

WORKER AWARENESS OF WORKMEN'S COMPENSATION IN THE SRI LANKAN CONSTRUCTION INDUSTRY

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ABSTRACT

Work-related injuries and illnesses are common in the construction industry, which can lead to deaths, injuries or disabilities (temporary or permanent) to the workers and Workmen's Compensation Ordinance (WCO), deal specifically with employment injuries. There is no mandatory insurance clause in the WCO that requires employers to be insured against Worker injury risks. However, insurance companies offer Workmen's Compensation Insurance (WCI) policies to cover workmen's compensation liabilities and employer may opt to insure his liability at his own discretion. The aim of this research is to identify the awareness of Workmen's Compensation (WC) among Workers in the construction industry. This research has been carried out through literature review and data collected from a preliminary interview, questionnaire survey followed with semi structured interviews. Research findings show that most workers have a poor awareness about WC; therefore, benefaction from WC to the workers has to be improved. The main reasons for this matter is that the Workers are not retaining under same employer for long time duration and there are no awareness programs in the construction sites about WC. In order to overcome this issue, mainly safety officers can comprise short seminars about WC once in four months in the monthly meetings and safety officers should come across as an intermediary to make sure that the workmen's compensation process is being carried out as required in the site.

Keywords: Construction Industry; Worker Awareness; Workmen Compensation.

1. INTRODUCTION

Work-related injuries and illnesses are common, and yet never completely avoidable (Fernando, 2016). Many of the accidents in the construction sites are unplanned occurrences which involves movement of persons, objects or materials which may result in injuries, damages and losses to properties or people (Hosseinian & Torghabeh, 2012). The injuries and illnesses can lead to death of workers with consequent implications for their dependents, or result in injury or disability that may be temporary or permanent (Fernando, 2016). According to Rameezdeen *et al.* (2003), the number of fatal accidents in the construction industry is higher when compared with the other industries. The report in their research shows that fatal to non-fatal accidents ratio in the construction industry is 1:13 compared with the overall 1:115 with the other industries. According to Warakapitiya (2016) out of the 70,000 accidents happened in the first three quarters of the year 2016, 12% has been from the construction sites. Accordingly, it states that many of the construction site injuries are unreported to the labour ministry via the industrial commissioner despite the safety policies of Sri Lanka is of high standard even compared with developed countries.

Warakapitiya (2016) also emphasizes that employers are also not vigilant on the possible dangers and takes a casual approach in minimizing the accidents. Silva and Nawarathne (2014) affirms that underreported construction accidents are significant. The reason for this wrongful act is because the most medium and small companies that hire labourers easily settle matters by paying meager compensation and neglecting an injured labourer's condition (Chandrasekera, 2015). Therefore, it is evident that the knowledge of reporting accidents and claiming insurance needs to improve among workers. Also, it is of major importance to identify the workers awareness about the Workmen's Compensation (WC) in order to find appropriate solutions.

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2. LITERATURE REVIEW

2.1. WORKMEN'S COMPENSATION ORDINANCE NO. 19 OF 1934 (WCO)

Workers Compensation Ordinance No. 19 of 1934 (WCO), is the only legislation facilitating all legal repercussions associated with employment injuries (Fernando, 2016). According to Fernando (2016), if a person's injury is arising out of employment and during the course of employment he is entitled for compensation under the WCO; however, the total or partial impairment of the worker has to be more than three days. If the Workman has been negligent in carrying out the work and got injured, as a result WCO prevents him from claiming compensation. Moreover, Fernando (2016) had stated that, the application of WCO in different situations is decided by the case laws, decided by the court of Appeal and the Supreme Court, and this is required due to the fact that the interpretation of certain clauses requires legal expertise.

2.2. WORKMEN'S COMPENSATION INSURANCE (WCI)

Workmen's Compensation Insurance (WCI) is one of the common methods that are available to cover workplace related injuries/accidents and diseases (Wijekoon, 2017). There is no mandatory insurance clause in the WCO that requires employers to be insured against Worker injury risks and an employer may opt to insure his liability in this regard at his own discretion (Thowfeek *et al.*, 2014). Nevertheless, to make the process more convenient, insurance companies offer Workmen's Compensation Insurance (WCI) policies to cover WC liabilities (Thowfeek *et al.*, 2014).

2.3. APPLICATION OF WCI IN CONSTRUCTION INDUSTRY

In the construction industry, the four leading causes for workers deaths were falls, being stuck by objects, electrocutions and getting caught in/ between equipment (Jones, 2016). The fatal injury rate for the construction industry is higher than the national average in this category for all industries and the other potential hazards for workers in construction include trench collapse; scaffold collapse; failure to use proper personal protective equipment; and repetitive motion injuries (United States Department of Labour, 2005). The seriously injured construction workers in the construction industry are unable to return to their former job and may never be able to work at any occupation. This is where WCI and liability insurance plays a major role in compensating workers for their job-related injuries. The Center for Construction Research and Training (2007) stated that employers in construction industry spend more cost on workers' compensations than employers in any other industry.

2.4. LIABILITY OF THE EMPLOYER AND THE BENEFITS FOR THE WORKMEN AS PER THE WCO

The law requires Employers to carry WCI to cover the medical expenses and lost wages of Workmen who are injured in work-related accidents or who develop a work-related illness (Blumenshine, 2014). He had further mentioned that the worker does not have to prove the injury or illness caused by the employer's negligence and the employer may not claim the worker negligently contributed to his own injury. It is a no-fault system that is designed to provide compensation without all the formalities and procedures that apply to court litigation. This position of Employer's liability to pay compensation is enacted under the Part II of the WCO subjected to exceptions.

Additively, injuries or illnesses established as compensable under applicable workers' compensation require prescribed benefits be paid to the injured Workman (Boggs, 2015). He had stated that benefit limits and duration vary by different jurisdictions, however provides essentially the same three "classes" of benefits which are Medical benefits; Disability/Indemnity benefits; and Death benefits. WCO provides for the aforementioned benefits in terms of section 3, 4, and 5 for the death not for a reason attributable for Worker, total and partial disablement which exceeds a period of 7 days. It also extends to occupational diseases in the Schedule III of the act, subjected to provisions. The amount of compensation is to be decided based on the sections in the Part III of the WCO. Moreover under the Part IX of WCO has given authority for the Commissioner of WC to license insurance organization for the purpose of covering indemnity of Employer in respect of his liability to Workers under the WC Law and expediting provisional benefits for the affected Workman.

Therefore, it is evident from the above discussion that WCO and the WCI are the pillars of processing Workman Compensation in the construction industry. Accordingly, the liability of the Employer and benefits of WC in construction industry and their attributes hold the employer responsible to pay compensation even though the worker is unaware about workmen compensation if it satisfies the conditions under the WCO.

3. RESEARCH METHODOLOGY

In order to accomplish the aim of this research study, initially a literature review was conducted to find out the applicability of workmen's compensation in the construction industry and to infer the liability of the Employer and the benefits for the Workman by the WCO. Furthermore; a preliminary interview was carried out with two experts from the insurance industry. The purpose of this interview was to understand about the workmen's compensation in the perspective of the insurance industry. The interviewees of the preliminary interview are presented in the following Table 1.

Table 1: Profile of the Interviewees (Insurance Experts)

Interviewee	Position	Experience
Expert A	Life Insurance Manager, Company A.	15 years in the insurance industry
Expert B	Insurance Sales Manager, Company B.	10 years in the insurance industry

Based on the literature findings and the preliminary interviews a questionnaire was prepared and distributed in 4 sites around Colombo, Sri Lanka, where 50 workers randomly gathered from each site irrespective of their discipline. The main intention of the questionnaire was to identify the workers' awareness about compensation. With the roughly calculated results of the questionnaires, a semi structured interview was carried out with safety officers of three of the four sites, in the other remaining site; the site officer was on leave at the time of questionnaire survey. The interviewees are presented in the following Table 2.

Table 2: Profile of the Interviewees (Safety Officers)

Interviewee	Position	Experience
Expert C	The safety officer of Company C building site.	15 years as a safety officer
Expert D	The safety officer of Company D building site.	5 years as a safety officer
Expert E	The safety officer at Company E building site.	5 years as a safety officer

4. DATA ANALYSIS

4.1. PRELIMINARY INTERVIEW ANALYSIS - WORKMEN COMPENSATION IN THE PERSPECTIVE OF THE INSURANCE INDUSTRY

Expert A stated that the insurance companies in Sri Lanka carries out WC and Contractors' All Risks insurances separated from life insurance. Expert B mentioned that the WC and Contractors' All Risks insurance is falling into the general insurance category by the government act. Regarding the observations of Expert A, the insurance companies which provide general insurances had subjugated to separate director board as an independent insurance company and these both life and non-life insurance systems have adduced by the local government through an act.

According to Expert B contractor's workforce amount is a main requirement to obtain WCI from insurance companies in Sri Lanka, and workers will be entitled to accept compensation if they have used suitable safety equipment and the accident should happen during the regular work at site. Moreover, Expert B mentioned that WC only specifies for illnesses which cause by conducting the same work for a long time and for the accidents during the work, but not for the disability arose while working with a pre-existing unknown disease which is not work related. Expert B has stated that the amount of Worker's Compensation depends on wage amount of the worker, and the percentage calculated upon the inference by doctor consulting the injury.

According to Expert B, Some insurance companies who offer non-life insurances, offers WCI and Contractors' All Risks insurances in a package. Expert B further mentioned that, some insurance companies have WC separated from Contractors' All Risks insurance and each of these systems depends on the requirement of the

client. Expert A, discussed that, every person who has completed 18 years can be insured under a life insurance and although a worker has insured under WC insurance or not, he can be insured under a life insurance which a person total insured for the life time towards any hazard. However, Expert A has pointed out that most workers and other civilians have an idea that, life insurance is a waste of money, even though it is a good alternative to the WCI.

4.2. THE WORKERS' AWARENESS ON WORKMEN'S COMPENSATION INSURANCE IN CONSTRUCTION INDUSTRY

4.2.1. QUESTIONNAIRE DATA ANALYSIS

Following Table 3 and Figure 1 presents the awareness and unawareness of workers about Workmen Compensation based on the questionnaire survey.

Table 3: Awareness and Unawareness of Construction Industry Workers about WC

Construction site of contracting Company	Awareness of workers about workmen's compensation	Unawareness of workers about workmen's compensation
Company C	18 (36%)	32 (64%)
Company D	20 (40%)	30 (60%)
Company E	12 (24%)	38 (76%)
Company F	24 (48%)	26 (52%)
Total	74 (37%)	126 (63%)

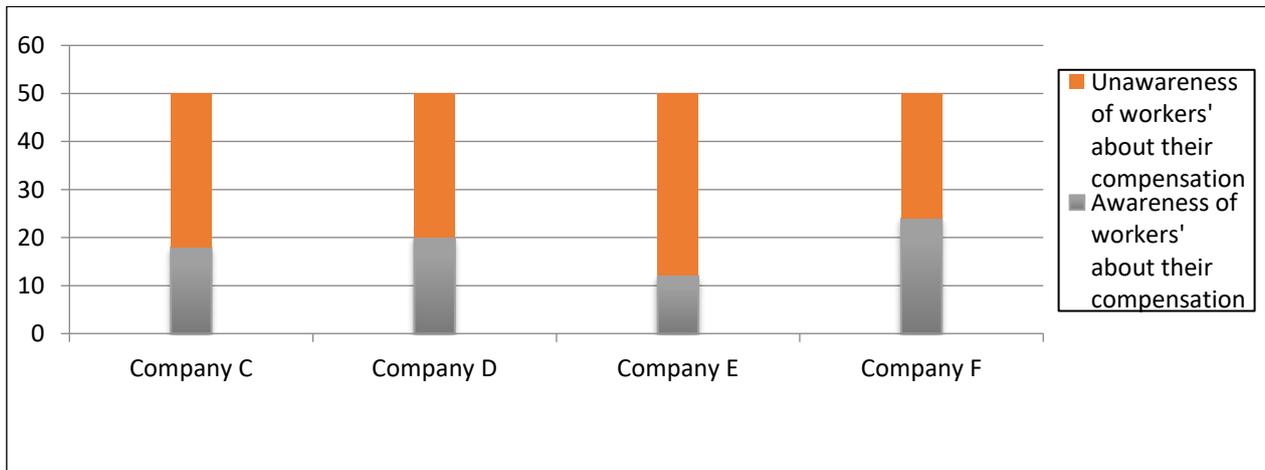


Figure 1: Awareness and Unawareness of Construction Industry Workers about WC

According to the collected data, 37% of workers were aware about WC. Further questions during the questionnaire survey revealed that, 61% of 37% of the workers were aware on the types of injuries which is subjected to compensation correctly, and 29% of 37% stated it incorrect. 63% workers were not aware about WC and most of them had a poor understanding about what sort of injuries will cause to allow them to obtain compensation if an accident occurs during the work at site. 56% of 63% stated that compensation will be paid for any damage that will happen during the working period.

According to the survey, it can be inferred that more than 50% of workers in each site were not aware about the Workmen Compensation (minimum being 52%- Company F). However, Company F has had a seminar about WC in a monthly meeting at site a few months ago; this has resulted in an improvement in the awareness among workers. In other sites, 60% of the workers who were aware of WC mentioned that they became aware of WC from their contractors and safety officers where they have worked before. The other findings of the data has presented in the following Table 4.

Table 4: Other Findings of the Data Collection

Findings	Percentage
The workers in construction sites are changing their contractor very often.	75%
The workers had got injured with common accidents.	70% (140 workers)
1. Fallings from movable scaffoldings on floors.	15%
2. Fractures.	10%
3. Conflict with moving things on the floor or site.	10%
4. Splitting head or fore head.	10%
5. Thrashing fingers.	25%
Workers had obtained total compensation for the above mentioned accidents.	15% (21 workers)
The workers didn't receive the total amount of compensation from contractor.	18% (25 workers)
The workers that were not eligible to WC although they met with an accident due to lack of usage of provided safety equipment during the work.	22% (31 workers)

4.2.2. SEMI-STRUCTURED INTERVIEW ANALYSIS

The main aim of this research was to identify the awareness on WC in construction industry. As discussed in the data analysis it showed that 63% of workers were unaware about the Workmen Compensation. According to the view of Expert C, most workers don't have proper interest regarding WC, although government has produced necessary boundaries and systems to secure workers and the insurance parties who mainly involve for the WC process in Sri Lanka. According to Expert E some contractors insure themselves by WCI to cover-up the accidents occurred to his workers during work period while many insure project basis as a requirement of the Employer.

According to the questionnaire data analysis, most of the workers who got injuries while working haven't received compensation. According to the reports of Expert D, usually the reason which the compensation was not paid for the workers is because the WC was not claimed by them, and most of them were minor injuries where the contractor assist in case by case basis. Expert D also mentioned that, the workers are not retaining with one contractor for a longtime duration is the other problem in local construction field. Hence the amount of workforce of contractors is getting waves oftenly, more oftenly the injured workers leaves the site even before the compensation is processed. Expert E also has admitted the above fact and stated that there is a relationship between the Worker turn over and the unawareness of the workers about WC.

Expert C stated that, if a worker was absent due to any injuries for few days uninformed, contractors acts in presumption that the injured worker has left the site and he simply removes those Workmen from his worker list and replace another worker and therefore the injured worker has to bear his injuries himself. Therefore Expert C has discussed that, workers also have to inform and should obtain compensation or claim for his injuries and contractors have to cover up the injured workers compensation. Experts C further discussed that contractors and workers both contribute to this fault continuously due to lack of workers awareness about WC, unawareness of worker's rights, and the extent of contract boundaries with their contractors and so on.

Another fact identified from the analysis is that, 18% of workers had mentioned that some workers have not received the total amount of compensation from the contractor. According to the view of Expert E, this also may be a cause for the workers to change their contractors. Expert E also stated that some contractors use to retain an amount of injured workers compensation with him and pay the balance amount only. This is done by the contractors and the insurance parties as well. Therefore, this is a proof that fault on the part of the contractors and the workers collectively attribute to the non-processing of workman compensation to the desired level.

4.2.3. RECOMMENDATIONS TO MAKE THE WORKERS AWARE OF WC

To make the workers aware of WC, contractors and workers have to fulfill unique and common tasks. According to the findings, the workers in construction sites were having a habit of changing their contractor very often and its 75% amount of labors. According to Expert E this has been a problem for the awareness of the workers about WC and this hinders the necessary steps to be followed to claim WC insurance. The solutions for this matter and the ways of making the workers aware about WC are mentioned in the Table 5 below.

Table 5: Ideas Proposed By the Interviewees to Make the Workers Aware of WC

Interviewee	Opinion
Expert C	<ul style="list-style-type: none"> ▪ That legal procedure has to include how workers join with contractor, how the contractor can eliminate them, the retention amount that contractor keep with him from certain payments, safety of workers, and labor's agreement of compensation and so on. This sort of formal procedures can hardly find in local construction because some construction companies are requesting these documents from selected contractor in the beginning of contract with them. ▪ Modern construction project is a cluster of contractors (suppliers). Among them the labors suppliers are one of main type as the workers are specify for different works. Professionals and safety officers can make those workers aware about the compensation. ▪ The safety officers can include short seminars about worker compensation once in 4 or 5 months into monthly meeting where every worker and every party of the project gather.
Expert D	<ul style="list-style-type: none"> ▪ A recommendation is suite to provide as some contractors aren't paying the total amount of injured worker's owned compensation. One of the reasons why this persists is due to the worker's unawareness of his compensation. To avoid these occurrences the safety officers can come across as an intermediary.
Expert E	<ul style="list-style-type: none"> ▪ Contractor can make the workers aware of workers' compensation and how they will eligible to accept their compensation and main conditions of WC. Each Contractor has to maintain a log of injuries and the workmen compensation claimed as historical data.

5. CONCLUSIONS

Construction industry is one of the sectors having highest fatal injury rates in Sri Lanka which can lead to death of workers with consequent implications for their dependents, or result in injury or disability that may be temporary or permanent, or even get in contact with an occupational diseases. In such occasions, liability of paying WC lies with the Employer according to the WCO, however subjected to exceptions. It was evident that the purpose of WC is to minimize the consequences of aftermath of an incident and the act provides the power to the WC Commissioner to grant permission for Insurance Corporations to grant WCI to indemnify the Employers.

Although WC process is implemented in Sri Lankan construction industry through the WCO, the awareness on WC and WCI among the workers was not satisfactory according to the findings. Casual approach taken by the contractor by not informing the proper procedure of informing the workplace accidents to the workers, many accidents were addressed case by case basis considering them as minor injuries and the frequent turnover of the workers were the underlining reasons for this inference according to the semi structured interview analysis. Finally, lack of awareness of the workers and unfair affairs of the contractors was found to be working in tandem, hindering the proper functioning of WC Scheme. So the co-ordination between workers' rights and contractor's liabilities was found to be essential in this context.

Several recommendations to make the workers aware about compensation were provided by the safety officers. Those recommendations were, safety officers can include seminars about WC into monthly meeting, safety officers can come across as an intermediary to make the WC process a success in the construction industry and also formal procedures requires to be implemented in the construction industry to educate on how workers join with contractor, how the contractor can terminate them, the retention amount that contractor keep with him from certain entitlements, safety of workers, and labor's agreement of compensation etc. Moreover, contractors can keep records on WC to process future situations of the similar type. Also, the government can intervene in regulating the functioning of the WCO in the construction industry through the WC Commissioner.

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