

Using Value of Statistical Life Approach for Employee's Compensation

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The method adopted under the Employee Compensation Act, 1923 for paying compensation in case of death of an employee suffers from anomalies which go to the very root of the legislation. It uses "loss of dependents" approach and only pays economic damages, ignoring hedonic damages. Therefore, the amount arrived at is inadequate, failing to achieve the objective of welfare legislation and does not generate optimum level of deterrence. Adverse consequences of which are unaccounted externalities and increase in the number of fatal accidents due to suboptimal level of precaution. This paper makes a case study of the construction sector in India to understand these two problems. The alternative which can be adopted is Value of a Statistical Approach which originates from hedonic approach. It measures the value of life in terms of utility derived from life. This method will internalise the social cost and produce an optimum level of deterrence. The paper suggests a framework using VSL approach which can be applied by the courts while paying damages.

Introduction

Employee's Compensation Act, 1923 (hereinafter "ECA") is a welfare legislation with the purpose to look upon compensation as a relief given to the employee and not as damages paid for a tortious act. It is to make the employer an "insurer" against any loss incurred by the employee due to injury or death while he was employed. Calculation of the amount of compensation for loss of life is complicated as the rule of perfect compensation does not apply. Lack of perfect substitute renders a person on a lower Indifference Curve. Fatalities affect one's utility function, decreasing both the level of utility and the marginal utility for any given level of income, making a lower income level after a fatality (Viscusi 2005).

The paper argues that the current method used for calculating the amount of compensation to be paid in case of death of an employee under Section 4(1)(a) and Schedule IV of the Act is inadequate and defeats the purpose of welfare legislation. It awards "economic" damages using "loss to dependents" measure which means loss of future income minus personal expenses. It fails to give due regard to other essential factors like the number of dependents of the victim, consumption level, probability of death, loss of estate, etc. Hence, arriving at an inadequate amount of compensation is needed.