discussed.

Then, one person should represent each of the states; ESI is there in almost all states, so, at least 1 member from each of the state. And 1 person to be appointed by the Central Government to represent the union territories, because there are union territories in the country. And then, person representing employer to be appointed by the Central Government; yes, you have to have a person who is a representative of the employer.

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And also, a 10 person representing employees to be appointed. Again, as we have an employer representative, similarly, the employee representative should be also part of the corporations. In consultation with the organisation of the employees; you cannot just simply appoint an employee, because the Central Government has to consult the where these employees are employed. So, in consultation with them, they will be able to appoint the 10 persons on this Employees' State Insurance Corporations.

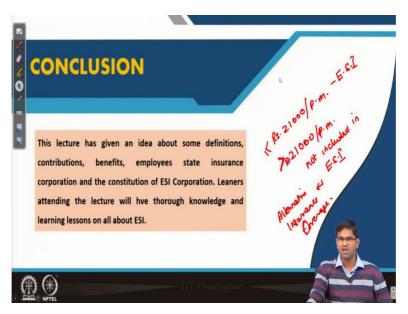
And 2 persons represent the medical professions, again appointed by the Central Government in consultation with the whichever the recognised medical practitioner they have been. And 3 members of the parliament whom 2 shall be the members of House of Lok Sabha, and 1 from the Rajya Sabha will also be a member of this ESI Corporation. And there will be a director general of the Corporation. So, these are the ESI Corporations.

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And these are the references.

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And if you look at this ESI Act, which is one of the important legislations which are giving access to health care service and also securing their hardships. In case an employee happened to have permanent partial disablement owing to employment injuries or permanent disablement owing to employment injuries or in case a person dies owing to employment injuries, those families and dependents will get the benefit from ESI Corporation.

Similarly, it also provides maternity benefit, sickness benefit, medical benefit. The benefit which is very large and it is a mandatory act for all the places wherever the coverage is available, where the contribution will come from both employee and employer, which is one of the significant and important social security legislation which are available to the organised sector, wherein all employees working in any establishment having 10 or more employees are covered under this legislation.

There is a ceiling limit. The ceiling limit of these wage is rupees 21,000 per month. Anyone who is earning more than this 21,000 per month is not covered under, not included in ESI, which is another important aspect. So, anyone who is less than or equal to 21,000 are included in ESI. And anyone who is earning is more than 21,000, they are not included in ESI, they will have to be covered under alternative insurance facilities or a coverage.

So, with this, we are concluding the module 7 wherein we discussed about all available social security legislations, primarily all these social security legislations are consolidated now and it is going to be implemented under the code on social securities which is going to be very comprehensive; of course, will have the same essence and essentials of all the social security

legislations we discussed in this particular module. Thank you. We will see in the next module. Thank you.