PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

WORKMEN'S COMPENSATION (AMENDMENT) ACT, No. 10 OF 2022

[Certified on 19th of March, 2022]

Printed on the Order of Government

Published as a Supplement to Part II of the **Gazette of the Democratic Socialist Republic of Sri Lanka** of March 25, 2022

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 18.00 **Postage : Rs. 15.00**

This Act can be downloaded from www.documents.gov.lk

Workmen's Compensation (Amendment)
Act, No. 10 of 2022

[Certified on 19th of March, 2022]

L.D.—O. 62/2018

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ORDINANCE (CHAPTER 139)

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows: -

Short title

1. This Act may be cited as the Workmen's Compensation (Amendment) Act, No. 10 of 2022.

Amendment of the long title of Chapter 139

2. The long title to the Workmen's Compensation Ordinance (Chapter 139) (hereinafter in this Act referred to as the "principal enactment") is hereby amended by the substitution, for the words "who are injured in the course of their employment." of the words "who are injured in the course of their employment or while coming from their place of residence to the work place or while returing back to their place of residence from the work place.".

Amendment of section 2 of the principal enactment

3. Section 2 of the principal enactment is hereby amended by the insertion immediately after the definition of the expression "partial disablement" of the following definition:–

> ""place of residence" includes any permanent place of residence of a workman or a boarding house or any other place where a workman resides temporarily for the purpose of coming to his workplace;".

Amendment of section 3 of the principal enactment

4. Section 3 of the principal enactment is hereby amended by the substitution for the words "in the course of his employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place or while returning back to his place of residence from the work place,".

Amendment of section 4 of the principal enactment

5. Section 4 of the principal enactment is hereby amended by the substitution for the words "in the course of his employment." of the words "in the course of his employment or while coming from his place of residence to the work place or while returning back to his place of residence from the work place.".

Amendment of section 5 of the principal enactment

6. Section 5 of the principal enactment is hereby amended by the substitution for the words "in the course of his employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place, or while returning back to his place of residence from the work place.".

Insertion of section 6A in the principal enactment

7. The following new section is hereby inserted immediately after section 6 of the principal enactment and shall have effect as section 6A of that enactment:–

"The nature of employment to be taken into consideration in calculating the amount of compensation

6A. Notwithstanding anything contained in section 6, in the case of permanent or partial disablement, the nature of employment of a workman in relation to any injury shall be taken into consideration in calculating the amount of compensation. Such compensation shall be based on the medical report issued by the relevant doctor.".

Amendment of section 7 of the principal enactment

8. Section 7 of the principal enactment is hereby amended in subsection (1) of that section by the insertion immediately after paragraph (*c*) thereof of the following paragraph:–

"(*d*) in the case of a daily paid or piece rated workman, the monthly wages of scuh workman shall be the aggregate of earnings of daily payments or piece rates for the last twelve months during which such

workman has been in service immediately preceding the accident, divided by twelve and again divided by twenty five.".

Amendment of section 11 of the principal enactment

9. Section 11 of the principal enactment is hereby amended in the proviso to subsection (1), by the substitution for the words "not exceeding an aggregate of ten thousand rupees," of the words "not exceeding an aggregate of twenty thousand rupees,".

Amendment of section 12 of the principal enactment

10. Section 12 of the principal enactment is hereby amended by the repeal of subsection (1) and the substitution therefor of the following:–

"(1) On the deposit of any money under section 11 as compensation in respect of a deceased workman, the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses to an amount not exceeding one hundred thousand rupees and pay the same to the person by whom such expenses were incurred.

(1A) The Commissioner shall cause a notice to be served on each dependent of the deceased resident in Sri Lanka, requesting such dependents to appear before him on such date as he may fix, to determine the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependent exists, he shall repay the balance of the money to the employer by whom it was paid, but no such repayment shall be made until after the expiry of a period of twelve months reckoned from the date on which the money was deposited under section 11. The Commissioner shall on application by the employer, furnish a settlement of all disbursements made.".

Amendment of section 16 of the principal enactment

11. Secution 16 of the principal enactment is hereby amended in subsection (1), by the substitution for the words "within two years of the occurrence of the accident" of the words "within two years of the occurrence of the accident or in case of death, within two years from the date of death.".

Amendment of section 18 of the principal enactment

12. Section 18 of the principal enactment is hereby amended as follows:–

(1) in subsection (2) thereof, by the substitution for the words "fine not exceeding five hundred rupees." of the words "fine not exceeding one hundred thousand rupees.";

(2) immediately after subsection (2), by the insertion of the following:–

"(3) Every employer shall maintain, in addition to the notice book specified in subsection (1), a record book, in which information and details of any accident at any factory or work place is included. The employer shall also appoint a responsible person to be in charge of such record book. The Commissioner shall have access to such record book and call for extracts or copies thereof for inspection.".

Amendment of section 20 of the principal enactment

13. Section 20 of the principal enactment is hereby amended as follows:–

(1) in subsection (1) thereof by the substitution for the words "in the course of his employment," of the words "in the course of his employment or while coming from his place of residence to the work place or while returning back to his place of residence from the work place,";

(2) immediately after subsection (4) thereof, by the insertion of the following:–

"(5) The Commissioner may determine a sum which is not more than fifty thousand rupees payable by the employer as funeral expenditure of the deceased workman. Such sum shall be in addition to the compensation payable by the employer and be deposited with the Commissioner or the next of kin of such workman, by the relevant employer.".

Replacement of section 23A of the principal enactment

14. Section 23A of the principal enactment is hereby repealed and the following new section is substituted thererfor:–

"Imposition of surcharge on employer for failure to pay compensation on due date

23A. Any employer who, being liable to pay any sum due as compensation to a workman or his heirs, as the case may be, under this Act, fails or defaults to pay that sum, on or before the due date, he shall be liable to pay to that workman or his heirs, as the case amy be, in addition to the sum due as compensation, a surcharge on that sum calculated in the following manner:–

(*a*) where the payment of the compensation has been in arrears for a period not exceeding one month from the due date, a surcharge of ten *per centum* of the sum due as compensation;

(*b*) where the payment of the compensation has been in arrears for a period exceeding one month but not exceeding three months from the due date, a surcharge of fifteen *per centum* of the sum due as compensation;

(*c*) where the payment of the compensation has been in arrears for a period exceeding three months but not exceeding six months from the due date, a surcharge of twenty *per centum* of the sum due as compensation;

(*d*) where the payment of the compensation has been in arrears for a period exceeding six months but not exceeding twelve months from the due date, a surcharge of twenty-five *per centum* of the sum due as compensation; or

(*e*) where the payment of the compensation has been in arrears for a period exceeding twelve months from the due date, a surcharge of thirty *per centum* of the sum due as compensation.".

Insertion of section 27A in the principal enactment

15. The following new section is hereby inserted immediately after section 27 of the principal enactment and shall have effect as section 27A of that enactment:–

"Appointment of a Registrar

27A. There shall be appointed by the Judicial Service Commission, a Registrar of Workmen's Compensation for the purpose of this Act.".

Amendment of section 41 of the principal enactment

16. Section 41 of the principal enactment is hereby amended by the repeal of subsection (2) and the substitution therefor of the following:–

"(2) If any sum referred to in subsection (1) cannot be recovered in the manner specified in that subsection, the Commissioner may make an order for the recovery of such sum by the seizure or sale of immovable property of the defaulter. The registrar of workmen's compensation, appointed under section 27A, shall execute such order through the registrar of the relevant Disrtict Court within whose jurisdiction such defaulter resides. The provisions

of the Civil Procedure Code (Chapter 101) relating to the seizure and sale of immovable property by the Fiscal in the execution of a Writ issued by a court and to the making and adjudication of claims in respect of immovable property seized by the Fiscal shall apply to the seizure and sale of immovable property for the recovery of the sum specified in the Commissioner's order, made by the Commissioner under this subsection and to the making and adjudication of claims in respect of immovable property seized for the recovery of such sum. For the purpose of application of such provisions the sum so specified shall be deemed to be due on a decree entered by the court and the Commissioner shall be deemed to be the judgment-creditor and the person liable to pay such sum shall be deemed to be a judgment-debtor.".

Amendment of section 44 of the principal enactment

17. Section 44 of the principal enactment is hereby amended by the substitution for the words "fraud or undue influence or other improper means," of the words "fraud, undue influence or other improper means, or due to the miscalculation or underestimation of the amount of compensation payable to the workman under the memorandum of agreement,".

Amendment of section 45 of the principal enactment

18. Section 45 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words "to a fine not exceeding one thousand rupees." of the words "to a fine not exceeding one hundred thousand rupees.".

Amendment of section 46 of the principal enactment

19. Section 46 of the principal enactment is hereby amended by the substitution for the words "to a fine not exceeding one hundred rupees." of the words "to a fine not exceeding one hundred thousand rupees.".

Amendment of section 49 of the principal enactment

20. Section 49 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words "value of one hundred rupees" of the words "value of two thousand rupees".

Amendment of section 52 of the principal enactment

21. Section 52 of the principal enactment is hereby amended by the substitution for the words "The Court of Appeal", of the words and figures "The High Court established under Article 154P of the Constitution".

Amendment of section 53 of the principal enactment

22. Section 53 of the principal enactment is hereby amended by the substitution, for the words "by the Court of Appeal", of the words and figures "by the High Court established under Article 154P of the Constitution".

Amendment of section 57 of the principal enactment

23. Section 57 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words "in the course of his employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place or while returning back to his place of residence from the work place.".

Amendment of section 59 of the principal enactment

24. Section 59 of the principal enactment is hereby amended by the substitution for the words "in the course of the employment," of the words "in the course of his employment or by an accident took place while coming from his place of residence to the work place or while returning back to his place of residence from the work place, ".

Amendment of section 60A of the principal enactment

25. Section 60A of the principal enactment is hereby amended by the substitution for the words "in the course of the employment," of the words "in the course of the employment or by an accident took place while coming from his place of residence to the work place or while returning back to his place of residence from the work place,".

Replacement of Schedule I of the principal enactment

26. Schedule I of the principal enactment is hereby repealed and the following Schedule substituted therefor:–

"Schedule I

(section 2)

List of injuiries deemed to result in permanent/partial disablement

Injury	*Percentage of loss of earning capacity*
Permanent and incurable paralysis of the limbs or injuries resulting in being permanently bedridden	100
Permanent incurable loss of mental capacity resulting in fatal incapacity to work or any other injury causing fatal incapacity to work	100
Eye Injuries	
(i) Total loss of sight in both eyes	100
(ii) Total loss of sight in one eye	80
Hearing Injuries	
(i) Total loss of hearing	80
(ii) Total loss of hearing in one ear	50

Loss of Speech	
(i) Total loss of speech	100
Sensory Loss	
(i) Total loss of sense of smell and taste	60
(ii) Total loss of sense of smell	60
(iii) Total loss of sense of taste	60
Arm Injuries	
(i) Loss of arm at or above elbow	85
(ii) Loss of arm at or below elbow	80
Hand Injuries	
(i) Loss of both hands	100
(ii) Loss of hand or loss of thumb and four fingers	80
(iii) Loss of thump (both phalanges)	50
(iv) Loss of thumb (one phalanx)	40
(v) Loss of four fingers	80
Loss of Index finger	
(i) Three phalanges	50
(ii) Two phalanges	40
(ii) One phalanx	20
Loss of middle, ring and little fingers	
(i) Three phalanges	30
(ii) Two phalanges	20
(ii) One phalanx	15

Loss of Leg	
(i) at or above knee	90
(ii) at or below knee	80
Foot Injuries	
(i) Loss of both feet	100
(ii) Loss of one foot	90
Loss of Toes	
(i) Great toe-both phalanges	40
(ii) Great toe-one phalanx	20
(iii) Other than great toe, if more than one lost, each	20
Miscellaneous	
(i) Total loss of genitals	75
(ii) Partial loss of genital	60
(iii) Severe facial scarring or disfigurement	90
(iv) Severe bodily disfigurement, other than facial scarring or disfigurement to a maximum of	60
(v) Loss of single tooth	10
(vi) Loss of any member or part thereof not mentioned above (e.g. nose, breast, ear etc.) to be assessed by a medical officer up to a maximum of	60.".

Replac of Schedule IV of the principal enactment

27. Schedule IV of the principal enactment is hereby repealed and the following Schedule substituted therefor:–

"Schedule IV (Section 6)

Amount of Compensation Payable

Monthly wages of the workman injured		*Death of workman*	*Permanent disablement of workman*	*Half monthly compensation for temporary disablement of workman*
Rs.	*Rs.*	*Rs.*	*Rs.*	*Rs.*
0	10,000	1,140,000	1,200,000	5,000
10,001	12,500	1,180,000	1,240,000	5,625
12,501	15,000	1,220,000	1,280,000	6,875
15,001	17,500	1,260,000	1,320,000	8,125
17,501	20,000	1,300,000	1,360,000	9,375
20,001	22,500	1,340,000	1,400,000	10,625
22,501	25,000	1,380,000	1,440,000	11,875
25,001	27,500	1,420,000	1,480,000	13,125
27,501	30,000	1,460,000	1,520,000	14,375
30,001	35,000	1,510,000	1,570,000	16,250
35,001	40,000	1,560,000	1,630,000	18,750
40,001	45,000	1,610,000	1,680,000	21,250
45,001	50,000	1,660,000	1,730,000	23,750
50,001	55,000	1,710,000	1,780,000	26,250
55,001	60,000	1,760,000	1,830,000	28,750
60,001	70,000	1,820,000	1,890,000	32,500
70,001	80,000	1,880,000	1,960,000	37,500
80,001	90,000	1,940,000	2,000,000	42,500
90,001	100,000	2,000,000	2,000,000	47,500
100,000	and above	2,000,000	2,000,000	47,500

".

28. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency

English Acts of the Parliament can be purchased at the "Prakashana Piyasa", Department of Government Printing, No. 118, Dr. Danister De Silva Mawatha, Colombo 8.