

## **CHAPTER -IV**

### **AN OVER VIEW OF EXISTING BENEFICIAL LEGISLATIONS**

Let us first review what is the status of existing legislations for social security in the country. Social security legislation in India started with the enactment of the Workmen's Compensation Act in 1923. It covered the employees of factories, mines, plantations, railways and other scheduled employments (which now includes some hazardous, agricultural and forestry operations) included in the schedule 2 of the Act. The Act provides compensation to workers or their families in case of injuries and diseases sustained during employment and resulting in disablement or death. It is an employer's liability scheme.

It may be seen that social security legislations in India by and large cover only work force in the organized sector though some of the Acts themselves do not specifically exclude workers from the unorganized sector, they have not been made applicable to all these workers in practice. There have, however, been some efforts on the part of the central government as well as the state governments to initiate schemes for providing a modicum of social security to specified categories of workers in the unorganized sector. The Ministry of Labour in the central government, for instance, operates six central welfare funds for the benefit of workers in Beedi and Cinema industries and in certain mines.

A number of state governments, notably those of Kerala, Maharashtra and Tamil Nadu, have started schemes of welfare funds operated through welfare boards for specific group of workers in the unorganized sector.

It would be useful in this connection to look at some of the existing models for providing social security to these workers and initiatives taken by some of these states.

The Maharashtra Hammals and other Manual Workers (Regulation of Employment and Welfare) Act came into force in 1974. The Act is applicable to 14 employments (specified in the schedule of the Act) in Mumbai and few other districts. Under the act, employers and workers have to register themselves with the board, wage rates are fixed by the workers together with the prescribed amount for social security. Wages are distributed to the workers by the board. The rates of premium vary from 25 per cent to 40 per cent of wages while the administrative cost of the board is 5 percent. The government is not contributing to this fund. As is evident, this board is regulating employment and conditions of service of workers in the specified segments of the unorganized sector, where there is no employer-employee relationship and the income of the workers is secure along with providing for their health safety and other kinds of welfare.<sup>66</sup>

The existing social security system in India exhibits diverse characteristics. There are a large number of schemes, administered by different agencies, each scheme designed for a specific purpose and target group of beneficiaries, floated as they are by the Central and State Governments. The result is often ambiguous. Many a time some scheme(s) might be responsible for creating 'exclusion' of the large number of those in most critical need for support from the planning process; on grounds of practicability or to protect the interests of those

who are already 'in'. There are wide gaps in coverage (a large population is still uncovered under any scheme) and overlapping of benefits (a section of the population is covered under two or more schemes). In the existing system, coverage varies from scheme to scheme, with different groups of people receiving different types of benefits. In other words, no one is insured against all risks of life.

#### Workers with institutionalized social security cover

The organized sector includes primarily those establishments that are covered by the Factories Act, 1948, the Shops and Establishments Acts of the States, Industrial Employment Standing Orders Act, 1946, etc. Social security benefits are extended to its workers while some of them such as Provident Fund, pension, insurance, medical and sickness benefits are contributory (workers alone, or workers and employers, sometimes supported by the state), others like employment injury benefits, gratuity, maternity benefit are purely non-contributory and are met by the employers alone. Workers in the organized sector are covered under the Institutionalized social security provided through Employees Provident Fund Organization (EPFO) and the Employees State Insurance Corporation (ESIC).

#### Workers without Institutionalized Social Security Cover

Workers in the informal economy include: (i) the vast majority of the workers in the unorganized/ informal as well as; (ii) the workers employed in an informal capacity in the organized sector- the two together accounts for 93% of workforce. More than 91% of India's workforce consists of informal workers working either in the

unorganized informal sector (85%) or in the organized formal sector (6%). A large majority of them face the problem of 'deficiency' or capability deprivation (of basic needs) as well as the problem of 'adversity' (arising out of such contingencies as sickness and accidents). As stated earlier, the social security schemes that are currently in place hardly cover even 5 to 6% of the estimated number of total informal workers of 362 million. With the exception of a small number of states with some social security cover for workers in the unorganized sector, a majority of the states do not offer any cover, especially for addressing such core concerns and State Government initiatives that address the social security needs of the population, there are very few schemes addressed specifically for the unorganized workers. Kerala and Tamil Nadu are the only state that offer some reasonable coverage of both old age pension for the aged poor and other protective social security schemes for the workers in the unorganized sector.

The majority of workers in the unorganized/ informal sector come from the socially backward communities. Viewed in this light, the provision of social security to these workers should be seen as a form of social uplift. Further, the absence of a viable and comprehensive social security arrangement is not merely the problem of individual workers and their families. It also has wider ramifications for the economy and society. Economically speaking a worker with no social security cover is likely to have more domestic worries than the one with a reasonable cover. This, as noted above, debilitates the workers's efficiency and productivity. Lack of purchasing power, as a result of low earning

power, along with vulnerabilities will have the effect of reducing the aggregate demand in the economy. Socially, the demonstration effect of the prospering section is likely to lead the uncovered section to disillusionment, dissatisfaction, and disaffection. The overall well-being of the country as measured by health, education, longevity of life, and access to resources will be affected adversely, at times manifesting itself in crimes and other illegal activities. <sup>67</sup>

Before going into the modalities of the existing beneficial legislations which provide for social security and welfare benefits, there needs a mention of few judicial findings which help in understanding the interests of the work force.

**In *Regional Director, ESI Corporation v. Francis De Costa*** <sup>68</sup> the Supreme Court has observed that same view was stated. Security against sickness and disablement is fundamental right under Article 25 of the Universal Declaration of Human Rights and Article 7(b) of International Convention of Economic, Social and Cultural Rights and linger Articles 39(e), 38 and 21 of the Constitution of India. Employees State Insurance Act seeks to provide succour to maintain health of an injured workman and the interpretation should be so given as to give effect to right to medical benefit which is a fundamental right to the workman.

**In *Murlidhar Dayandeo Kesekar v. Vishwanath Pandu*** <sup>69</sup> the Supreme Court held that right to economic empowerment to the poor, disadvantaged tribes and depressed and oppressed Dalits; is a fundamental right to make their right to life and dignity of person

meaningful and worth living. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live.

*In Consumer Education & Research center case*<sup>70</sup> the Supreme, it was unanimously held by a bench of three Judges that right to health to a worker is an integral facet of meaningful right to life and have not only a meaningful existence but also robust health and vigour without which worker would lead life of misery. Lack of health denudes his livelihood. Compelling economic necessity to work was also held that socio-economic democracy is sine qua non to make political democracy, a truly participatory democracy and a truism for unity and integrity of the country.

It would thus be well settled law that the Preamble Chapter of Fundamental Rights and Directive Principles accord right to livelihood as a meaningful life, social security and disablement benefits are integral schemes of socio-economic justice to the people in particular to the middle class and lower middle class and all offendable people. Life insurance coverage is against disablement or in the event of death of the insured economic support for the dependents, social security to livelihood to the insured or the dependents. The appropriate life insurance policy within the paying capacity and means of the insured to pay premia is one of the social security measures envisaged under the Constitution to make right to life meaningful, worth living and right to livelihood a means for sustenance.

These decisions dictate that Right to Life, Right to Health and Right to Social Security are fundamental requisites for the workforce and providing of social security is an inevitable responsibility to be shouldered by the executive and policy makers of our country.

The prominent insurance law of the country under the nomenclature of The Employees' State Insurance Act, 1948 is umbrella legislation for providing medical benefits to the work force. An outline of the legislation and its implementation part needs a mention.

**(A). The Employees' State Insurance Act, 1948**

The promulgation of Employees' State Insurance Act, 1948 by the Parliament was the first major legislation on Social Security for workers in independent India. The deployment of manpower in manufacturing processes was limited to a few select industries such as jute, textile, chemicals etc. The legislation on creation and development of a fool proof multi-dimensional Social Security system, when the country's economy was in a very fledgling state was obviously a remarkable gesture towards the socio economic amelioration of a workforce though limited in number and geographic distribution. India, notwithstanding other pressing compulsions of self reliance and self sufficiency, thus, took the lead in providing organized social protection to the working class through statutory provisions.

The E.S.I. Act, 1948, encompasses certain health related eventualities that the workers are generally exposed to; such as sicknesses, maternity, temporary or permanent disablement, occupational disease or death due to employment injury, resulting in loss of wages or earning capacity-

total or partial. Social security provisions made in the Act to counterbalance or negate the resulting physical or financial distress in such contingencies, are thus, aimed at upholding human dignity in times of crisis through protection from deprivation, destitution and social degradation while enabling the society the retention and continuity of a socially useful and productive manpower.

The ESI Scheme is based on the Principle of “ POOLING OF RISKS AND RESOURCES” in which every contributor, at any given point of time, emerges as a beneficiary of a benefactor and society at large is the net gainer. Employees, employers, State Governments and the Corporation are the major stake holders in the system of organized and coordinated effort providing social protection to benefactors. The role of employers, in particular remains pivotal to the success of the scheme, be it surveys for coverage, implementation, registration of factories/establishments, registration of employees, regular payment of contribution, facilitating inspections and timely action to ensure steady flow of benefits to the employees.

The ESI Act, 1948 in the first instance, applies to non-seasonal factories <sup>71</sup> using power in the manufacturing process and employing 10 or more persons and non-power using factories or establishments employing 20 or more persons for wages.<sup>72</sup> Employees of the establishments who are in receipt of wages not exceeding ■ 15,000 per month are covered under the Act.

It needs to be stressed that the establishments engaged The Building and Other Construction Work utilizes the services of work force engaged

in different vocations such as painters, glass pane fitters, electricians etc besides availing the services of the unskilled labour for the construction of the building. As regards the applicability of Construction Workers Act 1996 there is no ambiguity as the definition Sec 2 (e) of the Act <sup>73</sup> is itself clear and states that every person whether skilled or unskilled are to be treated as building worker as no distinction amongst the workers basing their vocations is made out. On the other the Employees State Insurance Act, 1948 applies to Establishments engaged in the manufacturing process and the unskilled labour involved in the construction works are secluded from the purview of the Act. The Employees State Insurance Act, 1948 applies to the work force in a circumvent manner and as such the outline of the provisions of the Act and the kinds of benefits extended therein are placed in the study. The researcher while collecting the feed back from the construction workers had an occasion to obtain the copies of the Identity cards from two workers working with the establishment which engaged more than 250 workers. **The skilled worker though not registered as beneficiary with the construction workers welfare board was found covered under the E.S.I. Act, 1948.** This only shows that despite the fact skilled worker is required to be registered under the welfare board, the same has not been made and it is wise to see that skilled worker is a member of the E.S.I Scheme. The fact that non-registration of construction worker with the construction workers welfare board is alarming as there is no mandatory direction on the employer for compliance of the same and it is only due to voluntary act of the construction worker, they can reap the

benefits only on fulfilling the requirements of construction workers Act, 1996. These workers who are covered under the Employees State Insurance Act, 1948 and it is doubtful whether these workers are also brought under the Construction Workers Act, 1996.

**Organisation:**

At the national level, the ESI Scheme is administered by a statutory body called the 'Employees State Insurance Corporation' Set up under Employees' State Insurance Act, 1948. The Corporation comprises representatives of employees, employers, the Central Government, State Governments, medical profession and the parliament. The Director General is the chief executive of the corporation and is also an ex-officio member of the corporation. At the State level, Regional boards have been constituted in each state and at the grass-root level; local committees have been formed as advisory bodies for smooth functioning of the Scheme.

For day-to-day administration, the Corporation has its Central Headquarters at New Delhi, besides Regional offices and Sub-Regional offices in the States and over 800 local offices etc at industrial centers throughout the country. The Scheme is primarily funded by contributions raised from insured employees and their employers in the implemented areas as a small but specified percentage of wages payable to such employees.

The rates of contributions were last revised by the corporation from 1<sup>st</sup> January, 1997 and are still in vogue.

These rates of contribution are:-

Employees' Contribution	1.75 percent of the wages
Employers' contribution	4.75 percent of the wages
Total:	6.50 percent of the wages.

Employees in receipt of an average daily wage of Rs.40/- or less are exempted from payment of their share of contribution but are entitled to all social security benefits under the Scheme.

The State Governments, as per provisions of the Act, contribute 12.5 percent of expenditure on medical care on ESI beneficiaries in their respective States within the per capita ceiling. Any expenditure over and above this ceiling is borne entirely by the State Governments.

The contributions paid by the employees and employers are deposited in a common pool known as the ESI Fund that is utilized for payment of cash benefits to the insured persons and their dependants, as well as, for providing medical facilities to the beneficiaries. The administrative and other expenses of the corporation are also met from this Fund.

**कर्मचारी राज्य बीमा निगम | E.S.I. CORPORATION**

SI No. 15695-101

नाम / Ino. No.	15695-101	पता / Address	B-102-03
नाम / Name	M. S. Kumar	व्यवस्थापक / Disp.	MAJES
S/o D/o W/o	Bhagwat Prasad	रा. कार्यालय / B.O.	MAJES
पता / Address	B-102-03	जाति / Caste	MAJES

Sl.	Name	Dt. of Birth	Relationship	Employment Changes
1.	Bhagwat Prasad	4-2-41	F	Date Code No. Date Code No.
2.	Karula	20 "	M	
3.				
4.				
5.				
6.				

Form-4, Regulation 17&95A  
पंजीकृत वारं / Family Particulars of IP

Family photograph affixed on the back

जयप्रकाश प्रसाद, महाकां. कार्यालय  
MAJES  
ISSUED BY: MANAGER, B.O. (MAJES)

ESI CODE NOS 3-15695-101



### **Advantages to employers.**

The Employers who come under the purview of the ESI Act, 1948 derive the following benefits from the Scheme:-

- i) Employers are absolved of all their liabilities of providing medical facilities to employees and their dependants in kind or in the form of fixed cash allowance, reimbursement of actual expenses, lump sum grant or opting for any other medical insurance policy of limited scope unless it is a contractual obligation of the employer.
- ii) Employers are exempted from the applicability of the :
  - a) Maternity Benefit Act,
  - b) Workmens' Compensation Act, in respect of employees covered under the ESI Scheme.
- iii) Employers have, at their disposal, a productive, well secured workforce; an essential ingredient for better productivity.
- iv) Employers are absolved of any responsibility in times of physical distress of workers such as sickness employment injury or physical disablement resulting in loss of wages, as the responsibility of paying cash benefits shifts to the corporation in respect of insured employees.

### **Benefits to employees:**

The Employees State Insurance Corporation has already adopted and extended five major benefits to the insured workers out of the nine benefits identified by the I.L.O.

Under the ESI Scheme, the comprehensive and need based package of major Social Security benefits in cash and kind include:-

- 1) Medical Benefit - for self and family
- 2) Sickness Benefit - for self
- 3) Maternity Benefit- for self
- 4) Disablement Benefit
  - a) Temporary Disablement benefit - for self
  - b) Permanent Disablement benefit - for self
- 5) Dependants' Benefit - for dependants in case of death due to employment injury.

In addition, the Scheme also provides some other need based benefits to insured workers. These are;

- I. Funeral expenses - to a person who performs the last rites of an I.P.
- II. Rehabilitation allowance- for self
- III. Vocational Rehabilitation - for self
- IV. Old age Medicare -for self and spouse
- V. Medical Bonus - for insured woman and Imps wife.

An interesting feature of the ESI Scheme is that the contributions are related to the paying capacity as a fixed percentage of the employee's wages, whereas, social security benefits are provided according to entitlement without any distinction of class or status. Medical benefit for self and dependants is provided at uniform scale from day one of entering insurable employment.

## **Benefits under the Scheme**

### **Medical Benefit**

The Scheme provides full range of medical care, namely; (i) out-patient services; (ii) Diagnostic services; (iii) Specialists' services and (iv) Hospital services; through a network of ESI dispensaries, Panel clinics, diagnostic centres and ESI Hospitals, etc. Super-speciality facilities are provided to the beneficiaries through recognized advanced medical institutions empanelled for the purpose on referral basis.

An insured person and his dependant family members become entitled to medical care from the date he/she enters the insurable employment and the entitlement continues as long as the insured person is in insurable employment or is qualified to claim sickness, maternity or disablement benefit. The entitlement to medical care is extended up to two years to persons suffering from any of the 34 specified chronic or long-term diseases. Medical treatment to persons, who go out of coverage during the period of treatment, is not discontinued till the spell of sickness ends. Insured persons and dependant members of their family are entitled to free, full and comprehensive medical care under the Scheme.

### **Infrastructure (medical)**

Under the Employees' State Insurance Scheme medical care is provided, both through the service system (direct pattern), as well as, the indirect method using the panel system. Under the service system, the Corporation has set up dispensaries in the implemented areas. In the panel system, private clinics of medical practitioners provide treatment

to the beneficiaries. Specialist service is available in the Hospital out – patient departments or at separate diagnostic centres. Cases requiring service of specialists in super-specialties are referred to the outside institutions.

Hospitalization facilities are provided in ESI Hospitals or ESI wards. Under the service system, these medicines are dispensed at ESI dispensaries, ESI hospitals and medical stores. The scheme also provides for a comprehensive medical cover to the superannuated and disabled insured persons and their spouses on pre-payment of a nominal contribution of Rs.120/- per annum, per couple, provided that the insured person was in continuous insurable employment for at least 5 years before retirement.

#### **Occupational health management:**

A sizeable number of insured persons in a variety of industrial units, factories and establishments are exposed to the risks of employment injury or occupational hazards. Often, such an exposure to employment related hazards leads to an irreversible disease profile that may prove fatal. Occupational diseases are caused by continuous exposure to toxic and hazardous materials or substances used or manufactured in industries. *These occupational hazards are also prevalent in the construction industry but the fact remains that these construction workers are not directly brought under the Act* due to the reasons that the provisions of the Act for extending the medical benefits to the construction and other workers is yet to be formulated by the lawmakers despite the lapse of 61 years of enactment of the

Legislation viz ESI Act, 1948. *In Shakti Enterprises V. Employees' state Insurance Corporation* <sup>74</sup> supreme court has held that, if an employee, Casual laborers engaged in construction work meant for expansion of the factory are employees within the meaning of section 2 (9) and, accordingly come within the purview of the Act. Constructions, additions and alterations, white-wash and colouring of cinema buildings is ancillary, incidental or relevant to or linked with the object of the establishment of the cinema. Hence, laborers casually employed for such purposes are covered by the provisions of Section 2(9) ESI Act. <sup>75</sup> These judicial decisions helps the construction work force to avail the benefits in a circumvent manner. Though the setting up of these centres has been a conceptual breakthrough and a big step forward in the occupational health management of industrial workers, the preventive measures like environmental planning and introduction of basic safety measures will continue to remain pivotal pre-requisites for protection of workforce against occupational hazards.

### **Cash benefits**

**A. Sickness Benefit** represents periodical payments made to an insured person for the period of certified sickness after completing nine months in insurable employment. To qualify for this benefit, contributions should have been payable for atleast seventy eight days in the relevant contribution period. The maximum duration for availing sickness benefit is 91 days in two consecutive benefit periods. There is a waiting period of two days which is waived if the insured person is certified sick within 15days of the last spell for which sickness benefit

was last paid. The sickness benefit is paid at a standard rate for 28 wage slabs. The rates of payment vary from Rs.14/- to 125/- per day averaging just above 50 percent of the daily wages. After exhausting the sickness benefit payable upto 91 days, an insured person, if suffering from tuberculosis/leprosy, mental and malignant diseases or any of the 34 specified long term diseases is entitled to Extended Sickness Benefit at a rate that is 40% over and above the standard sickness benefit for a further period of 124/309 days/two years provided he has been in continuous employment for a period of two years or more in a factory or establishment to which the provisions of the Act apply and fulfills the contributory conditions as per the corporation's resolution.

**B. Maternity Benefit** Maternity benefit implies cash payment to an insured woman in case of confinement or mis-carriage or sickness arising out of pregnancy, pre-mature birth of child as certified by a duly appointed medical officer or midwife. For entitlement to maternity benefit the contribution in respect of an insured woman should have been payable for not less than seventy days in the immediately preceding two consecutive contribution periods corresponding to the benefit period in which the confinement occurs or is expected to occur. The daily rate of benefit is double the standard sickness benefit rate i.e. almost full wages.

**C. Disablement Benefit**

**(i) Temporary disablement benefit** In case of temporary disability arising out of an employment injury or occupational disease. Disablement benefit is admissible to an insured person for the entire

period so certified by an Insurance Medical Officer for which the insured person does not work for wages. The benefit is not subject to any contributory condition and is payable at a rate which is not less than 70% of the daily average wages. Benefit is, however, not payable if the incapacity lasts for less than three days excluding the date of accident.

**ii) Permanent disablement benefit** In case an employment injury or occupational disease results in permanent, partial or total loss of earning capacity, periodical payment are made to the insured persons for life at a rate depending on the actual loss of earning capacity as may be determined and certified by a duly-constituted Medical Board. In order to protect erosion in real value of the periodical payments of permanent disablement benefit, against rise in the cost of living index, periodical increases are granted, based on actuarial calculations.

Commutation of periodical payments into lump sum is permissible where the permanent disablement stands assessed as final and such payment is allowed in case the total commuted value does not exceed to Rs.30,000/-).

**D. Dependants' Benefit.** Periodical pension is paid to the dependants of a deceased insured person where death occurs as a result of an employment injury or occupational disease. The widow receives monthly pension for life or until re-marriage, at a fixed rate equivalent to  $3/5^{\text{th}}$  of the disablement benefit rate and a widowed mother gets  $2/5^{\text{th}}$  each dependant child is paid an amount equivalent to  $2/5^{\text{th}}$  thereof until he/she attains 18 years of age, provided that, in case of infirmity, the benefit continues to be paid till the infirmity lasts.

However, it is subject to the condition that the total dependants' benefit distributed among the widow and legitimate or adopted children of the deceased insured person, does not exceed, at any time, the full rate of disablement benefit. In case it exceeds the given ceiling, the share of each of the dependants is, proportionately reduced. The benefit is not payable to married daughters. In case the insured person does not leave behind any widow, widowed mother or child, the benefit is payable to other dependants if any.

### **E Other benefits**

(i) **Funeral expenses** are in the nature of a lump sum payment up to a maximum of Rs.2500/- made to defray the expenditure on the funeral of deceased insured person. The amount is paid to the eldest surviving member of the family or, in his absence, to the person who actually incurs the expenditure on the funeral.

ii) **Rehabilitation Allowance.** It is granted to the insured persons for each day, on which they remain admitted in an Artificial Limb centre, on the rates, which generally conform to double the standard sickness benefit rate.

### **Unemployment allowance**

Rajiv Gandhi Shramik Kalyan Yojana was introduced to provide Unemployment Allowance to the insured persons who have been rendered unemployed involuntarily due to closure of the factory/Establishment, retrenchment or permanent invalidity arising out of non-employment injury.

**Table -10. E.S.I.C AT A GLANCE (All India Statistics) <sup>76</sup>**

Particulars	As on	
	31.3.2006	31.3.2007
(1)	(2)	(3)
States/Union Territories Covered	27	27
No. of Centres	728	737
No. of Employees	84,00,526	92,38,530
No. of Insured persons/family units	91,48,605	1,01,57,573
No. of Insured Women	16,22,300	17,97,657
Total Beneficiaries	3,54,96,600	3,94,11,383
No. of Employers covered	3,05,294	3,31,744
ESI Hospitals	144	144
ESI Annexes	42	42
<b>Income and out-go (Rupees in Lakhs)</b>		
Revenue Income	2,41,061.77	
3,10,811.19		
Revenue Expenditure	1,27,896.16	
1,35,017.14		

**Table -11 Income and Expenditure Statement of ESIC, New Delhi**

Head of Account	Actuals 2005-2006	Actuals 2007-2008
<b>I. INCOME</b>		(Rs. In lakhs)
Contribution	1,933,56.47	2,453,48.37
Interest & Dividend	398,39.26	578,80.99
Fees, Fines & Forfeitures	7,89.03	9,06.76
Rent, Rates & taxes	56,62.03	48,85.20
Other Income	14,14.98	17,89.87
<b>TOTAL INCOME</b>	<b>2,410,61.77</b>	<b>3,108,11.19</b>
<b>II. EXPENDITURE</b>		
<b>I. Benefits</b>		
A. Medical Benefit	724,11.00	779,78.47
B. Cash Benefits	273,55.94	272,31.39
C. Other Benefits	1,15.04	2,42.60
<b>TOTAL BENEFITS</b>	<b>998,81.98</b>	<b>1,054,52.46</b>

## SALIENT ACHIVEMENTS IN 2006-07

- ❖ The number of factories/establishments covered under the ESI Act increased by 26,450 units to 3, 31,744 units.
- ❖ W.e.f. from 1.4.2007 the ceiling on expenditure of medical benefit was enhanced from Rs. 900/- to Rs. 1000/- per I.P. family unit per annum.
- ❖ The expenditure on medical and cash benefits incurred by the Corporation was Rs. 1053.72 crores. The total expenditure on medical benefit increased from Rs. 724.11 crores to Rs. 779.78 crores. The Corporation made 29.55 lakh cash benefit payments amounting to about Rs. 273.94 crores.
- ❖ At the end of March, 2007 about 2,45,546 beneficiaries were on the rolls of the Corporation for permanent disablement benefit and dependants benefit.
- ❖ The Corporation has increased the vocational rehabilitation cash allowance from Rs. 45/- to Rs. 123/- per day.
- ❖ The wage ceiling for coverage of employees under the ESI Act has been enhanced from Rs. 7,500/- to Rs. 10,000/- per month w.e.f 1.10.2006 and ten more slabs of daily standard benefit rates have been added from Rs. 150/- to Rs. 195/-.

The number of employees and insured persons covered under the ESI Scheme were 92.38 lakh and 101.57 lakh respectively. The increase in number of employees and insured persons may be attributed to increase in the wage ceiling for coverage of employees and the coverage of large number of units under the Scheme during 2006-07. The insured women

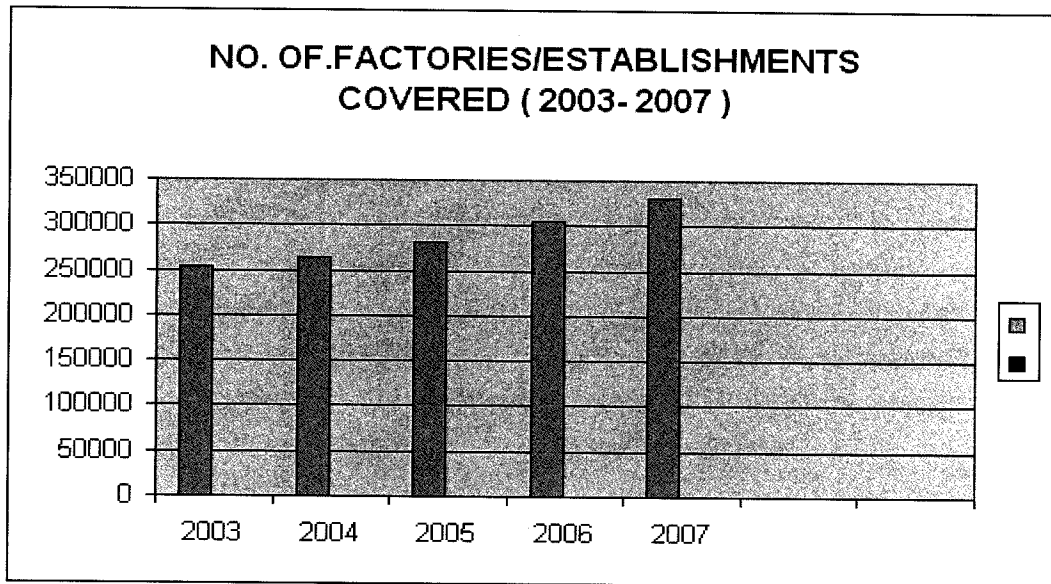
covered under the scheme correspondingly increased to 17.98 lakh as on 31.3.2007.

The number of beneficiaries has increased to 394.11 lakh by the end of the year 2006-2007.

At the close of the year 2006-2007, total number of employers covered under the provisions of the ESI Act went up from 3, 31,744.

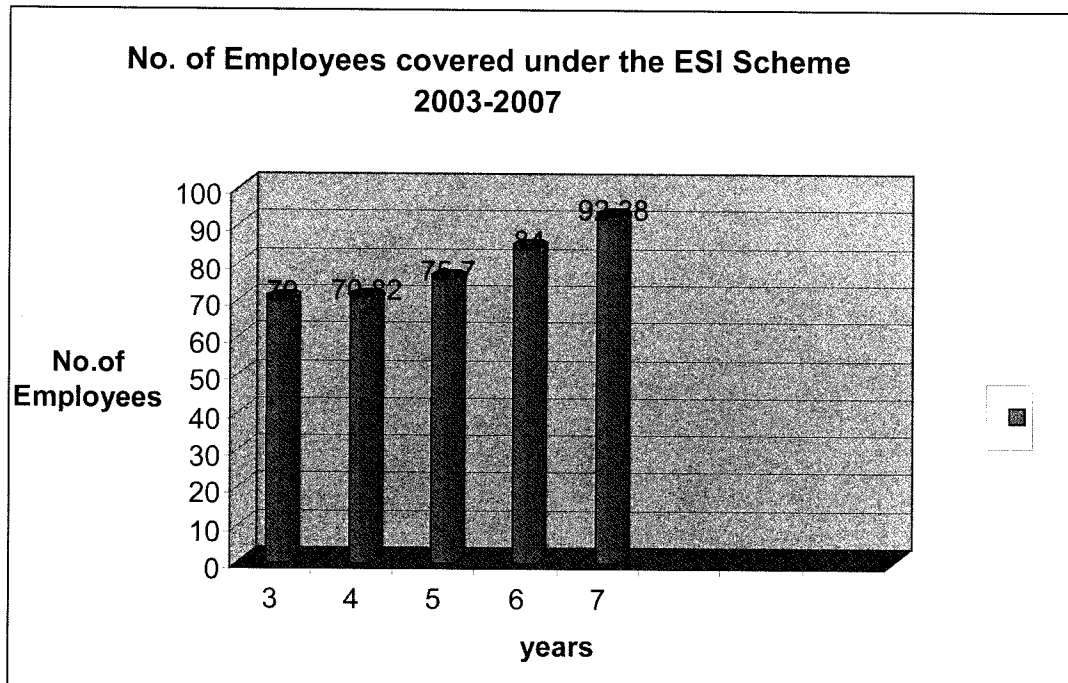
**Chart-2**

**No. of Establishments**

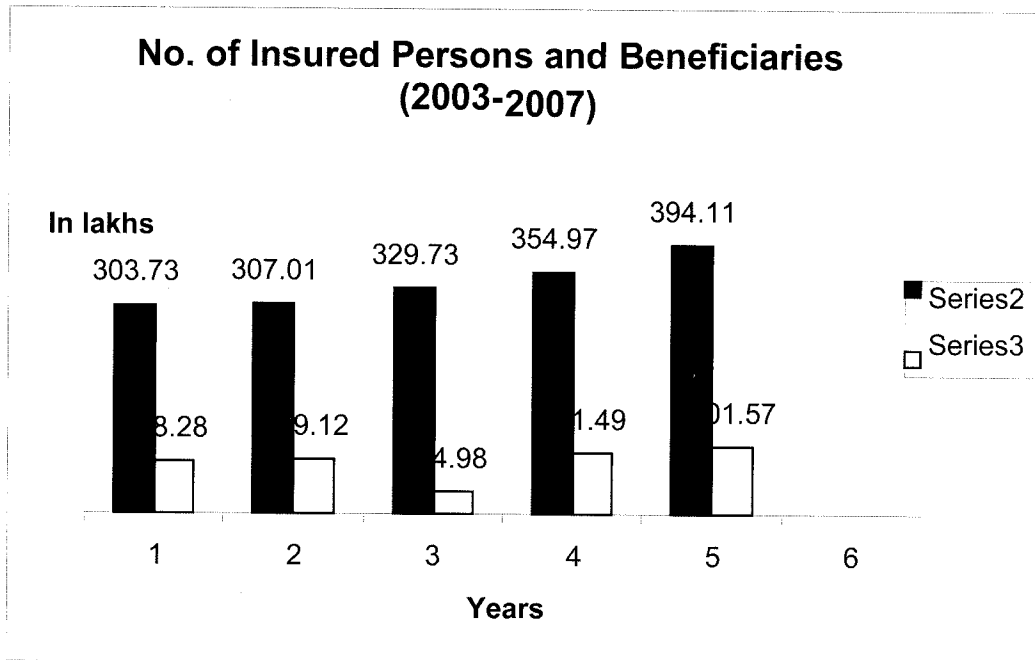


**Chart-3**

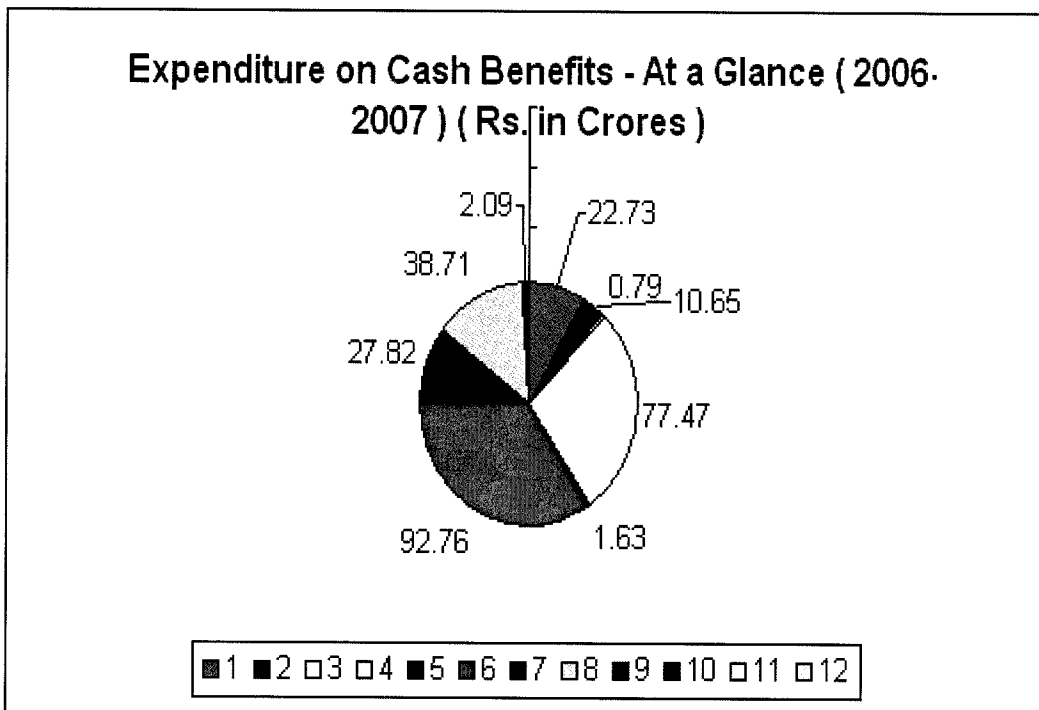
**Number of Employees**



**Chart -4**  
**No. of insured persons and beneficiaries**



**Chart-5**  
**Expenditure on cash benefits**



## Employees State Insurance Scheme - in Karnataka. <sup>77</sup>

Coverage of factories and establishments under E.S.I Act

Position of coverage as on 31.3.2008 is as given below.

Centers/sub centers	37/134
No. of units covered under the Act:	337722
Approved No. of employees (31.03.2007)	917517
Approved No. of Insured Persons (31.03.2007)	9,86,111
No. of Beneficiaries 31.03.2007	39.44 (in lakhs)

### Revenue Receipts and Expenditure:

year	Receipts (Rs. in crores)	Expenditure (Rs. in crores)
2004-2005	163.66	67.76
2005-2006	187.97	59.44
2006-2007	256.69	54.84
2007-08	352.62	59.07

year	No. of payments (sb, tdb, pdb & db)	Amount disbursed (Rs. in crores)
	R.O	R.O
2005-2006	0.84	0.16
2006-2007	0.88	0.15
2007-2008	0.95	0.14

### Cash benefits

Cash Benefits to the beneficiaries of the scheme are disbursed through a network of 39 Branch Offices spread over the State. Claims for cash benefits are mainly settled across the counter at these Branch Offices. 49

cases of Dependents Benefits (DB) involving periodical payment to 128 dependents and 496 cases for payment of Permanent Disablement Benefit (PDB) admitted during the year 2007-2008.

Number of beneficiaries on the rolls of Karnataka Region for PDB/DB as on 31.03.2008 is 7680 and 2831 respectively. No claim of any kind is pending for more than six months in the Region. Details of amount paid towards various cash benefits during the last three years are as follows:

**Medical benefit:**

The Scheme provides full medical care to the insured persons and members of their families in the State through a wide network of hospitals and dispensaries. In addition to the infrastructure created by the ESI Corporation to administer the medical benefit, arrangements have been made for providing the treatment in super specialties, to the beneficiaries through Govt. hospitals.

Year	No. of cases	Amounts released (Rs. In lakhs)
2005-2006	9657	Rs. 822.91
2006-2007	1070	Rs. 945.97
2007-2008	2674	Rs. 1201.07

**Implementation of Rajiv Gandhi Shramik Kalyan Yojana:**

The Rajiv Gandhi Shramik Kalyan Yojana or Unemployment Allowance has been implemented w.e.f. 01.04.2005. An Insured Person going out of insurable employment involuntarily after 01.04.2005 on account of closure of a factory or establishment, retrenchment or permanent invalidity arising out of non employment injury, after being in insurable employment and has contributed under the scheme for five

years or more, shall be entitled to claim Unemployment Allowance for a maximum period of 6 months during his/her entire service.

These facts and figures make us to understand that work force reaps social security and welfare benefits under different legislations and there lacks uniformity in honoring the benefits. Further benefits availed by the construction work force is very less when compared to the total number of beneficiaries under the Employees Insurance Act, 1948. Any move by the Appropriate Government for enhancing the coverage of work force would be in consonance with the judicial interpretation of various Courts and its thrust on enforcement and protection of fundamental Right of the Worker i.e. Right to Health is the inherent right of a worker, which in turn leads to honoring of welfare benefits and preserving the efficiency of work force.

**(B). THE EMPLOYEES' PROVIDENT FUND AND MISCELLANEOUS  
PROVISIONS ACT, 1952**

The Employees' provident Funds & Miscellaneous Provisions Act, 1952 was enacted with the main object of "making provision for the future of the industrial worker after he retires or of his dependants in case of his early death". It was recognized that such a scheme would have apart from others; the obvious advantage of cultivation among the workers the spirit of saving a portion of their earnings regularly and would also encourage the stabilization of a steady labour force in industrial establishments.

The Employees' Provident Funds Scheme was accordingly framed and it came into effect from 1.11.1952. In the year 1976, the Act was further amended introducing yet another Social Security Scheme; the Employees' Deposit linked Insurance Scheme, 1976 to provide an insurance cover to the members of the Provident Fund without payment of any premium by such members. The insurance cover was linked to deposits in the Provident Fund at the credit of the deceased employee. The scheme came into effect from 1.8.1976.

The Employees' Pension Scheme, 1995 was introduced w.e.f. 16.11.1995 replacing the Employees' Family Pension Scheme, 1971.

The three Schemes taken together provide to the employees an umbrella for the rainy day in the shape of old age and survivorship benefit, long-term protection and security to the employees and after his death to his family members. To the employers, the schemes provide a steady labour force, which is essential for the productivity and prosperity

of the Establishment. To the Government, the schemes provide funds of considerable magnitude for utilization on various development projects and programmes designed to promote economic and social development of the country and well being of its people.

### **Administration of the fund**

The Central Provident Fund Organization, New Delhi is vested with the responsibility of administration and implementation of the schemes as provided under the Act. This pivotal organization through its Regional office/subordinates office carries out the assigned task. The Schemes are administered by the Central Board of Trustees which is tripartite body headed by the Union Minister for Labour. The Board consists of Chairman, Central Government representatives, State Government representatives, Employers' representative, Employees' representative and the Central Provident Fund Commissioner is the Ex-officio Member.

### **Application of the act.**

- Every establishment, which is engaged in, any one or more of the industries specified in Schedule-I ( such as Cement, Electricla, Mechanical or General engineering products, Iron and Steel, Textiles etc ) of the Act or any activity notified by the Central Government in the official Gazette.
- Employing twenty or more persons. <sup>78</sup>
- The Act does not apply to Co-operative societies/establishment, employing less than 50 persons and working without the aid of power.

**Eligibility.** Liberalization and growth that have taken place by way of amendment to employees' Provident Fund Scheme, 1952 for enrolment to membership with regard to wage limit raised to Rs, 6500/- per month and also the qualifying period of service eligibility for enrolment to the membership of the fund is from the date of joining the factory/establishment (w.e.f. 01.11.1990. onwards).

**Concentration of members – industry wise.**

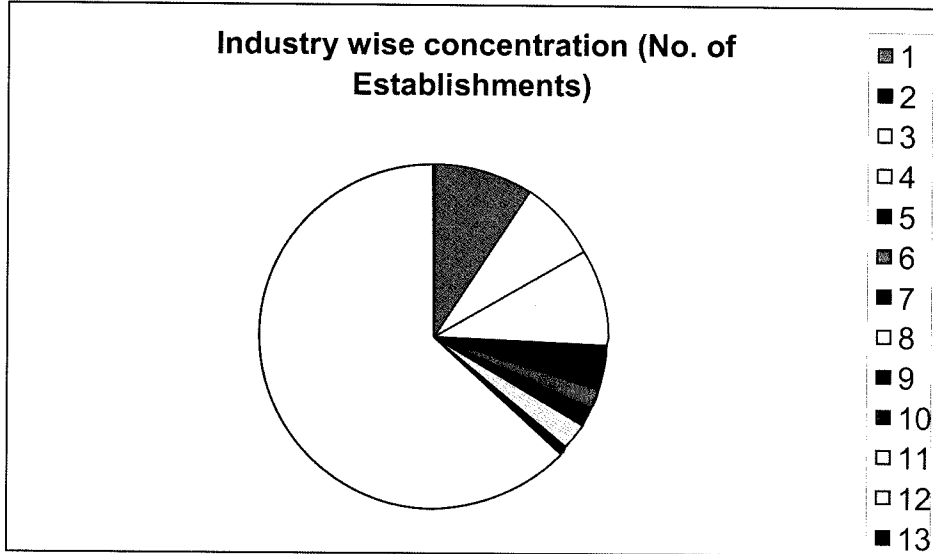
Out of the 180 Schedule of Industries/classes of establishments to which the Act applies, maximum percentage of members are concentrated in five schedule industries viz. Electrical, Mechanical or General Engineering, Textile, Trading and Commercial, Heavy fine chemicals, Building and Construction etc. The data is reflected graphically as under.

Table-12

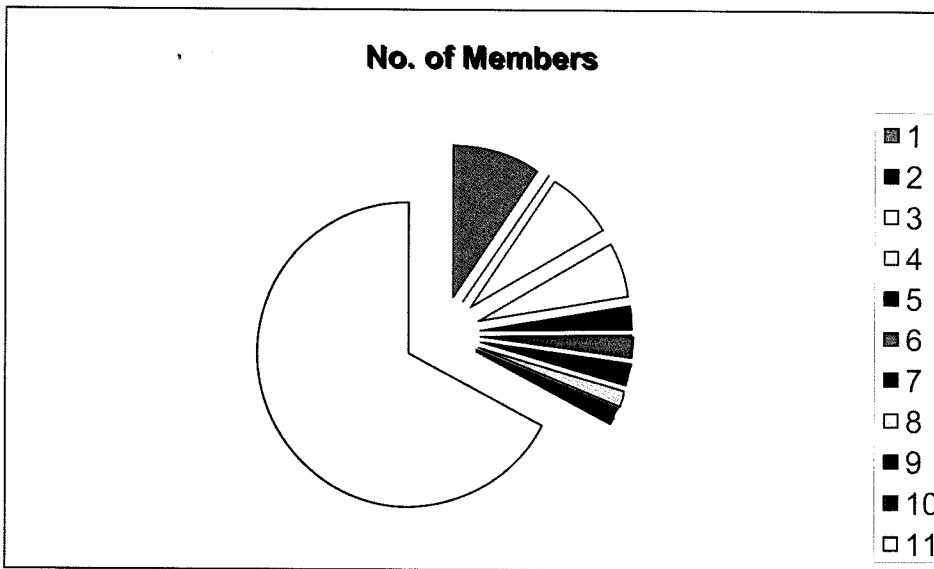
**Industry wise concentration of Establishments and Members.** <sup>79</sup>**(All India Statistics- 2007-2008)**

Sl.No	Industry	Establishments		Members	
		Nos.	% of Total	Nos.	% of Total
01	Electrical, Mechanical and General Engineering( E M&G)	49713	9.33%	4778287	11.63%
02	Estts. Rendering expert services	40062	7.52%	3510152	8.54%
03	Trading and Commercial Estts	47916	8.99%	2884327	5.96%
04	Engineers and Engineering Contractors	23570	4.42%	1302767	3.17%
05	Heavy & Fine Chemicals	10216	1.92%	1168277	2.84%
06	Iron and Steel	8668	1.63%	1079946	2.63%
07	<b>BUILDING&amp;CONSTRUCTION</b>	13409	2.52%	956900	2.33%
08	Electricity	3092	0.58%	470288	1.14%
09	Cement	1268	0.24%	248406	0.60%
10	Rest of the Industries	337915	62.85%	33519928	61.16%
11.	<b>Total Coverage All India</b>	<b>532737</b>	<b>100%</b>	<b>44919278</b>	<b>100%</b>

**Chart-6(a)**  
**Industry wise concentration - establishments**



**Chart-6(b)**  
**Membership Strength**



**Voluntary Coverage:**

An establishment which is not otherwise coverable under the Act can be covered voluntarily with the mutual consent of the employer and the majority of its employees, under section 1(4) of the Act.<sup>80</sup>

**Rate of contribution:**

The rate of contribution on the wages presently is 12%<sup>81</sup> except in respect of the following category of Establishments namely

- Any establishment in which less than twenty persons are employed.
- Any sick industrial company which has been declared as such by the Board for Industrial and Financial Re-construction.
- Any establishment which has at the end of any financial year accumulated losses to or exceeding its entire net worth.
- Any establishment in the Jute, Beedi, Brick, Coir other than the spinning sector and Guar gum factories.

The rate of contribution applicable to these categories of establishments is 10%.<sup>82</sup>

**Kinds of benefits.**

Various types of Advances/Partial withdrawals are extended to the members of the Fund as provided under Para 68 to 68 NN of the Act.<sup>83</sup>

These Advances/Partial withdrawals are provided for the purposes such as

- a) Financing of LIC policy.
- b) Purchase of a dwelling house/flat or for construction.

- c) During temporary closure.
- d) For illness in certain cases of members/family members.
- e) For marriage or post matriculation education of children,
- f) Members affected by cut in the supply of Electricity.
- g) Members who are physically handicapped etc.

### **Settlement of provident fund claims.**

A member may withdraw the full amount standing to his credit in the fund as per para 69 E.P.F. Scheme, 1952<sup>84</sup> on the grounds such as retirement, incapacity for work, termination from service etc. A member may also transfer his provident Fund accumulations from one Establishment to any other Establishment where he is presently employed.

### **Employees' Pension Scheme, 1995**

The Employees' Pension Scheme, 1995 has been conceived as a "Benefit defined Social Insurance Scheme" formulated following "actuarial principles" for ensuring long term financial viability. The scheme aims at providing for economic sustenance during old age and survivorship coverage to the member and his family. No separate contribution is payable additionally for the pension scheme benefits. The new pension scheme derives its financial resource by partial diversion from the provident fund contribution. The rate being 8.33% and the contribution will be diverted from the "employers share" only. \* The Central Government continues contributing at the rate of 1.16%. \*

**Benefits:** Employees' Pension Scheme, 1995 provides for the following benefit package:

- To Member
- Pension for life on superannuation/retirement and permanent total disablement;
- To the members of the family upon the death of the members.
- Pension to widow/widower for life or till-remarriage.
- To children two at a time up to 25 years of age simultaneously with widow/widower pension/orphan pension for two at time up to 25 years of age.
- Children/orphan with total and permanent disability shall be entitled to payment of children pension or orphan pension as the case may be irrespective of age and number of children in the family.
- Facility for payment of pension to nominee in the event of death of the member who is unmarried or without any eligible family member to receive pension and
- Facility for payment of pension to dependent father/mother in the event the member dies leaving behind no eligible family members and where no nomination by such deceased member exists;

### **Eligibility**

Superannuation/retirement pension under the Employees Pension Scheme will be payable on fulfilling:

- ❖ Minimum 10 years eligible service; and
- ❖ Attaining age of 58 years.

On premature termination of employment before attaining the age of 58 years, but after the age of 50 years, pension may be availed of by a member at his option. Such early pension will be subject to discounting factor at the rate of 4% for every year of shortfall from 58 years.\* However, no such age restriction or eligibility requirement shall apply for pension entitlement on disablement or pension payable to the family members on death of the member. Membership with one month's contribution will suffice in such cases. The Quantum of pension payable to a member on superannuation and /or exit from service on attaining the age of 58/50 years shall correspond to the period of pensionable service rendered by the member and his pensionable salary i.e., the last twelve months' average pay drawn by him at the time of exit.

**Employees' Deposit Linked Insurance Scheme, 1976.**

The Scheme is supported by a nominal contribution by the employers. While the employee-members are not required to contribute to the Insurance Fund, the employers are required to pay contributions to the Insurance Fund at the rate of 0.5% on i.e., basic wages, dearness allowance including cash value of food concession and retaining allowance, if any. The dependants of deceased members are entitled to payment linked to the provident fund balance at credit of the deceased member.

The employers of all covered establishments are required to pay administrative charges to the Insurance Fund for meeting the expenses. The rate of administrative charges is 0.01% of basic wages etc, if any, with effect from 1.10.1987 subject to a minimum of Rs.2/- per month.

Table -13

Performance Statistics 2007-2008 at a Glance. (All India level)

01.	Coverage			
	No. of Industries/classes of Establishments to which EPF & MP Act applied as on 31.03.2008			186
	No. of covered Establishments as on 31.3.2008	Exempted	Unexempted	Total
		2700	530005	532702
	Membership ( in lakhs )			
a)	Employees' Provident Fund	37.61	411.58	449.19
b)	Pension Fund	--	405.86	405.86
2	Contributions received (A) Employees' Provident Fund	( in crores )		
	i) During the year	5884.91	18782.30	24667.21
	ii) progressive	73017.01	110001.01	183018.02
	(B) Employees' Pension Fund	Unexempted		
		Employer's share	Government's Share	Total
	i) During the year	8022.46	990.00	9012.46
	ii) Progressive			87754.27
©	Employees' Deposit linked Insurance Scheme			
	i) During the year			308.44
	ii) progressive			7089.29
	Total contributions ( A+B+C)	Exempted	Unexempted	Total
	i) During the year	5884.91	28103.20	33988.11
	ii) Progressive	73017.01	204844.57	277861.58

Table-14

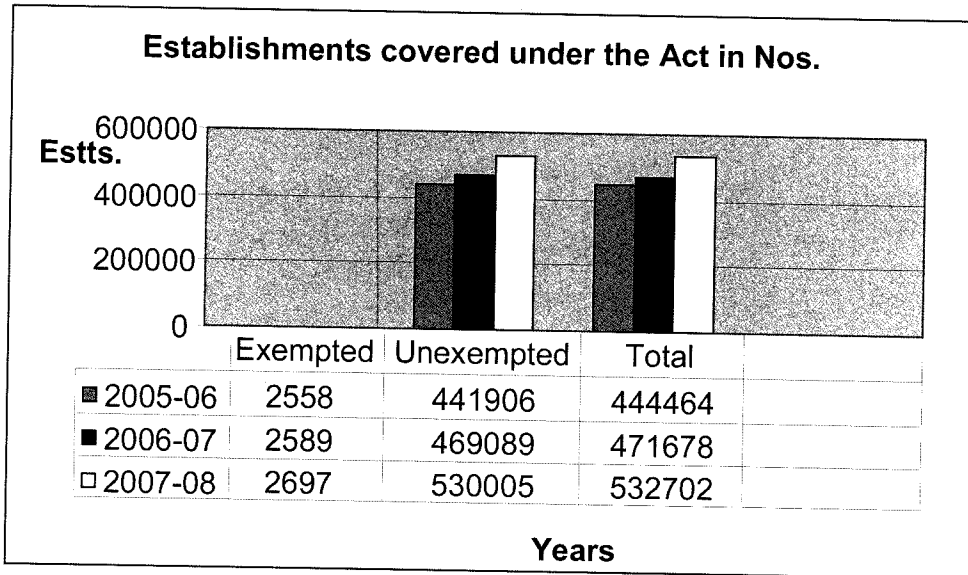
Investments of corpus

(in crores)

(a)	Employees' Provident Fund	Exempted	Unexempted	Total
	i) During the year	7524.71	1766.34	25191.05
	ii) Progressive	73627.13	121503.70	195130.83
(b)	Employees' Pension Fund (Securities & Public Account)			
	i) During the year			12495.20
	ii) Progressive			94101.42
©	Employees Deposit linked Insurance Fund			
	i) During year			744.68
	ii) Progressive			6278.22

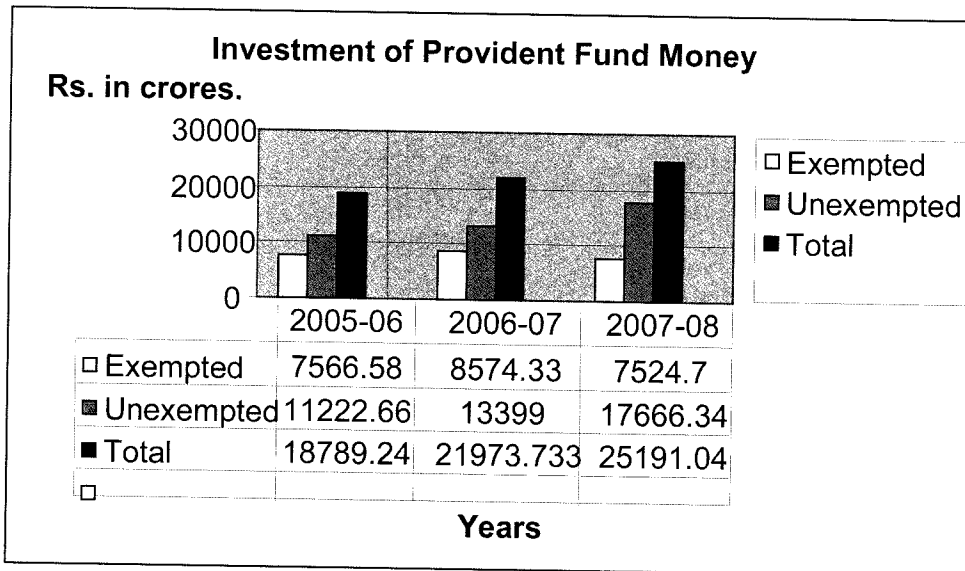
**Chart No – 7(a)**

**No. of Establishments**



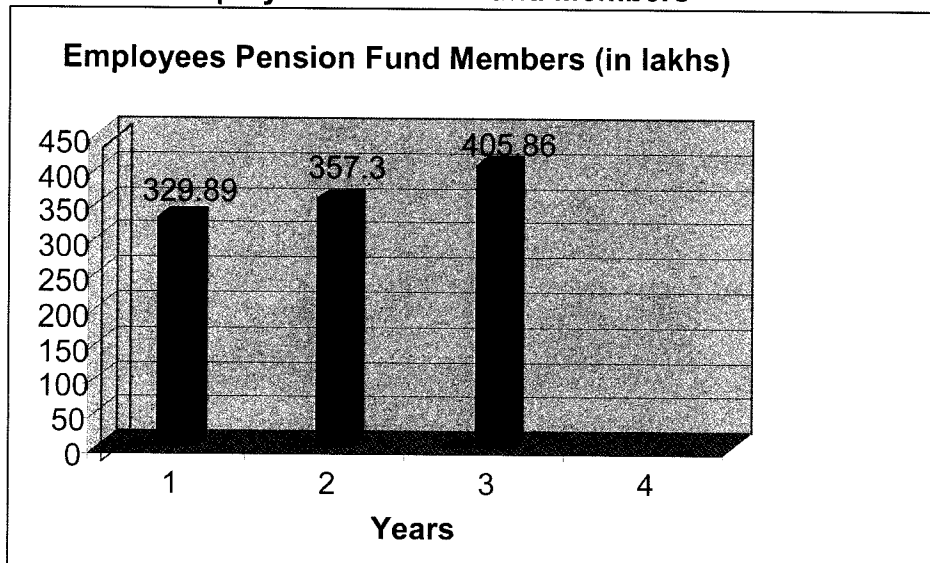
**Chart -7(b)**

**Investment of Provident Fund**



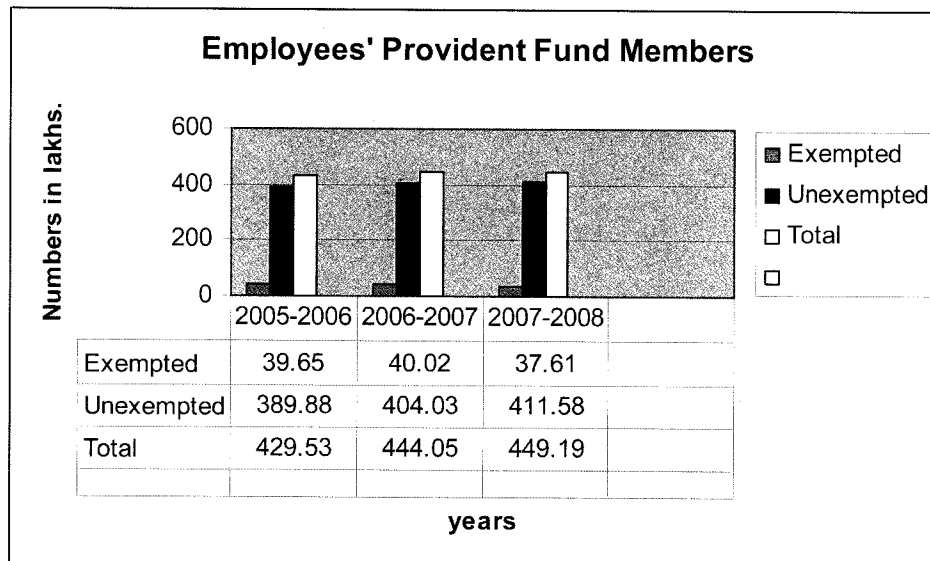
**Chart -08**

**Employees Pension Fund Members**



**Chart -9**

**Employee's provident fund**



**Table - 15** Classification of beneficiaries as on 31.03.2008.  
Provident Fund claims settled (unexempted)

S.No	Nature of claims	Claims Settled (in lakhs)	Amount disbursed (in crores)
01	EPF claims	29.30	8246.41
02	Withdrawal/Advances	3.33	1001.85
03	Transfer cases	2.30	--
04	Pension claims	20.95	4037.98
05.	EDLI claims	0.21	48.33
	Total	56.09	13331.57

Employees' Pension Scheme, 1995

Sl.No	Pension Beneficiaries	No of pensioners
I	Members Pension	
	(a) Early pension ( 50-57 years)	1199597
	(b) Superannuation Pension	603640
	(c ) Disablement Pension	1775
	Sub Total	18,05,012
II	Widow/widower pension	
	(a) Death in service	529254
	(b) Death away from service	68686
	Sub Total	597940
III	Nominee Pension	7620
IV	Parent pension	8199
V	Orphan pension	13226
VI	Children Pension	520625
	Sub-Total	549670
	Grand Total	29,52,622

Sl.No	Enrolment of Pension Scheme Members	No.Members
01	As on 31.3.2006	32388660
02	As on 31.3.2007	35730290
03	As on 31.3.2008	40585860
	Net addition over previous year	48.55.570

Performance of Karnataka region at a glance for 2006-2007: <sup>86</sup>

- During the year 1379 new establishments were brought under the purview of the Act and 6.14 lakhs members were enrolled at gross level. Contribution & Investment
- Contribution received under all the three schemes amounted to Rs. 3, 04,484.02 lakhs.
- During the year under report 2, 59,175 claims were settled and a sum of Rs. 49,753.70 lakhs was authorized for payment
- At the end of the year, there were 77,536 pensioners availing pensionary benefits under the Employees' Pension Scheme, 1995 and FPF-1971 Scheme.
- The organization is in the process of switching over to system based benefit delivery. A preparatory activity for switch over to the new system is in progress and in this direction Social Security Numbers are being allotted to members of the Fund.
- Financial assistance by allowing partial withdrawals to members in situations like illness, invalidation and to provide funds to enable them to discharge their social responsibilities like marriage of sister/brother/daughter/son or higher education of children and construction of dwelling house.

**Table - 16 Covered establishments and beneficiaries**

COVERAGE OF ESTABLISHMENTS AND ENROLMENT OF MEMBERS			
	EXEMPTED	UN-EXEMPTED	TOTAL
<b>ESTABLISHMENTS</b>			
As on 31.03.2006	84	14924	15008
Add: Covered during the year	(-) 02	1381	1379
As on 31.03.2007	82	16305	16387
<b>MEMBERS</b>			
As on 31.03.2006	282852	1540972	1823824
Add: Enrolled during the year	69793	544351	614144
Less: Ceased	39397	253955	293352
As on 31.0.2007	313248	1831368	2144616

PROVIDENT FUND CONTRIBUTIONS RECEIVED (Rs. In lakhs)			
Year	Exempted Sector	Un-exempted Sector	Total Contribution
2002-03	48670.40	70691.00	119361.40
2003-04	39061.49	54193.40	124913.81
2004-05	55133.32	85432.80	165547.00
2005-06	62160.16	120629.49	182789.65
2006-07	79972.61	164615.13	244587.74

SETTLEMENT OF PROVIDENT FUND CLAIMS				
		2004-2005	2005-2006	2006-2007
1.	Brought forward pendency at the beginning of the year	5175	6714	7860
2.	Claims received during the year	300378	293131	319254
3.	TOTAL WORKLOAD [1+2]	305553	299845	327114
4.	Claims settled	253333	246697	259175
5.	Amount authorized for payment [Rs. Lakhs]	37317.59	41334.01	49753.70

### PARTIAL WITHDRAWAL CASES

PARTIAL WITHDRAWAL CASES- CATEGORY-WISE SETTLEMENT OF CASES		
Category	Cases Settled 2006-07	Amount Disbursed (Rs. In lakhs) 2006-07
Financing of Life Insurance Policies	312	27.27
House building	4358	4926.63
Temporary closure of establishment	5	1.13
Illness of members/ family members	1200	521.49
Member's own marriage or for the marriage of authorised family members or post matriculation education of children	1786	663.85
Others	6	3.59
Total	7667	6143.96

## PENSION SCHEME MEMBERS

ENROLMENT OF PENSION SCHEME MEMBERS	
	Members
As on 31.03.2006	1823824
ADD: Enrolled during the year	614144
LESS: Ceased during the year	293352
As on 31.03.2007	2144616

BENEFITS GIVEN UNDER PENSION SCHEME-1995			
Sl. No	Category	No. of cases settled	Amount disbursed so far
1	Widow Pension	16,401	1,686.79
2	Monthly Member Pension	14,961	3,607.66
3	Children Pension/Orphan Pension/ Nominee Pension/Parent Pension, etc	13,174	622.95
4	Withdrawal Benefits	2,29,181	14,005.46
5	Scheme Certificates	4,892	-
	<b>TOTAL</b>	<b>3,11,609</b>	<b>19,922.86</b>

Pension beneficiaries		
i) Members Pension		(In No.'s)
(a)	Superannuation Pension	12882
(b)	Disablement Pension	10
(c)	Early Pension	35069
ii) Widow/Widower Pension		16401
iii) Nominee Pension		283
iv) Orphan Pension		283
v) Children Pension		12217
vi) Parent Pension		391
<b>Grand Total</b>		<b>77536</b>

The number of workers engaged in the construction industry as on 15.10.2008 in respect of the Bangalore region is furnished as under:

No. of Establishments	No. of construction workers involved	Members
333	48,200	43,725

On perusal of the reports and the statistics it is evident that the benefits availed by the organized labour force and its beneficiaries amount to 4.5 crores inclusive of membership strength of construction worker approximates to 0.96 lakhs with a clear imprint that still ardent task rests with the executive for extending the welfare benefits to the construction work force. At the same time implementation of construction workers Act,1996 needs much thrust in true letter and spirit so that welfare benefits reach the construction workers and steps in this direction will go long way in improving the living standards of the construction work force of the country.