

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

EVALUATING THE APPLICABILITY AND SCOPE OF THE EMPLOYEES' STATE INSURANCE SCHEME: A STUDY OF ADMINISTRATIVE CHALLENGES AND REFORM NEEDS

AUTHORED BY - MS. KRISHNA .M¹

ABSTRACT

“Our foremost priority is the removal of poverty, hunger and malnutrition, disease and illiteracy” These words by former president, Ms. Pratibha Patil is the cornerstone of India's Identity as a welfare state. In keeping with this identity, India released one of its first social security schemes since Independence, the Employees' State Insurance Scheme (ESIS), established under the Employees' State Insurance Act of 1948. It was designed to be a comprehensive social security legislation that provided benefits that covered sickness, maternity, and healthcare, to workers across various industries. As of 2024, the scheme has been notified to about 75% of the country, but those who claim benefits under it is not up to par with the vision of inclusive welfare. Overlapping responsibilities between the Corporation and State governments, delays in the delivery of service, and ambiguous implementation methods have continued to hinder its effectiveness. Judicial precedents have clarified key issues regarding its applicability, the validity and effect of claims, and the limitation of contributions under Section 45A, further shaping its legal and administrative landscape.

While the scheme reflects the principles of cooperative federalism, the absence of uniformity in central and state laws has created inconsistencies in its implementation. Alternative social security mechanisms, although more streamlined in some aspects, fail to align with the broader objectives of the ESI Act. This paper seeks to delve into the ESI scheme, how its history has impacted its progress, and its application and real-life execution in India.

This paper seeks to delve into the ESI scheme, how its history has impacted its progress, and its application and real-life execution in India. It aims to examine the extent to which the scheme has achieved its intended objectives and how its design compares with its practical implementation over time. Particular focus is placed on identifying key pitfalls in execution, especially those arising from the interplay between the central government and the Employees'

¹ Ms. Krishna M is a 4th year student at Tamil Nadu National Law University, Tiruchirapalli

State Insurance Corporation. The paper also analyses judicial interpretations of the Act and assesses how such rulings have shaped the operational dynamics of the scheme. In pursuing this inquiry, the research is guided by two central questions: whether the ESIC has consistently implemented the objectives it originally set out to achieve, and whether a more centralized approach to administrative responsibilities could improve the efficiency and delivery of the scheme. Through a critical evaluation of legislative intent, policy evolution, and case law, the study seeks to draw conclusions on how structural and institutional reform can better align the scheme with its founding vision.

Research Hypothesis

The effectiveness of the Employees' State Insurance Scheme in India can be improved through better integration and centralization of administrative responsibilities between the Corporation and State governments.

I. LEGISLATIVE INTENT AND EVOLUTION OF THE ESI SCHEME

Even before the institution of the **Employee State Insurance Act in 1948**,² the concept of protection from injuries in the workplace was indirectly brought in under the object of the **Fatal Accidents Act, 1855**. While no explicit mention was accorded to the *issue of liability* that arose from an employer-employee relationship, the act did penalise anyone who “*by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued), ... shall be liable to an action or suit for damages... (by the plaintiff)*”.³ Similarly, the nationalised railways had brought in medical services for their employees in the 1920s, and by the time Independence was achieved, the Nehru government ensured such services in most public sector enterprises.⁴

The ESI scheme was thus, instituted as a social security measure that would extend such benefits to a wide range of employed persons, and while the legislation was formulated as such for those in the organised sector, the labour ministry at the time of its enactment definitively expressed its hopes for its more pervasive application. India's first Labour Minister, Jagjivan Ram, had hailed the passage of the Employees' State Insurance Act as a milestone, as a juvenile initiative that would, over time, develop into a far-reaching and expansive system. He

² Employees' State Insurance Act, No. 34 of 1948, INDIA CODE (India).

³ Fatal Accidents Act, No. 13 of 1855, INDIA CODE (India).

⁴ RCLI, *Evidence, Vol. VII, Part 1: Railways* (H.M. Stationery Off. 1931).

envisioned a gradual and systematic expansion of the scheme until it provided comprehensive coverage. Similarly, Health Minister Rajkumari Amrit Kaur affirmed that the scheme was designed to eventually extend to approximately 85% of the population.⁵ A 1952 government propaganda film, produced by the Films Division, reinforced this vision, declaring that ESI's reach would continue to grow until it encompassed all industrial sectors and ensured that not just 2.5 million workers but all employees, including those in agriculture, could claim this right as a fundamental entitlement.

However, there were always structural issues, which rendered it difficult for many interested groups, such as trade unions, to work out strategies that would ensure all sections of society would benefit from social welfare legislations. While discussions of implementing an employee centric insurance scheme began during the period of the World War II, even then the fruitfulness and necessity of such a scheme came to be called into question. Moreover, employers were concerned about provisions such as paid leave for sickness, and heavily argued that it would undermine the labour contract by killing productivity. Thus, they were against the idea of a health insurance, since a 'holiday with pay' would encompass a similar benefit. Further, the contribution of the government became a hotly debated topic as employers argued that they might not possess the requisite solvency to contribute around 60% of the projected ESI budget as initially recommended by **The Adarkar Report 1945**.⁶

In the 20th Century, more than 70 years after the implementation of the act, it is undeniable that the ESIC has come a long way. The ESIC is a central government run organisation, which was statutorily established after the 1948 Act. It is a self-financing measure, or essentially a bi-partite scheme wherein the Employer and employee both contribute to the ESI Fund that is once again centrally managed. The state governments contribute 1/8th of the cost of medical benefits provided under the ESI scheme by the corporation, and any fund allocation to state governments is managed centrally. As of 2015, the ESIC approved the initiative for having **State Autonomous Societies under s. 58(5) of the ESI act**⁷ which is a step in the right direction to promote decentralization of the scheme. This initiative has been implemented in 11 states, including Tamil Nadu, with funds being directly transferred to these societies. As a result, there has been an improvement in primary and secondary healthcare services. The

⁵ Gov't of India, Films Div., *Dawn of Social Security* (1952).

⁶ B.P. Adarkar, *Report on Health Insurance for Industrial Workers* (Gov't of India Press 1945).

⁷ Employees' State Insurance Act, No. 34 of 1948, § 58(5) (India).

autonomy in fund management ensures that financial resources are available without being routed through the state treasury, leading to better availability of essential drugs. The current contribution to the scheme as after the 2019 amendment is 0.75% of the wages by employees, and 3.25% of the wages paid/payable by the employer, and the employees in receipt of a maximum of Rs.176/- daily average wage are exempt from the scheme.

Problems in state involvement come into question however, as stated in a 2020 report by trade unions, employees ended up contributing more to the ESI budget than their employers.⁸ While the application of the act, as of the 2010 amendment has included within its ambit any non-seasonal factories employing at least 10 workers, the execution of the law has either been sub-par, or has been followed by botched investigation procedures that hinder the implementation of the act across various districts. The law also faces further problems with respect to inclusion of platform and gig workers, as no concrete legislation has so far been implemented in that regard.

Coverage of the scheme is still an unsettling question to answer as merely 3% of India's workforce is currently covered by the ESI scheme and to an unhealthily unsatisfactory extent. The coverage of the scheme is hugely limited, providing medical care to Insured Persons (IPs) and their families through a network of only 165 ESI hospitals and 1,590 dispensaries across India. The dispensaries being the initiative of the state government, save a few select hospitals run directly by the corporation, it is no surprise the Corporation itself has an information and control gap with the actual implementation of the scheme. Wage ceilings are regularly updated to adjust for inflation, but the contribution of the employees subject to their daily average wage, make up for the bulk of the funding for the ESI scheme while the central government as an enforcer seems to excuse itself from the implementation of the scheme beyond mere directives and delegation.

II. THE JUDICIAL REVIEW AND INTERPRETATION OF THE SCHEME

While the legislature works on the pitfalls of implementation, the judiciary delving into the numerous writs and appeals from the labour courts have unearthed a slew of procedural and subject matter gaps in the existing legislation. While in-part this has ensured that the Act

⁸ Health Insurance Scheme: Central Act Likely to Be Amended, Bombay Chron., Dec. 5, 2020, at 1.

evolves in accordance with its underlying social security objectives, it also suffers from a lack of commonality amongst judgements.

One of the most significant debates before the judiciary has been the application of the ESI Act to private educational institutions. In **Chairman, RVS Educational Trust v. State of Tamil Nadu**⁹, the Madras High Court ruled that private unaided educational institutions fall within the purview of the ESI Act since it falls within the ambit of Industry as decided in **Bangalore Water Supply and Sewerage Board v. A. Rajappa**.¹⁰ Thus, it stated that the emphasis lies not in the nature of the institution, but the nature of employment the person is carrying out. This ruling reinforced an expansive interpretation of the Act, ensuring that employees (As defined in **S.2(e) of the Industrial Dispute Act, 1947**¹¹) engaged in educational institutions were not excluded from social security benefits. A similar stance was upheld in **All India Private Educational Institutions Association v. State of Tamil Nadu**,¹² wherein the court rejected arguments that stated that the Supreme Court's pending decision in **Jai Bir Singh**,¹³ had stayed the enforcement of the ESI Act on educational institutions. However, the judgement seemed to be conflicted on real world implementation of the act after the consequence of the COVID pandemic. The educational institutions argued their inability to pay ESI contributions, was due to severe financial strain caused by the lockdown. They also rightly expressed concerns about not being able to compensate employees retrospectively, as many were no longer engaged since the time when their payment was due. While upholding the validity of the ESI notification, the court acknowledged that no actual prejudice had been caused to employees due to non-compliance in that specific period. However, the court did adjudge that the financial hardships faced by institutions were not avoidable, and hence were worthy of consideration under Section 91C of the ESI Act, allowing the reduction or waiver of arrears in exceptional circumstances. The court then recommended that the Employees' State Insurance Corporation (ESIC) consider applications for relief fairly, ensuring that institutions were not unfairly burdened while maintaining the broader integrity of the scheme.

However, the effect of this judgement is defeated by rulings such as **ESIC v. C.C.**

⁹ *Chairman, RVS Educational Trust v. State of Tamil Nadu*, (2023) 6 MLJ 641 (Mad).

¹⁰ *Bangalore Water Supply & Sewerage Bd. v. A. Rajappa*, (1978) 2 S.C.R. 213 (India).

¹¹ *Industrial Disputes Act, No. 14 of 1947, § 2(e)* (India).

¹² *All India Private Educ. Insts. Ass'n v. State of Tamil Nadu*, AIR 2020 Mad. 1142 (India).

¹³ *State of U.P. v. Jai Bir Singh*, (2005) 5 S.C.C. 1 (India).

Santhakumar (2007),¹⁴ where the Supreme Court ruled that the five-year limitation period under **Section 77(1A) (b)**¹⁵ of the Act does not apply to ESIC orders under Section 45A. This means that ESIC can recover contributions at any time, without temporal restrictions, classifying them as arrears of land revenue. Thus, the ruling raises concerns over indefinite financial liability for employers, especially in cases of procedural lapses or delayed claims. A similar approach was adopted in **Employees' State Insurance Corporation v. Hotel Kalpaka International (1993)**¹⁶, where the court held that once an establishment is covered under the Act, the employer's contribution obligation arises automatically, irrespective of whether the employee's share has been deducted. Further, in **South India Viscose Co-operative Stores Ltd. v. ESIC (1985)**,¹⁷ the court had rejected financial incapacity as a valid defence, reinforcing the statutory nature of ESI contributions. This judgement was not expressly overturned adding to the woes of the judiciary.

The courts have done an admirable job in promoting the central administrations intent to enforce the mandatory nature of the ESI scheme, however it has proven to be in-equitable in its decisions. The courts seem to lack the same leniency in forgiving procedural lapses of the employers/employees, that it does for the delays and enforcement lapses of the ESIC. The ESIC is notorious for mis-calculation of claims in arrears based on improper inspections as seen in **TATA Consultancy Services Ltd. Vs. Deputy Director, Employees State Insurance Corporation**.¹⁸ Further, in **ESI Corporation v. All India ITDC Employees Union (2006)**,¹⁹ the Supreme Court clarified that a judicial directive to 'consider' an exemption request does not create an automatic right to exemption. This enforces the discretionary nature of granting of exemption, however in the instant case both the employee union and the employers sought to be exempt from the ESIC scheme, as the employees barely crossed the daily average wage requirement to qualify for the scheme.

Not all decisions requiring strict adherence can be discounted though. In **National Cement Workers Union vs Government Of Tamil Nadu**,²⁰ the court held that the government need not grant exemption to an employer from ESIC simply due to the existence of alternate medical

¹⁴ Emps.' State Ins. Corp. v. C.C. Santhakumar, (2007) 1 S.C.C. 584 (India).

¹⁵ Employees' State Insurance Act, No. 34 of 1948, § 77(1A)(b), Acts of Parliament, 1948 (India).

¹⁶ Emps.' State Ins. Corp. v. Hotel Kalpaka Int'l, (1993) 2 S.C.C. 9 (India).

¹⁷ S. India Viscose Co-op. Stores Ltd. v. ESIC, (1985) 1 LLJ 192 (Mad) (India).

¹⁸ Tata Consultancy Servs. Ltd. v. Deputy Dir., Emps. State Ins. Corp., (2024) 1 S.C.C. 584 (India).

¹⁹ ESI Corp. v. All India ITDC Emps. Union, (2006) 5 S.C.C. 204 (India).

²⁰ Nat'l Cement Workers Union v. Gov't of Tamil Nadu, (2013) 6 MLJ 829 (Mad.) (India).

schemes. This has solidified the states initiative and prerogative to be the pioneer of social welfare.

Citing **K.K. Kochunni v. State of Madras (1960)**,²¹ the courts affirmed that words in a beneficial statute must be interpreted in light of the legislative intent and broader objectives, rather than being confined to rigid dictionary meanings. This purposive approach enables courts to uphold the integrity of social security laws while adapting them to contemporary employment structures. In *M/S Rane Engine Valves Ltd. v. Government of Tamil Nadu (2011)*, the court held that obtaining a stay does not waive interest on delayed contributions, preventing misuse of judicial reliefs. Similarly, in *South Eastern Coalfields Ltd. v. State of M.P. (2003)*, the doctrine of restitution was applied, ensuring that wrong judicial orders should not confer unjust benefits. These rulings reinforce the principle that statutory liabilities under the ESI Act remain binding, irrespective of procedural delays.

The debate over whether gig and platform workers should be covered under traditional labour laws is ongoing worldwide, with courts stepping in to clarify their status. In **Rasier Operations BV & Ors. v. E TU Incorporated & Ors. (2024)**²², the New Zealand Court of Appeal ruled that Uber drivers must maintain their own insurance rather than being covered under an employer-run scheme. The case highlighted the complexity of extending social security protections to gig workers, as employment structures evolve beyond conventional employer-employee relationships. Although the case does not directly apply to India's ESI framework, it signals a growing global conversation on the need to reform labour laws to accommodate platform-based employment. Indian courts may soon need to address whether gig workers should be entitled to ESI benefits, mirroring ongoing legal developments in other jurisdictions.

III. CRITICAL ANALYSIS OF IMPLEMENTATION MEASURES

The courts' pioneering efforts in enforcing the non-negotiable nature of the act, in order to be fruitful, require proper enforcement from the side of the corporation. So far, as discussed the scheme has the following method of functioning; (a) territorial basis, (b) appropriate representation of the contributing parties, beneficiaries and medical profession and (c) unification and centralisation of funds which is not inconsistent with local management.²³

²¹ K.K. Kochunni v. State of Madras, A.I.R. 1960 S.C. 1080 (India).

²² Rasier Operations BV v. E Tū Inc., [2024] NZCA 403 (N.Z.).

²³ Usha Mehta, The Working of the Employees' State Insurance Scheme in India: An Aspect of Centre-State Relations, 22(3) Indian J. Pol. Sci. 205 (1961), <https://www.jstor.org/stable/41853882>.

As discussed previously, the Employee state Insurance (ESI) scheme is a self-financing social security scheme, which means the bulk of its funding comes from monthly contributions from employees and employers, as a percentage from their wages.²⁴ The collaboration of the ESIC with the **Pradhan Mantri Jan Arogya Yojana (PMJAY)** under the Aayushman Bharat scheme was a step in the right direction to optimise its efficiency and coverage. This strategic collaboration has facilitated access to super-specialty treatments across 2,546 empanelled hospitals, ensuring a broader coverage for policyholders.²⁵ The synergy between the two schemes enhances administrative efficiency, expedites the processing of claims, and fosters cost-effectiveness, potentially enabling the launch of further welfare initiatives akin to night sanatoria in the USSR, tuberculosis clinics, and multi-disciplinary health centres modelled on the Tottenham Health Centres in England and the Peckham Health Centres in France. Such initiatives, if properly implemented, could strengthen the preventive healthcare framework within the ESI system and address critical gaps in specialized treatments.²⁶

But it is concerning to note that the scheme has not achieved fruition yet, as it has only been fully notified in 556 districts in the country. This means it stands partially notified (i.e. does not provide insurance benefits) to 105 districts, and not at all notified in 117 districts. These districts are predominantly located in states that already have a low infrastructure development index like Arunachal Pradesh, Bihar, Lakshadweep, Madhya Pradesh and Meghalaya.²⁷

Additionally, a major step towards expanding social security coverage has been the formal inclusion of gig and platform workers under the **Social Security Code, 2020**.²⁸ The Union Budget provisions for gig workers include the registration of one crore workers on the e-Shram portal, issuance of identity cards for formal recognition, and the extension of healthcare benefits under PMJAY.²⁹ While this legislative recognition under **Sections 2(35) and 2(36) of the Social Security Code**³⁰ acknowledges the evolving nature of employment in the gig

²⁴ S. Prasad & I. Ghosh, *Employee State Insurance Scheme - Performance and Potential Pathways for Reform* (Nov. 2020), <https://www.dvara.com/research/wp-content/uploads/2020/11/Employee-State-Insurance-Scheme-Performance-and-Potential-Pathways-for-Reform.pdf>.

²⁵ Emps.' State Ins. Corp., *Employee State Insurance Scheme – Performance and Potential Pathways for Reform* (2019), <https://www.esic.gov.in/attachments/publicationfile/d9e630496afa71a2d70adbb3b4819cfd.pdf>.

²⁶ K.K. Padala & V.V. Lakshmi, Effectiveness in Implementation of Employee State Insurance Act, 20 NeuroQuantology 7716 (2022).

²⁷ *Ibid.* at 23.

²⁸ The Code on Social Security, 2020, § 2, No. 36, Acts of Parliament, 2020 (India).

²⁹ Nirmala Sitharaman, Minister of Fin., *Budget 2025–2026* (Feb. 1, 2025), https://www.indiabudget.gov.in/doc/budget_speech.pdf.

³⁰ *Ibid.* at 26.

economy and attempts to provide some measure of welfare support to workers traditionally outside the ambit of formal employment benefits, it has not yet so far brought them under the ambit of the ESIC, or any other social security regulation for that matter. The Union Budget 2025, has yet to come into action and the government is eventually making strides towards inclusivity. But it has to be noted that the Centre has reduced its contribution towards the scheme from 6.5% to 4% of the budget in 2025.³¹ In the financial year 2024–25, only three new ESIC hospitals—located in Bikaner, Tirupur, and Bhilai—have been sanctioned, bringing the total number of ESIC hospitals to 147, which remains inadequate to meet growing demand. Further, systemic inefficiencies persist in service delivery.³² A considerable number of medical staff positions remain vacant due to high attrition rates and protracted recruitment processes, exacerbating the shortage of healthcare professionals within ESI hospitals.

A key structural reform within the ESI scheme has been the move towards financial decentralization. **The 167th meeting of the ESIC on 18.12.2015** approved the establishment of State Autonomous Societies under Section 58(5) of the ESI Act across eleven states, including Tamil Nadu.³³ The direct transfer of funds to these societies rather than routing them through the state treasury has reportedly improved primary and secondary healthcare service delivery by ensuring better fund availability, expedited procurement of essential drugs, and greater autonomy in managing financial resources at the state level. However, despite these structural advancements, the implementation of ESI benefits continues to face critical challenges. The ongoing tussle between state and central authorities often creates administrative roadblocks, slowing down both decision-making and fund allocation. Adding to this strain are the rising costs of advanced medical treatments, particularly in super-specialty care, which stretch financial resources even further. At the same time, inefficiencies in the Management Information System make it difficult to track and assess how well the services are actually being used.

A particularly glaring issue is the low utilization of ESI hospitals, especially in rural areas, which highlights a clear gap between the availability of services and their accessibility. Many insured workers express dissatisfaction, citing inadequate medical facilities, long delays in

³¹ *Ibid.* at 27.

³² Emps.' State Ins. Corp., *State-wise List of 598 Notified Districts and 146 Non-Notified Districts Under ESI Scheme* (As on 30.09.2022), Annexure A, <https://www.esic.gov.in/attachments/circularfile/22df808f02015c900f032265d7d2ff53.pdf>.

³³ Employees' State Insurance Corporation, *Final Action Points of 189th Meeting of ESI Corporation Held on 03.10.2023*, <https://www.esic.gov.in/attachments/circularfile/44f9b763cdb86b2eef153d58909e05ff.pdf>.

claim settlements, and an overall lack of responsiveness in the healthcare system. A significant factor behind this underutilization is the lack of awareness among beneficiaries about the full scope of their entitlements under the scheme.

CONCLUSION

The ESI scheme was envisioned as a cornerstone of India's social security framework to provide healthcare and financial support to workers. While the scheme has undoubtedly expanded in scope over the decades, its implementation remains riddled with inefficiencies. A key takeaway from this study is the persistent disconnect between legislative intent and administrative execution. Despite being notified in most of the country, the actual accessibility and quality of benefits remain questionable due to funding limitations, bureaucratic delays, and infrastructural shortcomings.

One of the most pressing concerns is the state-central governance conflict, which has led to bottlenecks in decision-making and fund allocation. Additionally, the reduction in the Centre's contribution from 6.5% to 4% in 2025 has further strained financial resources, affecting hospital expansion and service delivery. While financial decentralization through State Autonomous Societies under Section 58(5) was a step toward efficiency, the low utilization of ESI hospitals and a shortage of medical personnel continue to limit the scheme's reach. The gig and platform economy, though formally recognized under the Social Security Code, 2020, remains largely excluded from ESI coverage, raising concerns about the evolving nature of employment security.

Addressing these issues requires more than just policy adjustments—it calls for a well-rounded strategy. This includes streamlining the recruitment process to fill long-pending vacancies in medical staff, leveraging technology to improve administrative efficiency, launching targeted outreach programs to spread awareness, and investing in infrastructure to make healthcare more accessible, particularly in rural areas.

Bibliography

2. Employees' State Insurance Act, No. 34 of 1948, INDIA CODE (India).
3. Fatal Accidents Act, No. 13 of 1855, INDIA CODE (India).
4. RCLI, *Evidence, Vol. VII, Part 1: Railways* (H.M. Stationery Off. 1931).

5. Gov't of India, Films Div., *Dawn of Social Security* (1952).
6. B.P. Adarkar, *Report on Health Insurance for Industrial Workers* (Gov't of India Press 1945).
7. Employees' State Insurance Act, No. 34 of 1948, § 58(5) (India).
8. Health Insurance Scheme: Central Act Likely to Be Amended, *Bombay Chron.*, Dec. 5, 2020, at 1.
9. Chairman, RVS Educ. Tr. v. State of Tamil Nadu, (2023) 6 MLJ 641 (Mad.).
10. Bangalore Water Supply & Sewerage Bd. v. A. Rajappa, (1978) 2 S.C.R. 213 (India).
11. Industrial Disputes Act, No. 14 of 1947, § 2(e) (India).
12. All India Private Educ. Insts. Ass'n v. State of Tamil Nadu, AIR 2020 Mad. 1142 (India).
13. State of U.P. v. Jai Bir Singh, (2005) 5 S.C.C. 1 (India).
14. Emps.' State Ins. Corp. v. C.C. Santhakumar, (2007) 1 S.C.C. 584 (India).
15. Employees' State Insurance Act, No. 34 of 1948, § 77(1A)(b), Acts of Parliament, 1948 (India).
16. Emps.' State Ins. Corp. v. Hotel Kalpaka Int'l, (1993) 2 S.C.C. 9 (India).
17. S. India Viscose Co-op. Stores Ltd. v. Emps.' State Ins. Corp., (1985) 1 LLJ 192 (Mad.) (India).
18. Tata Consultancy Servs. Ltd. v. Deputy Dir., Emps. State Ins. Corp., (2024) 1 S.C.C. 584 (India).
19. Emps.' State Ins. Corp. v. All India ITDC Emps. Union, (2006) 5 S.C.C. 204 (India).
20. Nat'l Cement Workers Union v. Gov't of Tamil Nadu, (2013) 6 MLJ 829 (Mad.) (India).
21. K.K. Kochunni v. State of Madras, A.I.R. 1960 S.C. 1080 (India).
22. Rasier Operations BV v. E Tū Inc., [2024] NZCA 403 (N.Z.).
23. Usha Mehta, The Working of the Employees' State Insurance Scheme in India: An Aspect of Centre-State Relations, 22(3) *Indian J. Pol. Sci.* 205 (1961), <https://www.jstor.org/stable/41853882>.
24. S. Prasad & I. Ghosh, *Employee State Insurance Scheme - Performance and Potential Pathways for Reform* (Nov. 2020), <https://www.dvara.com/research/wp-content/uploads/2020/11/Employee-State-Insurance-Scheme-Performance-and-Potential-Pathways-for-Reform.pdf>.
25. Emps.' State Ins. Corp., *Employee State Insurance Scheme – Performance and Potential Pathways for Reform* (2019),

<https://www.esic.gov.in/attachments/publicationfile/d9e630496afa71a2d70adbb3b4819cfd.pdf>.

26. K.K. Padala & V.V. Lakshmi, Effectiveness in Implementation of Employee State Insurance Act, 20 NeuroQuantology 7716 (2022).
27. *Ibid.* at 23.
28. The Code on Social Security, No. 36 of 2020, § 2, Acts of Parliament, 2020 (India).
29. Nirmala Sitharaman, Minister of Fin., *Budget 2025–2026* (Feb. 1, 2025), https://www.indiabudget.gov.in/doc/budget_speech.pdf.
30. *Ibid.* at 26.
31. *Ibid.* at 27.
32. Emps.' State Ins. Corp., *State-wise List of 598 Notified Districts and 146 Non-Notified Districts Under ESI Scheme (As on 30.09.2022)*, Annexure A, <https://www.esic.gov.in/attachments/circularfile/22df808f02015c900f032265d7d2ff53.pdf>.
33. Emps.' State Ins. Corp., *Final Action Points of 189th Meeting of ESI Corporation Held on 03.10.2023*, <https://www.esic.gov.in/attachments/circularfile/44f9b763cdb86b2eef153d58909e05ff.pdf>.