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Government of Bengal

Department of Commerce and Labour

Annual Report
on the Working of the
Workmen's Compensation Act
in Bengal

During the Year

1939

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Annual Report on the Working of the Workmen's Compensation Act in Bengal during the year 1939.

No. 2927.

FROM S. N. MODAK, Esq., I.C.S.,
Commissioner for Workmen's Compensation, Bengal,

TO THE JOINT SECRETARY TO THE GOVERNMENT OF BENGAL,
DEPARTMENT OF COMMERCE AND LABOUR.

Calcutta, the 31st May 1940.

SIR,

I have the honour to submit my report on the Administration of the Workmen's Compensation Act in Bengal during the year 1939.

I continued in charge of the administration of the Act throughout the year under report. The Payment of Wages Act (IV of 1936) also continued to be administered by me as the only Authority appointed for the whole of the province. The general expectation that the work in connection with the latter Act would not be very real was however disproved by facts—quite a large number of applications having been filed under the Payment of Wages Act mainly for the recovery of wages due. Towards the middle of the year under report there was a considerable increase under both branches of work with the result that a large number of applications particularly under the Workmen's Compensation Act remained pending at the close of the year. The growing consciousness of the labour population of the province as to their legal rights was amply manifested by the rise in the number of cases recorded under both the Acts.

Part I—General.

The year under report recorded a further rise in the number of applications filed under the Workmen's Compensation Act. The total number of contested applications filed rose from 283 in 1938 to 332 in 1939, thus recording an increase of 17.3 per cent. over the figure of 1938.

The rise in the number of applications meant a great increase in the volume of work on both judicial and administrative sides.

Besides the formal applications, full details whereof appear in returns A and B, the office had to deal with about 3,000 petitions filed by the beneficiaries (females or minors) for payment of money invested on their behalf under section 8(7) of the Act. Owing to the great increase in the volume of purely judicial work, a considerable part of the work of administration of the Trust Fund had to be entrusted to the Head Clerk who largely helped the Commissioner in scrutinising the petitions and the beneficiaries' real needs. This branch of the work which represents the most humane part of the administration has been steadily on the increase since the inception of the Trust Fund in the year 1925. The Commissioner's function does not cease with the passing of judicial orders allowing or disallowing compensation, but all possible assistance in the shape of control and expert advice is given to the recipients of compensation, if they happen to be females or minors, in the matter of judicious application of the money which in many cases represents the only assets of the bereaved families.

During the year under report in about 75 per cent. cases in which money has been kept invested, quarterly remittances had to be sent for the maintenance of the beneficiaries. Besides quarterly payments a large number of applications were also received from the parties for payment in lump sums for various purposes such as purchase of land, starting of small shops or other business, redemption of mortgaged lands or ornaments, and other unforeseen contingencies in domestic affairs. These applications were carefully scrutinised by the office and after enquiries through local civil officers when these were considered necessary arrangements for payment were made in all *bonâ fide* cases. Another purpose for which applications for payment were made was for the marriage of children. As soon as these people were awarded money the first thought occurring in their minds as to the proper application of the money was to marry their children without any consideration for their ages. Most of these petitions had however to be rejected on the ground of the Sarda (Child Marriage Restraint) Act in spite of protests, sometimes vehement, from the beneficiaries. Owing to the large number of estates to be administered and the vastness of the area over which the beneficiaries are scattered, some amount of delay in the disposal of such applications was inevitable. The nature of this branch of work appears to have been fully appreciated by the beneficiaries, and in very few cases payment of the full amount of compensation was demanded during the year under report.

The success of the administration of the Trust Fund was in no small measure due to the assistance rendered by Subdivisional Officers and Circle Officers in the province and the Commissioners under the Act in other provinces, to whom frequent references had to be made to test the *bonâ fides* of prayers for payment.

The Workmen's Compensation Act has already become a well-established factor in the normal industrial life of the province and most of the big employers now regard the payment of compensation for accidents as a normal incidence of their business. The position is however entirely different with smaller concerns such as building contractors and owners of small factories who cannot afford to avail themselves of the protection of insurance and therefore look upon accidents to their workers as calamities for the business concerned. The rise in the number of contested claims is mainly due to the

attempts of this class of small concerns to fight out every claim preferred for compensation for accidental injuries or death. There is a growing tendency amongst such employers to drag proceedings as far as possible by impleading men of straw as contractors with the ostensible object of obtaining indemnity from them under section 12 of the Act. The real object in many cases was, however, not to get indemnity but to complicate issues and prolong proceedings thereby inducing the applicants in some cases to compromise the claims for smaller amounts than the Act provided. Though section 17 of the Act expressly discourages such settlements, the Commissioner had to accord his sanction to such compromises in some cases mainly because it was considered better and in the real interest of the claimants for compensation to have smaller cash payments rather than paper decrees for bigger sums which the unscrupulous amongst judgment-debtors knew how to render ineffective. The majority of employers in the province, however, co-operated in the administration of the Act by promptly depositing the decretal amounts.

Reports of accidents were as usual promptly supplied by the Departments of Factories and Mines as well as the Shipping Master of Calcutta. Fatal accidents in factories, mines and railways were also reported by the employers themselves in pursuance to section 10B of the Act.

No prosecution was launched under section 18A for failure to submit reports of fatal accidents during the year under report.

The Calcutta Claims Bureau which represents most of the leading concerns particularly in jute and coal industries which are covered by insurance continued its valued co-operation with the Commissioner in promptly settling the claims on behalf of insured employers.

There was not much of concerted activity on the part of trade unions in pushing claims for compensation on behalf of their members. Amongst the trade union officials who took interest in the working of the Act mention may be made of Mr. Sibnath Banerjee, M.L.A., of Chatkal Majdoor Union, Mr. Dinesh Chandra Roy of the East Indian Railway Men's Union, Mr. Mohsen Ali, LL.B., of National Chamber of Labour, and Mr. S. M. Abid Hossain of Railway and Factory Workers' Union. The Press Employees' Association, a small but active union, continued to take interest in the working of both the Workmen's Compensation Act and the Payment of Wages Act. The organising Secretary of the Union Mr. Indu Bhusan Sirkar appeared to be very keen about discovering cases of lead poisoning amongst press workers.

An important section of the labour force of the province who were fully aware of their rights to receive compensation were the Indian seamen. They were mostly helped by Bariwallas and represented by lawyers.

During the year under report the question of seamen's statutory right to recover compensation under the Indian Workmen's Compensation Act came up for decision in one case. After prolonged hearing and careful consideration of all aspects of the law it was held by the Commissioner that the right of seamen to receive compensation under

the Indian Act in respect of accidents occurring beyond Indian territorial waters was not statutory but derived from the articles of agreement entered into by the parties at the time of the seamen's engagement, by which the parties agreed to abide by the Commissioner's decision as final, and the Commissioner's decisions in these cases were in the nature of award by an arbitrator and therefore distinguishable from regular appealable judicial pronouncements. I am, however, glad to be able to say that awards made in all the cases were fully respected by the Shipping Agents in the province who always cooperated with the Commissioner acting as an Arbitrator in settling seamen's claims in respect of accidents occurring on ships outside Indian territorial waters.

The coal field district in Asansol continued to receive the Commissioner's constant attention throughout the year. The Commissioner had to go to Asansol 6 times in 1939 to deal mainly with contested claims arising out of accidents in coal fields. There was no trade union in Asansol area to assist claimants for compensation, but members of the local Bar took the usual keen interest in Workmen's Compensation cases. Besides new claims the Commissioner had also to deal with a very large number of petitions for payments out of the invested funds as whenever the beneficiaries living in Asansol subdivision got information of the Commissioner's presence at Asansol they appeared in large number before him and represented their grievances personally. This gave the Commissioner opportunities of getting in direct touch with the beneficiaries and enabled him to obtain first-hand information as to how the wards were faring.

The Commissioner and his Head Clerk continued to grant interviews to representatives of employers and workers for informal advice and information with regard to settlement of claims without resorting to formal litigation in Court, if possible. This dual function of the Commissioner both as a Judge and as an Adviser is a unique feature which has helped to popularise the Act not only amongst workers but also amongst employers.

During the year under review the Commissioner's office had to be shifted from the Writers' Buildings to its present site at No. 8, Lyons Range, mainly for better accommodation. But even the present increased space provided for this office did not appear to be sufficient for its growing needs and the matter had to be referred back to Government for reconsideration. The question which is now receiving the Government's sympathetic consideration will be, it is hoped, satisfactorily solved once for all.

The difficulties complained of in the last Annual Report with regard to realisation of decretal amounts from employers of small means still continued. During the year under review in 2 cases compensation awarded under section 10 could not be recovered from the judgment-debtors in spite of steps taken under section 31 of the Act. The number of such cases is, however, comparatively very small and therefore the matter does not yet appear to call for any drastic measures to cope with it.

The Commissioner's staff still remains at 9 permanent clerks (including 2 for the administration of the Payment of Wages Act) and 1 temporary clerk sanctioned for about 3 months every year to deal with

the additional work of compiling employers' returns under section 16 of the Act. The inadequacy of the staff continued to be felt throughout the year.

Part II—Statistics.

Details of cases formally instituted and disposed of during the year under report are furnished in returns A and B appended to the report.

Proceedings under Section 10A.

Besides the formal cases referred to above there was another class of proceedings in respect of fatal accidents reported. In 250 cases of fatal accidents which were reported during the year, notices were issued under section 10A of the Act to the employers requiring them to submit statements indicating whether they admitted or denied liability for compensation. In 190 of these cases the employers accepted their liability and deposited compensation. Of the remaining 60 cases in which liability was denied, the dependants in 10 cases instituted formal applications for compensation under the Commissioner's advice as the grounds stated by employer for denial of liability did not appear to warrant it. In some of the cases in which liability was eventually admitted the Commissioner had to point out to the employers the unsoundness of their grounds for denial of liability and they ultimately agreed to revise their decisions. In 3 cases in which the grounds for denial of liability were not free from doubt, attempts were made to trace out the dependants of the deceased but without success.

Compensation.

The year under review opened with Rs. 93,150-4-4 in the Commissioner's Personal Ledger Account with the Reserve Bank of India. Total deposits during the year amounted to Rs. 3,88,082-0-1. Out of this disposable total of Rs. 4,81,232-4-5, Rs. 4,09,504-8-7 was withdrawn for actual payments to workers or their dependants or investments under section 8(7) of the Act. The year closed with a balance of Rs. 71,727-11-10 in the Commissioner's Account with the Bank (verified with Bank Pass Book).

In addition to the amount deposited with the Commissioner under section 8 of the Act, direct payments by employers under agreements registered for permanent disablement accounted for a further sum of Rs. 1,23,600 as against Rs. 1,32,500 in 1938 and Rs. 86,225 in 1937. Besides the above, payments were also made by employers direct for accidents resulting in temporary disablement for which no lump sum was payable. From the consolidated statement of annual returns received under section 16—from certain major classes of employers only—it appears that a total sum of Rs. 83,039 was paid under this last head.

The total amount of compensation paid during the year, therefore, amounted to about Rs. 5,94,722 for which statistics are available.

Investment under Section 8(7).

The year under review opened with Rs. 3,24,115-6-1 in 864 accounts current in the Post Office Savings Bank. A further sum of Rs. 1,40,273-13-10 was deposited during the year in respect of 302 new accounts opened. Of the 1,166 accounts 170 were closed during the year either because the money at the credit of the beneficiaries was exhausted by periodical payments or because payments were made for better investment or utilisation of the money by the beneficiaries themselves. All proposals for payment for private investments were tested by enquiries before payments were actually made.

At the close of the financial year under report there were 996 accounts current in the Post Office Savings Bank with an aggregate balance of Rs. 3,56,310-15-8.

Besides the above there were Post Office 5-Year Cash Certificates and Government Promissory Notes of the face value of Rs. 52,920 in the Commissioner's hands at the close of the year. No new investments were made during the year in Post Office 5-Year Cash Certificates or Government Promissory Notes, as these were not found suitable for the cases concerned.

Revenues.

Total proceeds from sale of forms and Court-fees realised which are the only sources of revenues of this office, amounted to Rs. 1,900 in 1939 as against Rs. 1,600 in 1938.

Occupational diseases.

Besides the 2 cases of alleged lead poisoning pending from 1938, 3 cases were instituted during the year under report. Of these 5 cases 3 were disposed of before the close of the year, one being decreed and 2 dismissed, and 2 remained pending.

Appeals to High Court.

The year under review opened with 11 appeals pending before the High Court. Four new appeals were preferred during 1939. Of these 15 appeals, 12 were disposed of before the close of the year, 3 remaining pending.

References under Section 27.

Two references under section 27 of the Act were made by the Commissioner to the High Court, both of which remained pending at the end of the year.

Assessors under Section 20(3).

During the year under report no assessor was called in by the Commissioner in connection with the trial of any contested case.

Tours.

In spite of great increase in the volume of work the Commissioner had to go out on tour on 23 occasions in 1939 for the hearing of contested cases in the mufassil. Amongst the places visited the important centres were Asansol, Chittagong, Dacca, Barisal, Darjeeling and Kharagpur. The tours involved a total absence of 62 days from the headquarters.

Employers' Return under Section 16. *

Returns were received altogether from 2,263 industrial concerns of the province. From the consolidated statement of returns furnished (in Appendix IV) it appears that the employers submitting the returns employed an average total labour force of 728,567 adult workers and 19,567 minors daily.

The total number of accidents for which compensation was paid during the year under report as furnished in the returns was 8,960, of which 157 resulted in death, 543 in permanent disablement and 8,260 in temporary disablement: compensation paid for the 3 classes of accidents was Rs. 1,07,317, Rs. 1,35,630 and Rs. 83,039 respectively.

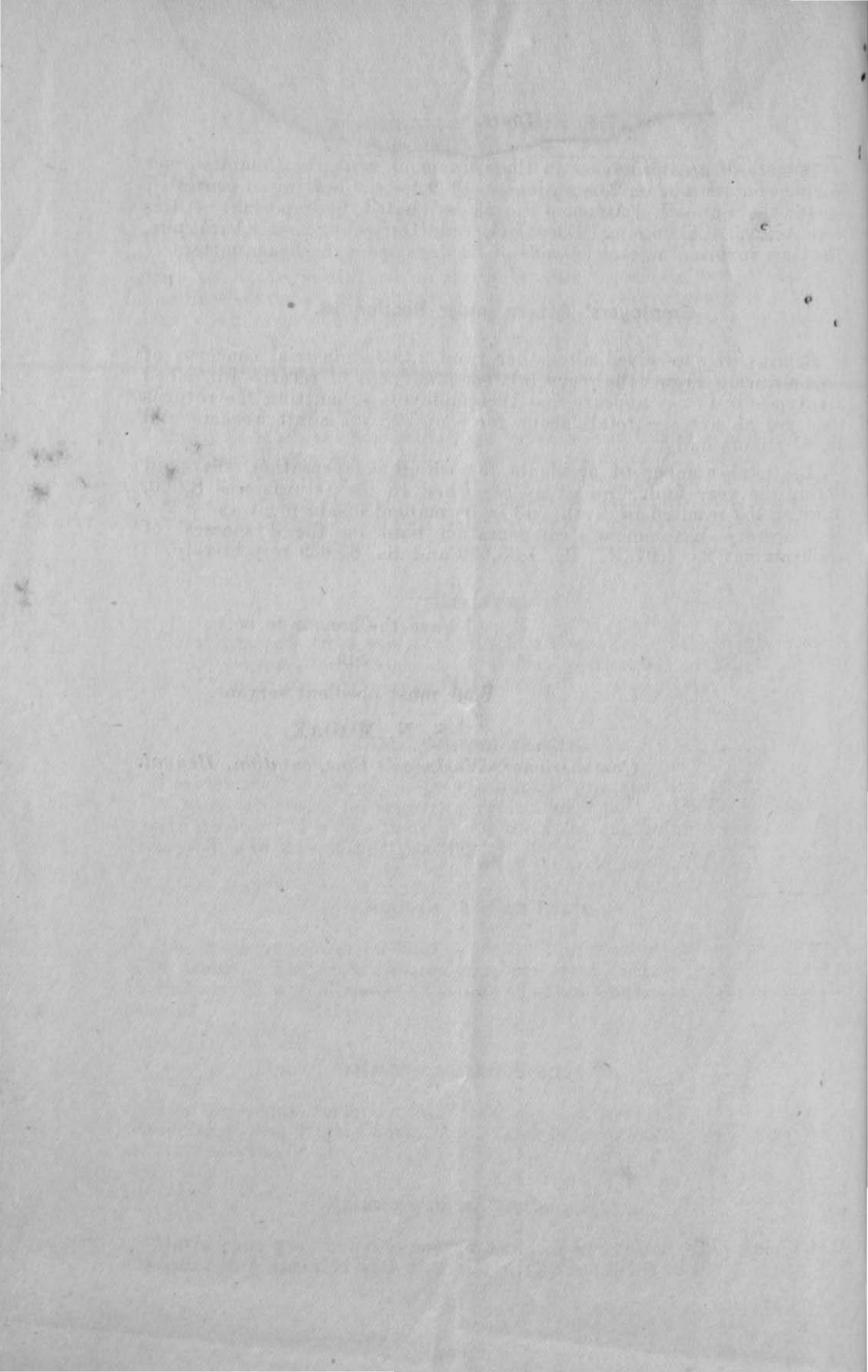
I have the honour to be,

SIR,

Your most obedient servant,

S. N. MODAK,

Commissioner, Workmen's Compensation, Bengal.



APPENDIX I.

Return A—Proceedings before the Commissioner, Workmen's Compensation for Bengal, for the year ending 31st December 1939.

Return of cases filed.

1. Application for the registration of agreements should not be entered in this statement.
2. A separate case should be entered for proceedings under section 8 or section 10 in respect of each person killed or injured as the case may be.

Cases of—	Pending at commencement.	Filed.	Received for disposal from other Commissioner.	Transferred to other Commissioner for disposal.	Cases disposed of without notice to the other party.					Cases disposed of after notice to the other party.								Total disposed of.	Pending at conclusion.
					Withdrawn.	Dismissed for non-prosecution.	Dismissed under Rule 21.	Dismissed under Rule 22.	Total.	Not contested.			Contested.						
										Admitted by opposite party.	Allowed <i>ex-parte</i> .	Total.	Allowed.	Allowed in part.	Dismissed.	Total.			
Award of compensation (under section 10)—																			
Fatal accidents	20	61	..	..	1	4	..	..	5	5	..	5	6	27	17	50	60	21
Permanent disablement	69	256	..	..	2	14	..	..	16	1	1	2	10	184	39	233	251	74
Temporary disablement	3	15	..	..	1	..	..	..	1	..	..	..	1	7	3	11	12	6
Total	92	332	..	..	4	18	..	..	22	6	1	7	17	218	59	294	323	101
Proceedings other than those mentioned above and not included below under "Deposit under section 8".	10	29	..	..	2	..	..	..	2	..	1	1	..	22	3	25	28	11
Disbursed to dependants or workmen as the case may be.										Refunded to employer.									

Deposits under section 8—

(i) Fatal accident, section 8(i) ..	99	290	12	57	..	233	..	..	..	..	..	..	..	5	..	..	5	295	106
(ii) Disablement of women and persons under legal disability, section 8(J) ..	..	18	..	..	..	18	..	..	..	..	..	..	..	..	..	..	..	18	..
(iii) Others, section 8(2) ..	20	393	..	..	..	403	..	..	..	..	..	..	..	..	..	..	..	403	10
Total deposits under section 8 ..	119	701	12	57	..	654	..	..	..	..	..	..	..	5	..	..	..	..	..

APPENDIX III.

Return C—Proceedings before the Commissioner for Workmen's Compensation,
Bengal, for the year ending 31st December 1939.

Monthly wages of the workmen injured.		Number of workmen.							
		For temporary disablement.		For permanent disablement.		For fatal accidents.		Total numbers.	
		Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.
More than— Rs.	But not more than— Rs.								
0	10	4	..	61	10	53	1	118	11
10	15	6	..	74	6	88	..	168	6
15	18	3	..	47	2	42	..	92	2
18	21	1	..	37	..	27	..	65	..
21	24	2	..	28	..	12	..	42	..
24	27	1	..	19	..	17	..	37	..
27	30	..	..	18	..	10	..	28	..
30	35	..	..	20	..	10	..	30	..
35	40	..	..	25	..	15	..	40	..
40	45	..	..	20	..	8	..	28	..
45	50	..	..	17	..	4	..	21	..
50	60	..	..	5	..	9	..	14	..
60	70	..	..	2	..	3	..	5	..
70	80	..	..	1	..	2	..	3	..
80	001	..	..	1	..	..	..	1	..
100	200	..	..	..	..	1	..	1	..
200	..	..	..	..	..	1	..	1	..
Total	..	17	..	375	18	302	1	694	19

APPENDIX IV.

Consolidated statement of returns for the year 1939.

Name.	Number of returns received.	Number of workers employed.		Accident resulting in—			Compensation paid for—			Disease resulting in—			Compensation paid for—		
		Adults.	Minors.	Death.	Perma- nent disable- ment.	Tempo- rary disable- ment.	Death.	Perma- nent disable- ment.	Tempo- rary disable- ment.	Death.	Perma- nent disable- ment.	Tempo- rary disable- ment.	Death.	Perma- nent disable- ment.	Tempo- rary disable- ment.
							Rs.	Rs.	Rs.						
Factories including Railway Workshops and Electric Supply Companies.	1,626	510,589	2,530	75	422	6,918	57,952	1,05,235	68,753	..	..	..	..	..	..
Tea Garden and Factories	439	149,184	16,952	3	9	77	1,425	904	503	..	..	..	..	..	..
Mines	194	54,427	77	72	99	1,217	42,760	25,918	13,280	..	..	..	..	..	..
Port Commissioners	2	9,006	8	6	12	2	4,630	3,212	13	..	..	..	..	..	..
Tramways	2	5,361	..	1	1	46	550	361	490	..	..	..	..	..	..
Total	2,263	728,567	19,567	157	543	8,260	1,07,317	1,35,630	83,039	..	..	..	..	..	..

