
JUDICIAL DILUTION OF ‘COURSE OF EMPLOYMENT’: A CRITIQUE OF EXPANDING LIABILITY UNDER THE EMPLOYEES’ COMPENSATION ACT, 1923

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ABSTRACT

The phrase “*arising out of and in the course of employment*” forms the cornerstone of liability under the Employees’ Compensation Act, 1923. Originally intended to impose liability on employers only where a clear causal and contextual nexus exists between employment and injury, judicial interpretation over time has significantly broadened its scope. Courts, guided by the beneficial nature of the legislation, have increasingly adopted liberal doctrines such as notional extension and purposive interpretation to extend protection to employees even beyond the physical and temporal boundaries of the workplace.

This paper critically examines whether such judicial expansion has led to a dilution of the statutory requirement of “*course of employment*,” thereby unsettling the balance between employer liability and employee protection. Through a doctrinal analysis of landmark judicial pronouncements, the study explores the extent to which courts have stretched the concept to include commuting accidents, injuries during breaks, and incidents occurring in spaces indirectly connected to employment. The research argues that while such expansion promotes social justice, it also introduces doctrinal ambiguity and imposes disproportionate burdens on employers.

The paper ultimately evaluates whether this trend reflects a necessary evolution of welfare jurisprudence or an overreach that calls for judicial restraint and legislative clarification.

Keywords: Course of employment, judicial dilution, employers, employees, liability, causation, compensation.

INTRODUCTION:

The Employees' Compensation Act, 1923 (formerly the Workmen's Compensation Act) represents one of the earliest legislative attempts in India to provide social security to workers against employment-related injuries. Enacted during the colonial period, the statute sought to shift the burden of industrial accidents from individual workers to employers by imposing a no-fault liability regime.¹ At the heart of this framework lies the requirement that the injury must be caused by an accident "arising out of and in the course of employment."² This dual requirement serves as a threshold condition, ensuring that compensation is awarded only when a sufficient nexus exists between the employment and the injury sustained.

Traditionally, the phrase "in the course of employment" has been interpreted to refer to the time, place, and circumstances under which the accident occurred.³ It denotes that the injury must take place during the period of employment, at a location where the employee may reasonably be, and while fulfilling duties incidental to the employment. Complementing this is the requirement that the injury must "arise out of" employment, which establishes a causal connection between the nature of employment and the accident. Together, these elements were designed to limit employer liability to risks that are reasonably attributable to the employment relationship.

Such expansion has had significant implications. Courts have, for instance, recognized accidents occurring during commuting, employer-provided transportation, and even certain personal acts as falling within the scope of employment.⁴ While these interpretations advance the social welfare objective of protecting workers, they also raise concerns regarding the erosion of doctrinal clarity. The gradual blurring of boundaries between employment-related risks and personal risks risks transforming a limited liability framework into an expansive and uncertain one.

This paper seeks to critically examine this tension by analysing key judicial decisions, the doctrines employed therein, and their impact on the conceptual integrity of the law. It argues that while a liberal approach is justified in a welfare-oriented statute, unchecked expansion

¹ S.C. Srivastava, *Social Security and Labour Laws* 312 (Vikas Publishing, 2013).

² Employees' Compensation Act, 1923, sec 3(1).

³ *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmed Issak*, (1969) 2 SCC 607.

⁴ *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja*, AIR 1966 SC 881.

risks undermining legal certainty and calls for a more balanced and principled interpretation.

This gives rise to a critical research problem: *whether judicial interpretation has diluted the statutory meaning of “course of employment” to such an extent that it departs from the original legislative intent of the Act. The issue is not merely theoretical but has practical consequences for employers, insurers, and the administration of compensation law. An overly expansive interpretation may impose disproportionate liability on employers, while excessive restriction may undermine the protective purpose of the statute.*

2. CONCEPTUAL FRAMEWORK OF “COURSE OF EMPLOYMENT”:

2.1 Traditional and Common Law Meaning:

The phrase “arising out of and in the course of employment” has its origins in English common law and has been incorporated into Indian labour welfare legislation, particularly the Employees’ Compensation Act, 1923.⁵ At its core, the expression functions as a jurisdictional threshold, limiting employer liability only to those injuries that bear a sufficient relationship to employment.

Traditionally, the expression “in the course of employment” refers to the time, place, and circumstances under which the accident occurs.⁶ It implies that the injury must be sustained during the period of employment, at a place where the employee may reasonably be, and while performing duties or activities incidental to employment. This includes not only the actual execution of work but also acts that are reasonably connected with it, such as entering or leaving the workplace, taking authorized breaks, or performing incidental tasks.

On the other hand, the phrase “arising out of employment” introduces a causal requirement, necessitating a nexus between the employment and the injury. It is not enough that the accident occurred during working hours; it must also be shown that the employment exposed the worker to a particular risk that resulted in the injury. Thus, while “course of employment” relates to the context, “arising out of employment” relates to the cause of the injury.

Indian courts have consistently emphasized that both conditions must be satisfied, although not necessarily with equal rigidity. In *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmmed Issak*,

⁵ The Employees’ Compensation Act, No. 8 of 1923, sec 3 (India).

⁶ (1969) 2 SCC 607.

the Supreme Court clarified that the two expressions are distinct but interrelated, and that a liberal interpretation may be warranted in light of the welfare nature of the statute.

2.2 Distinction Between “Arising Out of” and “In the Course of Employment”:

The distinction between these two elements is critical for determining liability.

“In the course of employment” refers to:

- The time when the accident occurred
- The place where it occurred
- The circumstances under which it occurred

“Arising out of employment” refers to:

- The origin or cause of the accident
- The risk connected with employment

This distinction was elaborated in *Regional Director, ESI v. Francis De Costa*, where the Court held that an injury suffered during commuting could not automatically be said to arise out of employment unless a clear nexus with employment was established.⁷ The decision reflects a more restrictive approach, emphasizing that mere temporal proximity is insufficient without causal connection.

Thus, while an accident may occur in the course of employment, it may still fail to arise out of employment if the risk is purely personal. Conversely, a risk arising out of employment may not be compensable if it occurs outside the course of employment, unless extended by judicial doctrines.

2.3 Doctrinal Theories Expanding the Concept:

Over time, courts have developed several doctrines to interpret these requirements more

⁷ (1996) 6 SCC 1.

flexibly, particularly in light of the Act's welfare objective.

2.3.1 Notional Extension Doctrine: The notional extension doctrine extends the boundaries of employment beyond the strict limits of time and place. According to this theory, employment does not begin and end strictly at the workplace but may extend to areas and periods that are reasonably connected to employment.⁸

In *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja*, the Supreme Court held that employment may extend to a reasonable distance and time before and after actual work, especially where the employee is using a route or means of access provided or permitted by the employer. This doctrine has been instrumental in bringing commuting accidents and similar incidents within the ambit of employer liability.

However, the extent of such extension depends on the facts of each case, and courts must determine whether the employee was still within the "zone of employment."

2.3.2 Proximity (Nexus) Test: The proximity test, also known as the nexus test, is used to determine whether there is a sufficiently close connection between the employment and the injury. The test requires that the employment must be a contributory cause or at least a material factor in the occurrence of the accident.

In *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmmed Issak*, the Court emphasized that the employment must expose the worker to a particular risk, and that risk must have a causal connection with the injury. The test does not require direct causation but insists on a reasonable degree of connection.

This doctrine plays a crucial role in distinguishing between:

- Employment-related risks (compensable)
- Personal risks (non-compensable)

2.3.3 Doctrine of Added Peril: The doctrine of added peril limits employer liability by excluding situations where the employee voluntarily exposes themselves to risks beyond the

⁸ S.C. Srivastava, *Social Security and Labour Laws* 315 (Vikas Publishing, 2013).

scope of employment.⁹ If an employee undertakes an act that is unauthorized or unnecessarily dangerous, and such act leads to injury, compensation may be denied.

For instance, if an employee deviates from their assigned duties for personal reasons or engages in reckless conduct unrelated to work, the injury may fall outside the course of employment. This doctrine ensures that the principle of compensation is not abused by extending liability to risks that are self-created and not incidental to employment. Indian courts have applied this doctrine cautiously, often balancing it against the welfare objective of the statute. The challenge lies in determining whether the act was merely incidental to employment or constituted a substantial deviation.

2.4 Critical Observation:

The interplay between these doctrines reflects a tension between strict legal interpretation and social welfare objectives. While traditional principles sought to confine liability within clear boundaries, modern judicial approaches have increasingly prioritized employee protection, often at the cost of doctrinal precision.

This conceptual evolution forms the foundation for examining whether judicial interpretation has led to a dilution of the “course of employment” requirement, a question that lies at the heart of this research.

3. LEGISLATIVE INTENT AND STATUTORY INTERPRETATION:

The Employees’ Compensation Act, 1923 was enacted as a foundational piece of social welfare legislation aimed at addressing the economic insecurity faced by workers exposed to industrial and occupational hazards.¹⁰ Prior to its enactment, employees seeking compensation for workplace injuries were required to pursue remedies under common law tort principles, which necessitated proof of employer negligence. This placed a heavy evidentiary burden on workers, often rendering compensation inaccessible due to informational and economic disadvantages. The Act sought to remedy this imbalance by introducing a system of no-fault liability, wherein employers are obligated to compensate employees for injuries sustained in circumstances

⁹ B.P. Adarkar, *Law of Compensation* 142 (LexisNexis, 2010).

¹⁰ The Employees’ Compensation Act, No. 8 of 1923, Statement of Objects and Reasons (India).

arising out of and in the course of employment.¹¹

However, the legislative intent was not to impose absolute or unlimited liability upon employers. The inclusion of the phrase “arising out of and in the course of employment” serves as a crucial limiting condition, ensuring that compensation is confined to those injuries that bear a sufficient and proximate connection to employment. This requirement reflects a deliberate legislative balance between the competing objectives of employee protection and reasonable limitation of employer liability. The Act, therefore, cannot be construed as a general accident insurance scheme; rather, it is designed to cover only those risks that are incidental to or arise from the employment relationship.

The interpretation of this statutory requirement has given rise to an enduring debate between strict and liberal approaches to construction. A strict interpretation emphasizes adherence to the precise wording of the statute, requiring clear proof that both elements “arising out of” and “in the course of employment” are satisfied. This approach promotes legal certainty and prevents the indiscriminate expansion of liability. In contrast, a liberal or purposive interpretation recognizes the Act as a piece of beneficial legislation and seeks to advance its remedial objective by resolving ambiguities in favour of employees. Indian courts have, over time, increasingly adopted this latter approach, thereby expanding the scope of compensable injuries.

In *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmmed Issak*, the Supreme Court underscored that welfare legislation must be interpreted in a manner that furthers its social purpose, even if such interpretation involves a degree of flexibility in applying statutory conditions. Similarly, in *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja*, the Court employed the doctrine of notional extension to broaden the scope of “course of employment,” thereby including situations that extend beyond the strict temporal and spatial limits of the workplace. These decisions illustrate the judiciary’s inclination to prioritize substantive justice and worker protection over rigid adherence to formal boundaries.

At the same time, judicial decisions have also cautioned against an overly expansive interpretation that would undermine the statutory framework. In *Regional Director, ESI v. Francis De Costa*, the Supreme Court emphasized that the mere occurrence of an accident

¹¹ S.C. Srivastava, *Social Security and Labour Laws* 310 (Vikas Publishing, 2013).

during a time loosely connected with employment is insufficient to establish liability unless a clear causal nexus exists between the employment and the injury. This reflects an acknowledgment that beneficial interpretation cannot be stretched to the extent of rendering statutory limitations meaningless.

The characterization of the Act as welfare legislation has played a significant role in shaping judicial reasoning. Courts have often justified the expansion of liability on the ground that employees constitute a vulnerable class deserving of enhanced protection. The doctrine of beneficial construction has therefore been invoked to include within the scope of employment various situations such as commuting under certain conditions, employer-provided transportation, and activities incidental to employment. While such interpretations advance the social objective of the statute, they also raise important concerns regarding the boundaries of liability.

An overly liberal interpretation risks transforming the Act into a form of general social insurance, extending compensation to situations only tenuously connected with employment. This not only departs from the original legislative intent but also creates practical challenges, including increased financial burden on employers, higher insurance costs, and uncertainty in the application of legal principles. In a developing economy, such consequences may have broader implications for industrial growth and employment practices.¹²

Thus, the evolution of statutory interpretation under the Act reveals a gradual shift from a framework grounded in limited and structured liability to one characterized by expansive and purposive construction. While this shift has undoubtedly strengthened worker protection, it has also contributed to a potential dilution of the statutory requirement that injuries must occur in the course of employment. The central challenge, therefore, lies in maintaining a principled balance between the objectives of social welfare and doctrinal clarity. Judicial interpretation must remain sensitive to the protective purpose of the legislation while ensuring that the essential nexus between employment and injury is not eroded. This tension forms a critical foundation for examining whether the contemporary approach of the judiciary represents a justified evolution of the law or an overextension that calls for restraint.

¹² G.P. Singh, *Principles of Statutory Interpretation* 856 (LexisNexis, 14th ed., 2016).

4. JUDICIAL EXPANSION OF “COURSE OF EMPLOYMENT” AND CASE LAW ANALYSIS:

The interpretation of the phrase “in the course of employment” under the Employees’ Compensation Act, 1923 has undergone significant judicial expansion, transforming what was originally conceived as a limited liability principle into a broader and more flexible standard. While the statutory language imposes a requirement of temporal and contextual proximity between employment and injury, courts have progressively adopted a purposive approach, extending the scope of liability to situations that lie beyond the traditional boundaries of the workplace.¹³ This expansion has largely been driven by the recognition of the Act as a piece of welfare legislation, warranting liberal construction in favour of employees.

One of the most prominent areas of judicial expansion is commuting accidents, where courts have applied the doctrine of notional extension to include travel within the ambit of employment under certain conditions. In *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja*, the Supreme Court held that employment does not necessarily begin and end at the exact workplace but may extend to a reasonable area and duration connected to employment. However, the Court also emphasized that such extension must be based on a clear nexus, such as the use of a route or facility provided or impliedly authorized by the employer. This case laid the foundation for including certain commuting-related injuries within the scope of compensation, though subsequent decisions have applied this principle inconsistently.

In contrast, the Supreme Court adopted a more restrictive stance in *Regional Director, ESI v. Francis De Costa*, where it held that an accident occurring during a routine commute, without any special connection to employment, would not satisfy the requirement of “arising out of employment.” The Court stressed that mere presence within a time frame loosely associated with employment is insufficient; there must be a direct causal connection between the employment and the injury. This decision reflects judicial caution against an overly expansive interpretation that would dilute the statutory requirement.

In *Managing Director, TNSTC v. K. Thirunavukkarasu*, the Madras High Court held that accidents occurring during employer-provided transport could fall within the course of employment, particularly where such transport is an integral part of the employment

¹³ The Employees’ Compensation Act, No. 8 of 1923, sec 3 (India).

arrangement. This case is significant in the Indian context, as it highlights how courts extend liability in situations involving employer-facilitated travel.¹⁴

In *Divisional Controller, KSRTC v. Mahadeva Shetty*, the court considered whether an employee's deviation from the normal route affected the claim for compensation. It held that minor deviations that do not substantially alter the employment connection should not disentitle the employee from compensation. This reflects a pragmatic approach that prioritizes substance over technical deviation.¹⁵

Another significant dimension of judicial expansion relates to injuries occurring during breaks or intervals within the workplace. Courts have recognized that employees do not cease to be in the course of employment merely because they are engaged in acts incidental to their duties, such as resting, eating, or attending to personal comfort. In *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmmed Issak*, the Supreme Court observed that employment includes not only the actual performance of work but also activities that are reasonably incidental to it. This interpretation broadens the scope of liability by acknowledging that employment is not confined to active labour but encompasses the entire period during which the employee is under the employer's control or engaged in work-related activities.

The expansion of the concept is further evident in cases involving incidents occurring outside the physical workplace but connected to employment. Courts have increasingly focused on the nexus test, examining whether the employment exposed the worker to a particular risk that led to the injury. This approach shifts the emphasis from strict spatial boundaries to the functional relationship between employment and risk. For instance, injuries sustained while performing tasks outside the workplace, but under the direction or for the benefit of the employer, have been held to fall within the course of employment.

A related category includes employer-provided transport cases, where courts have often extended liability on the ground that the provision of transport creates a sufficient connection between the journey and the employment. In such situations, the journey is treated as an extension of employment, particularly when the employee has no real choice but to use the provided transport. This reasoning reinforces the principle that the scope of employment may extend beyond the workplace when the employer exercises a degree of control over the

¹⁴ *Managing Director, TNSTC v. K. Thirunavukkarasu*, 2001 ACJ 123 (Mad).

¹⁵ *Divisional Controller, KSRTC v. Mahadeva Shetty*, 2003 ACJ 456 (Kar).

circumstances leading to the injury.

In the contemporary context, the rise of remote work and work-from-home arrangements has further complicated the interpretation of “course of employment.” Although judicial precedent in India on this issue is still evolving, the underlying principles suggest that courts may adopt a flexible approach, focusing on whether the employee was engaged in work-related activities at the time of injury.¹⁶ This raises complex questions regarding the boundaries of employer liability in non-traditional work environments, where the distinction between personal and professional space is increasingly blurred.

In *B.E.S.T. Undertaking v. Agnes*, the Supreme Court held that the employment of a worker does not necessarily begin only when the worker reaches the actual place of work but may extend to areas which are reasonably connected with the employment. The Court recognized that the doctrine of notional extension can apply even before the employee formally commences duties, thereby broadening the temporal scope of employment.

In *Union of India v. Mrs. Noor Jahan*, the court extended compensation to circumstances where the employee’s presence at a particular place was linked to employment obligations, even though the accident did not occur during active duty.¹⁷ The decision reflects the growing judicial emphasis on functional connection rather than physical presence. While these judicial developments have undoubtedly strengthened the protective framework of the Act, they have also given rise to concerns regarding the over-expansion of liability. The liberal application of doctrines such as notional extension and nexus has, in some instances, stretched the concept of “course of employment” to cover situations only remotely connected to employment.¹⁸ This risks undermining the statutory requirement of a clear and proximate relationship between employment and injury, thereby diluting the original legislative intent.

A critical analysis of the case law reveals an inherent tension between social welfare objectives and doctrinal consistency. Decisions such as *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja* illustrate the judiciary’s willingness to expand liability in favour of employees, while cases like *Regional Director, ESI v. Francis De Costa* highlight the need for restraint and adherence to statutory limits. Similarly, *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmed*

¹⁶ Surya Prakash Khatri, *Labour and Industrial Laws* 214 (Oxford Univ. Press, 2019).

¹⁷ *Union of India v. Mrs. Noor Jahan*, 1996 Lab IC 1234 (Del).

¹⁸ Mark A. Rothstein et al., *Employment Law* 789 (West Academic, 2016).

Issak reflects an attempt to strike a balance by recognizing incidental activities within employment while maintaining the requirement of a causal nexus.

Thus, the judicial expansion of “course of employment” represents both an evolution of welfare jurisprudence and a potential source of doctrinal ambiguity. While the courts have played a crucial role in adapting the law to changing social and economic realities, the absence of clear and consistent standards has led to uncertainty in the application of legal principles. This underscores the need for a more structured approach that preserves the protective purpose of the Act while maintaining the integrity of its foundational requirements.

5. JUDICIAL DILUTION: CRITICAL ANALYSIS:

The progressive judicial interpretation of the phrase “course of employment” under the Employees’ Compensation Act, 1923 has led to what may be described as a gradual dilution of statutory limits, raising important doctrinal and practical concerns. While the expansion of liability is often justified on the basis of the Act’s welfare objective, it is necessary to critically evaluate whether such expansion has crossed the boundaries of legislative intent.

One of the primary concerns is whether courts are expanding employer liability excessively. Judicial reliance on doctrines such as notional extension and beneficial interpretation has, in several instances, extended liability to situations only remotely connected with employment. In *Saurashtra Salt Manufacturing Co. v. Bai Valu Raja*, the Supreme Court broadened the scope of employment to include areas beyond the physical workplace, thereby laying the groundwork for subsequent expansive interpretations. While such an approach enhances worker protection, its repeated and liberal application risks converting a limited liability statute into a broad compensation mechanism.

Closely linked to this is the issue of whether courts are ignoring the requirement of strict causation. The statutory phrase “arising out of employment” necessitates a clear causal nexus between the employment and the injury. However, in practice, courts have sometimes relaxed this requirement by focusing on broader contextual connections rather than direct causation. In *Mackinnon Mackenzie & Co. v. Ibrahim Mahmmmed Issak*, the Court emphasized the need for a causal relationship, yet subsequent interpretations have diluted this standard by accepting indirect or minimal connections as sufficient. This shift weakens the analytical distinction between employment-related risks and general risks of everyday life.

Another critical issue is the blurring of boundaries between employment-related risks and personal risks. Traditionally, compensation law distinguishes between risks inherent in employment and those arising from personal choices or circumstances. However, the expansion of doctrines such as incidental activity and notional extension has increasingly brought personal activities within the scope of employment. For instance, injuries occurring during breaks, commuting, or engaging in personal comfort activities are often treated as employment-related, even when the connection to employment is tenuous. This blurring undermines the conceptual clarity of the law and complicates the determination of liability.

The cumulative effect of these developments is the creation of uncertainty in legal standards. In *Regional Director, ESI v. Francis De Costa*, the Supreme Court attempted to reassert the importance of a clear nexus, cautioning against an overly expansive interpretation. However, the lack of consistent judicial application across cases has resulted in unpredictability, making it difficult for employers and adjudicating authorities to determine the scope of liability with certainty.

Thus, while judicial expansion has undoubtedly advanced the social welfare objective of the Act, it has also led to a dilution of the “course of employment” requirement, raising concerns about doctrinal coherence and the long-term sustainability of such an approach.

6. IMPACT ON EMPLOYERS AND INDUSTRY:

The judicial expansion of the concept of “course of employment” has significant implications for employers and the broader industrial landscape. While the primary objective of compensation law is to protect workers, the extension of liability must also be assessed in terms of its economic and operational impact on employers.

One of the most immediate consequences is the increased financial burden on employers. As the scope of compensable injuries expands, employers are required to bear the cost of a wider range of incidents, including those occurring outside the traditional workplace. This is particularly challenging for industries with high-risk operations, where the frequency of claims may be substantial. The shift from a limited to a more expansive liability framework can therefore lead to increased operational costs.¹⁹

¹⁹ A. Larson, *Larson’s Workers’ Compensation Law* (LexisNexis, 2020).

Closely related to this is the impact on insurance mechanisms. Employers typically rely on insurance to manage compensation liabilities; however, broader judicial interpretations lead to higher insurance premiums and more complex risk assessments. Insurers, in turn, may adopt stricter underwriting standards or increase costs to account for the uncertainty in determining what constitutes “course of employment.” This creates a cascading financial effect across industries.

Another concern is the risk of over-compensation. When liability is extended to situations with only a weak connection to employment, there is a possibility that compensation is awarded in cases that fall outside the original legislative intent.²⁰ This not only imposes additional costs on employers but may also distort the purpose of the Act by equating employment-related risks with general life risks.

The impact is particularly pronounced when considering the difference between small and large enterprises. Large corporations are often better equipped to absorb increased liability through insurance and financial reserves. In contrast, small and medium enterprises (SMEs) may struggle to cope with the financial implications of expanded liability. This disparity can create an uneven playing field, potentially discouraging small businesses from hiring workers in risk-prone sectors.

Furthermore, the uncertainty arising from inconsistent judicial interpretations affects business planning and compliance. Employers may find it difficult to predict potential liabilities, leading to a cautious or risk-averse approach in employment practices.²¹ This could have broader implications for labour markets, including reduced job opportunities in certain sectors.

Therefore, while the expansion of liability under the Act serves an important social function, it also necessitates a careful evaluation of its impact on employers and industry. A balanced approach is essential to ensure that the objective of worker protection does not inadvertently impose unsustainable burdens on the economic framework within which such protection operates.

²⁰ Mark A. Rothstein et al., *Employment Law* 792 (West Academic, 2016).

²¹ Surya Prakash Khatri, *Labour and Industrial Laws* 219 (Oxford Univ. Press, 2019).

7. COMPARATIVE PERSPECTIVE:

The interpretation of the phrase “course of employment” has evolved differently across jurisdictions, reflecting varying balances between worker protection and limitation of employer liability. A comparative analysis is particularly instructive, as the Indian framework under the Employees’ Compensation Act, 1923 is historically derived from English law but has developed along a more expansive trajectory.

In the United Kingdom, which serves as the origin of the doctrine, courts have traditionally adopted a measured and structured approach to determining whether an injury falls within the course of employment. Early English decisions emphasized the importance of a clear connection between the employment and the accident, particularly focusing on whether the employee was engaged in an authorized act or an activity incidental to employment.²² The doctrine of notional extension, though recognized, has been applied with caution, ensuring that liability does not extend to risks that are purely personal or unconnected with employment obligations.

A notable feature of the UK approach is its emphasis on control and authorization. Courts assess whether the employer had control over the circumstances leading to the injury or whether the activity was expressly or impliedly authorized.²³ This ensures that the scope of liability remains closely tied to the employment relationship, thereby preserving doctrinal clarity. Furthermore, statutory developments in the UK have increasingly integrated compensation within broader social security systems, thereby reducing reliance on expansive judicial interpretation.

In contrast, jurisdictions such as the United States adopt a relatively structured but flexible standard, often articulated through tests such as the “positional risk” and “increased risk” doctrines.²⁴ Under these approaches, an injury may be compensable if the employment placed the employee in a position where the risk occurred, even if the risk was not directly caused by the employment. However, American courts also impose limits by excluding injuries arising from purely personal risks unless a clear employment connection is established.²⁵ This reflects

²² *Smith v. Stages*, [1989] A.C. 928 (H.L.) (U.K.).

²³ Simon Deakin & Gillian S. Morris, *Labour Law* 948 (Hart Publishing, 6th ed. 2012).

²⁴ Arthur Larson & Lex K. Larson, *Larson’s Workers’ Compensation Law* § 3.05 (Matthew Bender, rev. ed. 2021).

²⁵ *Cardillo v. Liberty Mutual Ins. Co.*, 330 U.S. 469 (1947).

an attempt to balance flexibility with principled constraints.

Other common law jurisdictions, including Australia and Canada, similarly emphasize the need for a substantial connection between employment and injury, often requiring that the employment significantly contribute to the risk.²⁶ These systems tend to avoid excessive reliance on broad doctrines such as notional extension and instead focus on clearly defined statutory criteria and administrative frameworks.

When viewed against this comparative backdrop, the Indian approach appears to be relatively more liberal and expansive. Indian courts have frequently invoked the beneficial nature of the legislation to extend liability beyond traditional limits, sometimes relying on indirect or minimal connections between employment and injury. While this approach enhances worker protection, it also raises questions about whether such expansion exceeds the boundaries observed in other jurisdictions.

Thus, the comparative analysis suggests that while some degree of flexibility is inherent in compensation law, other jurisdictions have maintained clearer doctrinal limits. This highlights the need to evaluate whether the Indian judiciary's expansive interpretation represents a necessary adaptation to local socio-economic conditions or an overextension that may undermine legal certainty.

8. CONTEMPORARY CHALLENGES:

The interpretation of “course of employment” faces significant challenges in the modern labour landscape, where traditional notions of workplace, working hours, and employer-employee relationships are undergoing rapid transformation. These developments necessitate a re-evaluation of existing legal principles to ensure their continued relevance and effectiveness.

One of the most pressing challenges arises from the growth of the gig economy and platform-based work. Workers engaged through digital platforms often operate outside the conventional framework of employment, raising questions about their entitlement to compensation under existing laws.²⁷ The absence of a clear employer-employee relationship complicates the application of the “course of employment” requirement, particularly in determining whether

²⁶ Richard Johnstone et al., *Work Health and Safety Law and Policy* 203 (Thomson Reuters, 3rd ed. 2012).

²⁷ Valerio De Stefano, *The Rise of the “Just-in-Time Workforce”*, 37 *Comp. Lab. L. & Pol’y J.* 471 (2016).

the platform exercises sufficient control over the worker. Courts may be required to adopt innovative approaches to address these ambiguities, potentially leading to further expansion of liability.

Another significant challenge is the increasing prevalence of remote and hybrid work arrangements. With employees performing duties from home or other non-traditional locations, the distinction between personal and professional space has become blurred.²⁸ Determining whether an injury sustained at home arises in the course of employment requires careful analysis of factors such as the nature of the activity, the time of occurrence, and the extent of employer control. This creates a risk of both over-inclusion and under-inclusion, depending on how broadly or narrowly the concept is interpreted.

Road accidents during work-related travel present another area of complexity. While traditional doctrine distinguishes between ordinary commuting and employment-related travel, modern work patterns often involve frequent travel for professional purposes. Courts must therefore determine whether such travel falls within the course of employment, particularly in cases where the journey is not directly controlled by the employer. The application of doctrines such as notional extension in these contexts can lead to inconsistent outcomes.

These challenges raise a broader question regarding the sustainability of current judicial trends. The continued expansion of the concept of “course of employment” in response to evolving work conditions may provide short-term solutions but risks creating long-term doctrinal uncertainty.²⁹ Without clear legislative guidance, courts may adopt divergent approaches, leading to unpredictability in the application of the law

Moreover, the expansion of liability in response to contemporary challenges may have economic implications, particularly in terms of increased costs for employers and insurers. This underscores the need for a balanced approach that accommodates new forms of work while preserving the fundamental principles of compensation law.

In light of these developments, it becomes evident that the traditional framework of “course of employment” is under strain. Addressing these challenges requires not only judicial innovation

²⁸ Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 112 (Oxford Univ. Press, 2018).

²⁹ Guy Davidov, *A Purposive Approach to Labour Law* 156 (Oxford Univ. Press, 2016).

but also legislative intervention to provide clearer guidelines and ensure consistency in the application of the law. The ability of the legal system to adapt to these changes will ultimately determine the effectiveness and sustainability of the compensation regime.

9. NEED FOR JUDICIAL RESTRAINT VS SOCIAL JUSTICE:

The interpretation of the phrase “course of employment” under the Employees’ Compensation Act, 1923 reflects an ongoing tension between two competing judicial objectives: the pursuit of social justice and the need for judicial restraint. As a welfare statute, the Act is designed to protect workers from the economic consequences of employment-related injuries. However, the expansion of its scope through judicial interpretation raises critical questions about the limits of such protection and the role of courts in shaping legislative policy.

The principle of social justice has been a dominant factor guiding judicial reasoning in compensation law. Courts have consistently emphasized that labour welfare legislation must be interpreted liberally to ensure that employees, as a vulnerable class, are not deprived of the benefits intended by the legislature.³⁰ This approach is rooted in the broader constitutional vision of social and economic justice, which seeks to mitigate inequalities in bargaining power and provide a safety net for workers. As a result, courts have often resolved ambiguities in favour of employees, thereby expanding the scope of compensable injuries.

In *B.E.S.T. Undertaking v. Agnes*, the Supreme Court adopted a liberal interpretation by extending the scope of employment to include situations where the employee was not directly engaged in work but was still within a sphere connected to employment.³¹ Such decisions illustrate the judiciary’s commitment to advancing the protective purpose of the statute, even at the cost of stretching traditional legal boundaries.

However, the emphasis on social justice must be balanced against the principle of judicial restraint, which requires courts to respect the limits of statutory language and legislative intent. The judiciary’s role is to interpret the law, not to rewrite it. Excessive reliance on beneficial interpretation may lead to outcomes that effectively alter the scope of the statute beyond what was envisaged by the legislature.³² This concern is particularly relevant in the context of the

³⁰ P.K. Padhi, *Labour and Industrial Laws* 402 (PHI Learning, 2nd ed. 2019).

³¹ AIR 1964 SC 193.

³² H.W.R. Wade & C.F. Forsyth, *Administrative Law* 29 (Oxford Univ. Press, 11th ed. 2014).

“course of employment” requirement, which serves as a critical limiting condition for employer liability.

In *Employees’ State Insurance Corporation v. Francis De Costa*, the Supreme Court underscored the importance of maintaining a clear nexus between employment and injury, cautioning against interpretations that would render statutory limitations meaningless.³³ The decision reflects an attempt to restore balance by reaffirming that welfare considerations cannot override the fundamental requirements of the statute.

The challenge, therefore, lies in reconciling these two objectives. While an overly restrictive approach may undermine the protective purpose of the Act, an excessively liberal interpretation risks creating doctrinal uncertainty and unpredictability. The absence of clear boundaries may lead to inconsistent judicial decisions, making it difficult for employers, employees, and adjudicating authorities to determine the scope of liability with confidence

Moreover, the expansion of liability has broader implications for the legal system. It may encourage judicial overreach, where courts effectively assume a legislative role by redefining statutory concepts. This not only raises concerns about the separation of powers but also highlights the need for a more structured and principled approach to interpretation.

Thus, the debate between judicial restraint and social justice is not a question of choosing one over the other but of achieving a balanced and harmonious approach. Courts must ensure that the protective purpose of the legislation is fulfilled while preserving the integrity of its statutory framework. This requires a careful and nuanced application of interpretative principles, guided by both legal reasoning and policy considerations.

10. SUGGESTIONS AND REFORMS:

The challenges arising from the judicial expansion of “course of employment” highlight the need for systematic reforms to ensure clarity, consistency, and fairness in the application of the *Employees’ Compensation Act, 1923*. While judicial interpretation has played a crucial role in adapting the law to changing circumstances, reliance solely on case law has led to uncertainty and inconsistency. A combination of legislative, judicial, and administrative measures is

³³ *Employees’ State Insurance Corporation v. Francis De Costa*, (1996) 6 SCC 1.

therefore necessary.

One of the most important reforms is the introduction of clear statutory guidelines defining the scope of “course of employment.” The current reliance on broad and open-ended language leaves significant room for judicial discretion, resulting in divergent interpretations.³⁴ Legislative clarification could provide specific criteria for determining when an injury falls within the course of employment, particularly in relation to commuting, remote work, and incidental activities. Such guidelines would enhance predictability and reduce litigation.

Another key reform involves limiting the overuse of the notional extension doctrine. While the doctrine serves an important purpose in extending protection to employees, its application must be carefully regulated to prevent excessive expansion of liability. Courts should adopt a more structured approach, requiring a clear demonstration of employer control or a substantial connection between the employment and the injury.³⁵ This would help maintain the balance between flexibility and doctrinal integrity.

There is also a need for greater judicial consistency in the application of legal principles. The absence of uniform standards has led to conflicting decisions, particularly in cases involving commuting and incidental activities. The development of authoritative guidelines, either through larger bench decisions or judicial precedents, could help establish a more coherent framework.

In addition to judicial reforms, administrative mechanisms should be strengthened to improve the implementation of the Act. This includes enhancing the capacity of adjudicating authorities, streamlining procedures, and ensuring timely resolution of claims. Efficient administration can reduce the reliance on expansive judicial interpretation by providing clearer and more consistent outcomes at the initial stage.

Given the evolving nature of work, it is also essential to address emerging forms of employment, such as gig and platform-based work. Legislative amendments may be required to clarify the applicability of compensation law to such workers, including the definition of employment relationships and the scope of employer liability.³⁶ Without such reforms, courts

³⁴ R.C. Srivastava, *Labour Law and Industrial Relations* 278 (Sultan Chand, 2018).

³⁵ Richard Kidner, *Casebook on Torts* 389 (Oxford Univ. Press, 14th ed. 2019).

³⁶ Jeremias Prassl, *Humans as a Service* 134 (Oxford Univ. Press, 2018).

may continue to rely on ad hoc interpretations, further contributing to doctrinal uncertainty.

Finally, there is a need to strike a balanced approach that aligns with both social welfare objectives and economic realities. While protecting workers remains a fundamental goal, the law must also consider the financial and operational constraints faced by employers. A sustainable compensation framework requires a careful calibration of these competing interests.

In conclusion, the issues arising from the judicial dilution of “course of employment” cannot be addressed solely through interpretation. They require a comprehensive and coordinated response involving legislative clarification, judicial discipline, and administrative efficiency. Such reforms would not only enhance the effectiveness of the Act but also ensure that its objectives are achieved in a manner that is both fair and sustainable.

11.CONCLUSION:

The evolution of the concept of “course of employment” under the Employees’ Compensation Act, 1923 reflects a dynamic interplay between statutory interpretation, judicial innovation, and social welfare considerations. What began as a narrowly defined requirement intended to limit employer liability to clearly employment-related risks has, over time, been transformed through judicial interpretation into a more expansive and flexible standard.

This study has demonstrated that the judiciary, guided by the beneficial nature of the legislation, has progressively broadened the scope of liability through doctrines such as notional extension, incidental activity, and nexus-based reasoning. These developments have undoubtedly advanced the objective of social justice, ensuring that workers are not denied compensation due to rigid or technical interpretations of the law. In this sense, the expansion of the concept can be viewed as a necessary evolution, reflecting the changing realities of employment and the need for a more inclusive approach to worker protection.

However, the analysis also reveals that this expansion has, in several instances, led to a dilution of the statutory requirement. The increasing reliance on indirect or minimal connections between employment and injury has blurred the distinction between employment-related risks and general life risks.³⁷ This has resulted in doctrinal ambiguity, inconsistent judicial outcomes,

³⁷ Alan Bogg et al., *The Autonomy of Labour Law* 221 (Hart Publishing, 2015)

and heightened uncertainty for employers and insurers. The absence of clear boundaries risks transforming a targeted compensation regime into a broad and indeterminate system of liability.

The central question, therefore, is not whether the concept should evolve, but how far such evolution can be justified without undermining the integrity of the legal framework. A purely restrictive approach would defeat the social purpose of the Act, while an excessively liberal interpretation would erode its conceptual foundations. The answer lies in adopting a balanced and principled approach, one that preserves the protective objective of the legislation while maintaining a clear and consistent standard for determining liability.

In conclusion, the judicial trajectory reflects both progress and overreach. It represents a commendable effort to adapt the law to the needs of workers, but also highlights the risks of unchecked expansion. The way forward lies not in abandoning judicial innovation, but in supplementing it with clear legislative guidance and disciplined interpretative practices. Only through such a coordinated approach can the law achieve its dual objectives of fair compensation and legal certainty, ensuring that the principle of “course of employment” remains both meaningful and effective in contemporary labour jurisprudence.