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The Supreme Court of India extends Employees' Compensation Act, 1923 coverage to commuting accidents

In a significant judgement that reshapes the contours of employment-related compensation law in India, the Hon'ble Supreme Court of India ("**Supreme Court**"), in ***Daivshala and Ors. vs. Oriental Insurance Company Limited and Anr.,***[1] held that an accident occurring during an employee's commute to work can be deemed to arise 'out of and in the course of employment' under the Employees' Compensation Act, 1923 ("**EC Act**").

Emphasising on the beneficial nature of labour welfare statutes, the Supreme Court recognised that commuting-related risks may fall within the scope of employment when a clear nexus exists between the time, place, and circumstances of the accident and employment. Importantly, the Supreme Court treated Section 51E of the Employees' State Insurance Act, 1948 ("**ESI Act**"), which deems commuting accidents compensable, as a clarificatory provision, thereby allowing its interpretive influence to extend to the EC Act.

Brief facts

The case under discussion revolves around an accident that occurred on April 22, 2003, involving an employee ("**Employee**") engaged as a night watchman at a sugar factory ("**Employer**"). On the day in question, the Employee left his residence on a motorcycle to report for duty. While en route to the factory, he was involved in a fatal accident. His family ("**Appellants**") sought compensation under the EC Act, claiming that the accident had arisen 'out of and in the course of employment'.

In response, the Employer and the insurance company raised the defence that the accident had occurred outside the factory's premises and prior to the official commencement of duty, thereby failing the statutory test under the EC Act. The Employer contended that since the Employee had not yet reached the workplace, the accident could not be deemed to have occurred 'in the course of' or 'arising out of' employment.

The Appellants, however, contended that there existed a 'nexus' between the accident and the Employee's job. Relying on the doctrine of notional extension, they asserted that the risk faced by the deceased was not personal in nature but incidental to the employment. Therefore, the accident should be treated as one arising 'out of and in the course of employment'.

[1] Judgment dated July 28, 2025. Civil Appeal No. 6986 of 2015 (Special Leave Petition (C) No. 16573 of 2012)

Issue

The principal question before the Supreme Court was whether the accident that resulted in the Employee's death could be said to have arisen 'out of and in the course of employment', thereby entitling the family to compensation under the EC Act?

Analysis and findings

Initial legal landscape and the Francis De Costa decision

The Supreme Court began by examining the prevailing legal standards under both the EC Act and the ESI Act. Both statutes provide that compensation is payable only if the accident arises 'out of and in the course of employment'. The Supreme Court referred to its earlier decision in *Regional Director, ESI Corporation vs. Francis De Costa*[2] ("**Francis De Costa**"), in which an employee had suffered injuries 1 (one) kilometre away from his workplace while commuting. In the said case, the Supreme Court held that unless it could be shown that the employee was performing something incidental to employment, such injuries sustained *en route* to the place of employment or for the purpose of employment, could not be attributed to employment.

The *Francis De Costa* ruling emphasised that the employment relationship begins only when the worker enters the workplace. An accident occurring during the commute, which is outside the confines of workplace, did not automatically establish a causal connection with the employment.

The statutory shift: Introduction of Section 51E in the ESI Act

A significant legislative development occurred on June 1, 2010, when Section 51E was introduced into the ESI Act. This provision marked a pivotal departure from the reasoning in *Francis De Costa*. Section 51E states that an accident occurring while commuting to or from the place of work '*shall be deemed*' to arise 'out of and in the course of employment', provided that a nexus can be established between the time, place, and circumstances of the accident and the employment.

The Supreme Court observed that Section 51E effectively neutralised the decision in *Francis De Costa*. This amendment was aimed at removing the legal ambiguity that had plagued courts for decades, offering a clearer, employee-friendly interpretation that recognised the reality of modern commuting and the risks it entails. The Supreme Court, therefore, had to consider whether this provision had retrospective effect and whether it could influence the interpretation of similar language in the EC Act.

1. **Retrospectivity of Section 51E: Is it clarificatory in nature?**

   The Supreme Court then addressed a crucial threshold question regarding whether Section 51E, introduced in 2010, applies to an accident that occurred in 2003?

   To answer this, the Supreme Court examined the legislative intent and nature of Section 51E. It noted that both the EC Act and the ESI Act are social welfare legislations aimed at protecting employees. The interpretative standards for such statutes differ from those applicable to, for instance, taxation laws. Beneficial legislations are to be interpreted liberally, with the aim of promoting their underlying objectives.

   The Supreme Court reasoned that Section 51E was enacted to resolve a long-standing ambiguity surrounding the phrase arising 'out of and in the course of employment', particularly in cases involving commuting. Judicial decisions had offered conflicting views depending on the specific facts of each case. Therefore, the introduction of Section 51E was not an innovation but a *clarificatory and declaratory* provision, one that merely put into statute what was already a developing principle in common law.

[2] (1996) 6 SCC 1

Accordingly, the Supreme Court held that since Section 51E merely clarified existing doubts, it would operate retrospectively, covering accidents that occurred prior to its formal enactment.

2. **Relevance of Section 51E of the ESI Act to the EC Act**

   The next contention was whether this interpretation could be applied to the EC Act, even though Section 51E was introduced into the ESI Act and not the EC Act?

   The Supreme Court clarified that it was not importing Section 51E into the EC Act *per se* but rather examining whether the same legal reasoning could apply. The crucial point was that both statutes used identical language, 'arising out of and in the course of employment', and both shared a common objective i.e., providing social security to employees. Furthermore, Indian courts have, interpreted these provisions in both statutes using common case law.

   This similarity, combined with the liberal approach warranted by the nature of the legislation, permitted the court to use the clarified meaning of the phrase from the ESI context to interpret the EC Act. Thus, accidents occurring during the employee's commute could indeed fall within the scope of employment under the EC Act, provided there is a clear nexus between the circumstances, time, and place of the accident and the employee's duty.

3. **The doctrine of notional extension**

   The Supreme Court further reaffirmed the continuing relevance of the doctrine of *notional extension*, which allows for a flexible and fact-sensitive analysis of whether an accident occurred within an extended area or time related to employment. Earlier decisions such as *Saurashtra Salt Mfg. Co. vs. Bai Valu Raja*[3] and *Agnes vs. Manager, Karnataka State Road Transport*[4] *Corporation* ("**Agnes**") had applied this doctrine to situations where workers were either approaching or leaving their workplace or using employer-provided transport.

   In Agnes, the Supreme Court held that an accident involving a bus driver who was returning home using employer-arranged transport was compensable, as the journey was deemed part of his employment obligations. This and similar rulings underscored that the line between employment and personal time could blur when an employee is performing an activity necessary for or incidental to their work duties.

Application to the present case

Applying these principles, the Supreme Court examined the facts at hand. The deceased was a night watchman reporting for duty at the factory. He had left his residence in a timely manner, was on his way to work, and met with a fatal accident *en route*. Given the timing of the accident, the purpose of the journey, and the nature of his employment, the Supreme Court observed that there was a clear and direct nexus between the accident and his job. Thus, the accident was deemed to have occurred arising 'out of and in the course of employment'.

The Supreme Court accordingly concluded that the Commissioner for Workmen's Compensation and Civil Judge, Senior Division, Osmanabad, was right in awarding compensation under the EC Act. The Supreme Court upheld this reasoning and allowed the appeal by the Appellants.

Conclusion

This judgment marks a significant development in Indian labour law jurisprudence by harmonising the interpretation of similar provisions under the EC Act and the ESI Act. By holding that commuting accidents can, under certain conditions, be deemed to arise 'out of and in the course of employment', the Supreme Court has expanded the scope of compensable claims under the EC Act. Although Section 51E was inserted into the ESI Act, the Supreme Court treated it as clarificatory in nature and applied its underlying logic to the EC Act, demonstrating a purposive and harmonised approach to interpreting welfare statutes.

[3] 1958 SCC OnLine SC 13
[4] (1964) 3 SCR 930

This judgement reinforces the idea that employment is not always confined to the strict physical boundaries of the workplace but can extend, under the right circumstances, into the spaces and times that surround it, similar to how workplaces are treated under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, extending protection beyond the physical boundaries of a traditional office

Importantly for employers, the EC Act has a wider applicability than the ESI Act, extending to virtually all categories of employers not covered under the ESI Act. This judgment, therefore, is not limited to a narrow class of employers but has implications across the board. Employers would be well-advised to treat commuting-related risks as part of their occupational safety framework and take a preventive, documentation-driven approach to mitigate any potential liabilities. This also includes ensuring that appropriate insurance policies are in place, and adequately scoped, to cover commuting-related incidents that may now fall within the expanded interpretation under the EC Act.

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimize associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

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This Prism has been prepared by:

Preetha Soman
Partner

Aishwarya Maria Manjooran
Senior Associate

Rebecca Thomas
Associate

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