



Employees' Rights under the Malaysian Social Security Organisation

Rooshida Merican Binti Abdul Rahim Merican

Faculty of Law

Universiti Kebangsaan Malaysia

43600 UKM Bangi, Selangor Darul Ehsan, Malaysia

Tel: 60-3-8921-6375 Fax: 60-3-89253217 E-mail: rooshida@ukm.my

Abstract

This article discusses on the remedies available to the injured employees under the *Employees' Social Security Act 1969* (*ESSA 1969*) (Note 1). Remedies are the means given by the law for the recovery of a right, or of compensation for the infringement thereof (Note 2). Since employees covered by *ESSA 1969* are not eligible for workmen's compensation, they are only eligible for benefits administered by the Social Security Organisation (SOCSO) (Note 3). The relevant issues in this article pertain to the curtailment of the employees' rights to a claim under SOCSO as once an employee is injured, the employee must know what to do, what are the benefits and remedies available, the laws applicable, how to withdraw the contributions and so on. The article introduces a discussion on *ESSA 1969*, that is, the purpose of the Act, the requirements for eligibility of the benefits and the contributions. As the object of *ESSA 1969* is to provide, through SOCSO, social security to employees and their dependants in the event of injury or death arising in the course of employment under the employment injury insurance scheme and the invalidity pension scheme, the study then examines the two SOCSO's schemes. This article also discusses the various benefits available under the insurance schemes focusing on benefits that are directly related to employees.

Keywords: Employees' right, Malaysian Social Security Organisation, *Employees' Social Security Act 1969*

1. Introduction

SOCSCO is a statutory body under the Ministry of Human Resources. It was established in January 1971 to improve social security protection by social insurance including medical and cash benefits, provision of artificial aids and rehabilitation to employees to reduce suffering and to provide financial guarantees and protection to families. The Employment Injury Insurance Scheme provides protection for accidents that occur while travelling, arising out of and in the course of employment and occupational diseases and Invalidity Pension Scheme provides protection against invalidity or death due to any cause not connected with employment. Benefits include medical benefit, temporary and permanent disablement benefit, constant attendance allowance, dependant's benefit, funeral benefit, rehabilitation benefit and education benefit, survivors' pension, invalidity grant (Note 4).

Employees are covered by the *Employment Act 1955*, the *Industrial Relations Act 1967*, the *Employees Provident Fund Act 1951*, the *Employees Social Security Act 1969* and the *Occupational Health and Safety Act 1994* (Note 5). The *Employment Act 1955* is the main legislation covering the relationship between employer and employee. The Act is applicable to all manual workers and other workers earning less than RM1500.00. The Act provides the minimum conditions of employment. Amendments to the Act in the year 1998 provide that all those earning below RM5000.00 can seek protection under the Act if their employers fail to adhere to the terms and conditions in the contract of service between employer and employee. The *Industrial Relations Act 1967* covers the relationship between unionised workers and employers. Section 20 of the Act also allows for workers to seek reinstatement if unfairly dismissed. The *Employees Provident Fund Act 1951* requires the employer and employee to contribute 12% and 11% of the employee's salary to the Employees Provident Fund. The *Employees Social Security Act 1969* covers all workers who earn less than RM3000.00. The Act provides for benefits and pension if a worker is injured or disabled during working hours or while travelling to and from work. The *Occupational Health and Safety Act 1994* protects the worker against unsafe work sites and unhealthy work practices.

An employee under SOCSO is a person who works for a company or industry (in return for wages) to which *ESSA 1969* applies. The employee is the 'insured person' and it does not matter that the industry or employee is not registered with SOCSO (Note 6). An insured person is a person who is or was an employee in an industry to one in which the Act applies (Note 7) and who contributed to the insurance scheme (Note 8). An employee is still an insured person even though he was registered with the SOCSO office two days after the accident and had made no contributions at that time as in *Liang Jee Keng v. Yik Kee Restaurant Sdn. Bhd* (Note 9).

2. The General Principles of Employees' Social Security

ESSA 1969 was implemented in 1971 to provide protection for employees and their families against economic and social distress in situations where the employees sustain injury or death. In other words, this Act provides certain benefits (Note 10) to employees in cases of invalidity and employment injury including occupational diseases. The schemes of social security under the said Act are administered by SOCSO and are financed by compulsory contributions made by the employers and the employees. Contribution is the sum of money payable to the Organization by the principal employer for the insured employee (Note 11).

Generally, *ESSA 1969* is applicable to all industries in the private sector in Malaysia employing one or more employees (Note 12). Since 'industry' has been given a wide definition (Note 13) the applicability of the Act and hence, the liability assumed by SOCSO on behalf of the employers is very comprehensive. The scope of coverage is further enhanced by the fact that the present definition of 'insured person' expressly states that it no longer matters whether the industry or employee was registered or not for as long as the industry is one to which the Act applies (Note 14). This is expressly stated in the concluding part of the definition which reads 'notwithstanding that such industry or employee was not so registered, so long as the industry was one to which this Act applies'. An insured person is a person who is or was an employee in an industry to one in which the Act applies (Note 15) and who contributed to the insurance scheme (Note 16). In *Liang Jee Keng v. Yik Kee Restaurant Sdn. Bhd.* (Note 17) the employee was an insured person even though he was registered with the SOCSO office two days after the accident and no contributions were made at that time.

Every employer employing one or more employees as specified by the Act must register and contribute to SOCSO. Thus, all employees of such industries must be insured (Note 18) and such industry must register with SOCSO (Note 19). This means that all employees under a contract of service or apprenticeship and earning less than RM3,000 per month must compulsorily register and contribute to SOCSO regardless of the employment status whether it is permanent, temporary or casual in nature (Note 20). The exception is foreign workers who are no longer protected by SOCSO and are protected under *WCA 1952*. The public sector workers have also been exempted since 1983 because they are covered by the *Pension Act 1980* (Note 21) and are entitled to medical benefits under their scheme of service (Note 22). An employee who has never been registered with or contributed to SOCSO and who is earning more than RM2,000 per month is given an option to be covered under the Act with the agreement of his or her employer. This once-in-always-in principle, that is, once an employee has made a contribution, he remains liable to make contribution always, even if his or her earnings exceed that sum subsequently (Note 23).

The payment of monthly contributions is the responsibility of the employer, who is empowered to make deductions from the employee's wages to recover the employee's share and paid to SOCSO according to the rates specified under the Act. *ESSA 1969* reads

'The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Organization.' (Note 24)

Thus, the contributions that should be paid to SOCSO in respect of an employee comprise of contribution payable by the employer (the employer's contribution) and contribution payable by the employee (the employee's contribution) as described in *ESSA 1969* as follows

(2) The contributions shall fall into the following two categories, namely:

- (a) the contributions of the first category, being the contributions payable by or on behalf of the employees insured against the contingencies of invalidity and employment injury; and
- (b) the contributions of the second category, being the contributions payable by or on behalf of employees insured only against the contingency of employment injury.' (Note 25)

The first category is the employer's contribution that insures the employees against the contingency of invalidity and employment injury. The employer and the employee share these contributions in the ratio specified under the Act (Note 26). Contribution of the second category or the employee's contribution only insures the employee against the contingency of employment injury. Then contributions are paid entirely by the employer at the rate specified (Note 27).

It is noted that SOCSO still maintains the rates of contribution ever since the Act came into effect in 1971 (Note 28). For example, the lowest rate of contributions for an insured person is RM 0.10 cent and the highest rate for an insured person earning RM1,900 is only RM9.75 and is still the lowest compared to any premium rates offered by any insurance company.

Despite that, there has been an increase in contributions in SOCSO's Fund (Note 29) as a result of SOCSO's efforts in detecting and registering eligible employers who have avoided registration. In addition, any employer who fails to register and to make contributions is liable to be prosecuted. However, the punishment for failure to pay contributions is

imprisonment of two years and a fine of ten thousand ringgit (Note 30). Furthermore, failure to pay contributions to SOCSO also included the arrears of contributions as was decided in *Public Prosecutor v. KATS Cleaning Service (S) Sdn. Bhd. (Note 31)*. The above case involved the employer who pleaded guilty and was fined for failure to pay contributions and included the arrears of contributions not included in the charge.

Table 1 shows the increase in the number of contributing employers and employees between 2003 and 2007.

The number of employers contributed to SOCSO has increased by 4.61% or 16,903 to 383,215 employers in the year 2007 compared to 2006 due to increase in awareness on the benefits of the SOCSO insurance scheme as a result of its effort to disseminate information through seminars, mass media, enforcement activities and continuous inspections. However, the number of employees currently contributing declined marginally by 0.07% or 5,450,943 by the year 2007 from 5,454,799 employees in 2006. The data cleansing process conducted by SOCSO's Information Technology Department was one of the reasons for the reduction in the number of contributors.

In line with the increase in the number of contributing employers and registered employees who contribute to SOCSO, the total amount of contributions collected from the employers and employees also rose by 6.52% or RM103.42 million with collections amounting to RM1,689.57 million in 2007, compared to RM1,586.15 million in 2006 (Note 32). Table 2 shows the total amount of contributions between the years 2003 to 2007.

The rise in contributions collected also reflects the increasing awareness among employers of their responsibility to contribute to SOCSO. Greater awareness of their responsibilities came about as a result of enforcement activities and publicity campaigns conducted by SOCSO to enhance knowledge of SOCSO's Insurance Schemes. The intensification of enforcement activities to ensure employers adhere to the *ESSA 1969* and the prosecution of errant employers saw an increase in the amount of contributions collected. Contributions received represented 64.82% of SOCSO's total income (Note 33).

Besides prosecuting the employers, action was also taken to impose interest charges on late contribution payments to ensure that employers pay their contributions on time. This deterrent measure is to ensure and encourage employers to place importance and priority on prompt contribution payments within the stipulated period. The interest charges on late contribution payments imposed on the employers in the year 2006 have declined by RM5,090,451 to RM20,069,685 compared to RM25,160,136 in 2005 (Note 34). This reflected the growing awareness of employers of their responsibilities to pay within the stipulated period provided in the rules and regulations of SOCSO. By the year 2007, interest on late contributions collected amounted to RM2.2 million (Note 35) as compared to RM20.07 million in 2006, representing an increase of 25.87%. This shows that more vigorous efforts in inspection and enforcement of the provisions of *ESSA 1969* have shown positive results.

Table 3 shows the enforcement activities by SOCSO officers in the year 2005 and 2006. From the table, it can be observed that enforcement through scheduled inspections was carried out on 118,810 employees (completed and still processing) in 2006. These scheduled inspections were focused on employers who defaulted payments. There are 366,312 registered employers (Note 36) but inspections were only carried out on 118,810 employees compared to 97,398 employees in the previous year.

In addition, several actions were taken to detect defaulting employers who had failed to register with SOCSO. In this regard, in year 2006, 81,871 inspections were conducted on employers who failed to make contribution payments. In addition, 57,724 inspections were conducted on employers who failed to settle interest on late contributions (ILC) payments. At the same time, a total of 130,536 inspections were conducted on employers who have not been inspected previously or have not been inspected for more than three years (Note 37). By year 2007 SOCSO staff had conducted 34,905 inspections on employers who failed to make contribution and ILC payments, 40,456 inspections were conducted on employers who failed to make contribution payments and 35,753 inspections were conducted on employers who failed to make ILC payments (Note 38). To increase enforcement activities, the number of inspection officers has also been increased.

Indeed such regulations regarding contribution need to be continued with a view to increase the proportion of contributing employers and employees. However, social security schemes provide protection to organised sectors in the urban sector that constitute only a part of the working population. The vast majority of workers in the unorganised sector in rural areas, especially contract workers, are not covered (Note 39). So, a few amendments need to be made to the Act to include these workers. In addition, the enforcement and prosecution for failure to register and contribute should be continued.

3. Schemes under the Social Security Organisation

Basically, *ESSA 1969* provides benefits under two social insurance schemes namely, the Employment Injury Insurance Scheme and the Invalidity Pension Scheme. The former provides for payment of certain benefits to an employee for any injury or disease that arises out of the employment or during the course of employment. The latter scheme provides for

payment of certain benefits where an employee becomes invalid due to illness or any other reason. Both the two insurance schemes are administered by SOCSO established under the Act (Note 40).

Under the above two schemes, all employees earning less than RM3,000 per month and working in any industry with one or more employees, must be insured under these two insurance schemes. The objectives of these insurance schemes are to provide employees with an assurance of income support for periods when they are physically unable to perform their work. Both the insurance schemes are based on the concept of compulsory participation except for those specifically excluded such as casual workers, foreign employees, self-employed persons, government servants, domestic servants or spouse (Note 41). Furthermore, the scheme is compulsory even if the employers have also insured their employees under other private insurance policy and when making claims, the employees are eligible for both the benefits (Note 42).

3.1 Employment Injury Insurance Scheme

This was the first type of protection scheme offered by SOCSO. Under this scheme employees who are involved in an industrial accident and sustained an employment injury are entitled to claim benefits from SOCSO for the resulting disablement. This insurance scheme was implemented in 1972 under *ESSA 1969*. It covers the contingency of injury and death arising out of and in the course of employment to employees who meet with an employment injury.

This scheme provides an employee protection for industrial accidents that occurs at work or while traveling (Note 43) which include commuting on a route between his or her residence and his or her workplace or between his or her workplace to a place where he or she takes his or her meal during approved rest hours or during a journey that is directly connected to his or her employment. In addition, this scheme also protects employees from accidents arising out of and in the course of employment (Note 44). Finally, this scheme also provides an employee protection for accidents involving occupational diseases (Note 45), that is, diseases that result due to exposure at work to various hazards.

The benefits provided under the Employment Injury Insurance Scheme are medical treatment, disablement benefit (temporary and permanent), constant-attendance allowance, rehabilitation, dependant's benefit, funeral benefit and education benefit. The actual amount of benefit received will depend on the actual nature and extent of the injury and resulting disablement as certified by the medical board.

3.2 Invalidity Pension Scheme

The Invalidity Pension Scheme is where an employee who is certified as an invalid is entitled to receive benefits from SOCSO in the form of a fixed monthly pension. 'Invalidity' is defined as a serious disablement or morbid condition of a permanent nature that is either incurable or not likely to be cured, as a result of which an employee is unable to earn at least one-third of what a normally able person could earn (Note 46). For instance, chronic ailments or diseases that could be considered for invalidity are heart attack, renal or kidney failure, cancer, mental illness, chronic asthma and other similar conditions.

This scheme was started in 1974 under *ESSA 1969* and has been modified to provide for survivors' benefits as well. This scheme provides a 24-hour coverage to an employee against invalidity or death due to any cause not connected with his or her employment. This means that death or invalidity is irrespective of how and where it occurs or happens. Under this scheme, the employer and the employee are required to contribute by sharing in the ratio specified (Note 47). For example, for salaries below RM30 the employer is required to contribute 40 cent and the employee 10 cent, and for salaries above RM1,900, it is a maximum RM34.15 for the employer and RM9.75 for the employee. What is important here is that to be able to receive these benefits, the employee has to be invalid and had contributed to the scheme. However, to be covered under this scheme, the age of the worker has to be below 50 years at the time of first entry (Note 48).

The benefits provided under this scheme are invalidity pension and grant, constant-attendance allowance, survivors' pension, funeral benefit, rehabilitation and educational loan.

4. Benefits under Insurance Schemes

Accidents to employees are common in the factories. However, when an employee is involved in an employment injury, he or she has numerous benefits. These benefits provide cash payments to the employee or his or her survivors reflecting income loss and payments for medical care. The general benefits available are allowances, hospital or medical expenses, rehabilitation and other care costs.

As can be seen from Table 4, both the Employment Injury Insurance Scheme and the Invalidity Pension Scheme provide the same benefits of constant-attendance allowance to the severely incapacitated or disabled, funeral benefit, rehabilitation benefit and education loan benefit. The difference is that the Employment Injury Insurance Scheme has the temporary disablement benefit, permanent disablement benefit, dependant's benefit (all are by way of periodic payments) and medical benefit. In contrast, the Invalidity Pension Scheme has the invalidity pension, the invalidity grant and the survivors' pension. However, the funeral benefit (Note 49), education loan benefit (Note 50), dependant's

benefit (Note 51) and survivors' pension (Note 52) will not be discussed here since they do not directly involve employees. The main objective of these insurances is to provide financial support for a former employee who is no longer able to earn or for the surviving dependants of an employee who died prematurely.

All the benefits under both the insurance schemes are claimed from SOCSO. Sometimes, however, claims take up quite some time, as the procedure might be too lengthy due mainly to the incomplete forms or ignorance of the employees (Note 53). For a normal process, to pay temporary disablement benefit to the injured employees within 30 days upon receipt of all necessary information and the documents received are complete. For permanent disablement benefit and invalidity pension they are within 90 days (Note 54). However, if all the relevant documents and information are not complete then this will cause delays.

These delays are burdensome on the employees and their dependants. So, to speed up claims, SOCSO has recently introduced the e-electronic service including using the short message system (SMS) and facsimile (fax) in the claiming of disablement benefit for employees involved in accident during work (Note 55). With these e-electronic services, employees are able to check their application status of their claim within minutes compared to a week by using letters, previously. This will indirectly improved the quality and efficiency of the SOCSO's services while utilising advanced technology.

Furthermore, SOCSO has introduced the 'PERKESO Prihatin' that ensures payment in three working days for temporary disablement benefit provided that the employees showed the original documents, complete all the necessary documents and applies for accidents at workplace only (Note 56).

The benefits offered to the employee are minimal and some tend to safeguard the employer. Indeed, the benefits outlined do not cover all of the costs incurred by the injured employees. No system can even attempt to redress some of the consequences of workplace injury or death, such as marital breakdown, family dissolution and lost careers and homes. Remedies are only given to an employee to put things right or to correct it. The aim of the award is to compensate the employee for the loss caused to him or her by injuries and to place him or her, so far as possible, in the position he or she would have been had those injuries not been suffered. Therefore, the employee or his or her family must be fully compensated as quickly as possible; not only for the injuries themselves, but also for the effects they have had on him or her emotionally, intellectually and financially. For instance, in year 2002, SOCSO paid about RM650 million compensation for 81,810 accident cases at the workplace, which include the indirect cost (Note 57).

4.1 Constant-attendance Allowance

This constant-attendance allowance is a monthly allowance that is paid to an employee who constantly requires the personal attendance of another person but medical board must verify the incapacity (Note 58). Hence, an employee who is severely disabled or incapacitated and experiences permanent total disablement and needs constant nursing could apply for this benefit. This means that he is entitled to invalidity pension or permanent total disablement benefit and shall also be entitled to this allowance. The constant-attendance allowance is provided under *ESSA 1969* as follows

'an insured person who is entitled to invalidity pension or permanent total disablement benefit shall also be entitled to constant-attendance allowance equivalent to forty per cent of the rate of such pension or benefit subject to such maximum as may be prescribed by the Minister from time to time by regulations, if and so long as he is so severely incapacitated as to constantly require the personal attendance of another person:

Provided that the existence of the degree of incapacity qualifying an insured person for constant-attendance allowance shall be verified by a medical board or the appellate medical board or any other authority so authorized by the Minister, in such manner as is prescribed by the regulations.' (Note 59)

This allowance is 40% of the daily rate of the invalidity pension or permanent total disablement benefit subject to a maximum of RM500 per month (Note 60). This is in addition to the monthly pension for invalidity pension or permanent disablement. The eligibility to receive this allowance is decided by the medical board or the appellate medical board at the time the loss of earnings capacity is being decided. The criteria for deciding whether the employee is eligible for this allowance or not will be determined by the medical board. The allowance will be paid directly to the employee and he may use this allowance in any way he deems fit.

The number receiving this benefit is small. There were 578 recipients of constant-attendance allowance under the Employment Injury Insurance Scheme at the end of 2007 compared to 558 cases in the preceding year. This reflects an increase of 20 cases or 3.58%. However, there were 2,838 recipients of constant-attendance allowance under the Invalidity Pension Scheme as at the end of 2007, an increase of 214 cases or 8.16% compared to the previous year (Note 61). Nowadays employees are more aware of their rights and thus, increase the number of claims under this benefit.

Thus, the constant-attendance allowance is paid to an employee who is so severely injured and is permanently totally disabled who will receive a monthly allowance if he needs the constant personal attendance of another person.

4.2 Rehabilitation Benefit

Employees suffering from invalidity or permanent disablement can take advantage of facilities provided free by SOCSO for their physical and vocational rehabilitation. The facilities for physical or vocational rehabilitation are provided for in *ESSA 1969* as follows:

- (1) An insured person suffering from or claiming to suffer from invalidity or permanent disablement may be provided by the Organization, free of charge facilities for physical or vocational rehabilitation.
- (2) Facilities under *subsection (1)* shall be of such nature and scale and shall be provided to such insured persons and on such conditions as may be specified by the regulations.
- (3) An insured person suffering from or claiming to suffer from invalidity or permanent disablement may, if his or her condition so required, be provided free of charge with prosthetic, orthotic or other appropriate appliances as may be determined by the Organization and such appliances may be renewed, when necessary, free of charge.
- (4) An insured person who has to undergo physical or vocational rehabilitation or who is or is to be fitted with prosthetic, orthotic or other appliances may be paid or reimbursed, as determined by the Organization, expenses reasonably incurred or to be incurred by him on travelling or maintenance in connection with such measures, or the fitting of prosthetic, orthotic or other appliances.' (Note 62)

The objective of this rehabilitation programme is aimed at enabling the affected employees to continue to play an active and productive role in society. This means that it will assist and enable him to attain self-independence and lead an active life.

Physical rehabilitation, which includes medical rehabilitation and the provisions of prosthetic and orthotic appliances (Note 63), aims at developing the functional and psychological abilities of the disabled employee. For instance, in 2007, a total of 86 types of prosthetic and orthotic appliances were provided to 2,382 insured employees who needed them upon the recommendations of the Medical Boards, Appellate Medical Boards, Medical Officers and Local Office Managers (Note 64) when compared to 1,624 insured employees in 2006 (Note 65).

In addition, during 2007, only 129 insured employees were recommended by the Medical Boards and Appellate Medical Boards to receive medical rehabilitation at Government Hospitals and Private Medical Centres compared to 178 insured persons in 2006 as a result of public awareness (Note 66).

The distribution of the type of rehabilitation can be seen in Table 5. The table shows that the majority of these cases required reconstructive surgery where surgeons used implants to improve the health condition of the affected injured insured persons. Alternatively, vocational rehabilitation would assist the employee in retaining his or her previous job or to find a new job suitable to his or her abilities. So, an employee who is suffering from permanent disablement and who may find difficulty in finding suitable work can apply to undergo vocational training or courses. For example, in radio and television repair, electrical wiring, metalwork, refrigerator and air-conditioning unit repair, plumbing, dressmaking or sewing and fashion, baking, typing and secretarial duties. However, vocational training is not popular perhaps due to lack of awareness, and the last report was in the year 2005 where only one person received vocational training (Note 67).

Furthermore, in line with the objective of creating a caring Malaysian society, haemodialysis treatment has been provided by SOCSO to recipients of invalidity pension who are at 'end stage of renal failure' as a result of kidney problems. This follows SOCSO's decision to consider haemodialysis treatment as part of medical rehabilitation since 2000 (Note 68) due to the increase in demand for that treatment. For example, in 2006, there were 522 approved applicants compared to 481 in 2005 who had undergone treatment at SOCSO's panel dialysis centers, government hospitals and also at private or voluntary dialysis centres (Note 69). By year 2007 a total of 651 applicants were received and all were approved for dialysis treatment under SOCSO (Note 70). In fact, this free dialysis treatment has increased by 335% since 1999 (Note 71). To handle this increased demand, 21 new dialysis centers were appointed by SOCSO making a total of 186 centers in year 2007. During the year, a total of RM30.07 million was disbursed by SOCSO to the dialysis centers for payment of haemodialysis treatments compared to RM24.79 million in 2006, indicating an increase of 6 million due to increases in the number of cases and treatment costs (Note 72). Besides that, SOCSO had also donated 16 units of haemodialysis machine at a total cost of RM613,000 during 2007 to 8 dialysis centers run by voluntary organizations (Note 73). The total machines donated so far are 221 units in 2007, an increase of 212 machines since 1998 where there were only nine units (Note 74).

Meanwhile, all expenses incurred for the purpose of vocational and physical rehabilitation will be borne by SOCSO based on rates and conditions determined by the organization (Note 75). This is to enable an employee to go back to the most suitable remunerative employment. SOCSO also pays and arranges for the provisions of artificial aids as recommended by the medical board (Note 76). These include glasses, hearing aids, crutches, wheel chairs, toilet aids and other orthopedic appliances as well as repairs and replacement of worn-out appliances. All expenses incurred while

travelling to places to fit these artificial aids are also borne by SOCSO. SOCSO also makes all administrative arrangements for the supply of these artificial aids. A worker who is fitted with artificial limbs will also be provided physical and vocational training upon application. SOCSO has officers who can advise and guide the worker on the service.

Problems may arise where some employees may avoid rehabilitation or employers may be reluctant to employ handicapped employees. So, efforts should be continued with effective rehabilitation to the injured employees and incentives from the employers, be given to them to return to work. Previously, SOCSO only arranges for the rehabilitation within Malaysia only (Note 77). Today, SOCSO has extended both the physical and vocational rehabilitation to countries outside Malaysia especially if the facilities are unavailable here. So, SOCSO has arrangements for overseas rehabilitation, if necessary (Note 78).

In addition, SOCSO has introduced a new rehabilitation programme in 2007 as "Return to Work" (RTW) for its contributors. It is a physical rehabilitation programme provided for SOCSO's insured employees who suffer from disability due to injury and illness, with the aim of rehabilitating the employee's affected limb and allowing him to return to work earlier. In this case, the bio-psychosocial case management concept is used which involved biological, psychological and sociological aspects, with multi-disciplinary and multi-method approach. This RTW rehabilitation programme involves various disciplines and the process is not standardized and may differ from one individual to another. Each referred individual will undergo a process to evaluate the level of disability and identify the problems faced by him. The initial assessment assists the Case Manager in identifying the insured employee's problems and planning the scope of rehabilitation assistance that shall be provided to the insured employee. The individuals concerned may require rehabilitation services, psychology, counseling services, workplace assessment and other services. The steps taken include identifying long term vocational goals, develop skills and returning to work with other employees after undergoing a proper rehabilitation programme. As of December 2007, the programme had been very successful as shown in Table 6.

4.3 Temporary Disablement Benefit

This benefit applies where the employee is unable to pursue his or her usual occupation during the period of recovery after the injury but is able to return to his or her regular job soon. Temporary disablement benefit is discussed in *ESSA 1969* as follows

'Subject to the provisions of this Act and the regulations, if any-

(a) a person who sustains temporary disablement shall be entitled to periodical payment for the period of such disablement in accordance with the provisions of the *Fourth Schedule*:

Provided that no temporary disablement benefit shall be payable unless the temporary disablement lasts for a period of at least four days including the day of the accident:

Provided further that for the purposes of this section and whether or not the person who sustains the employment injury is paid wages on the day of the employment injury, the commencement of the calculation of the period of four days shall begin from the day of sustaining the employment injury.' (Note 79)

So, when an employee meets with an accident in the course of his or her employment and sustains an employment injury as a result, and a medical practitioner certifies that the employee is unable to work for at least four days (inclusive of the day of the accident), the employee is entitled to temporary disablement benefit for the days he is not able to work (Note 80). An employee is eligible to claim this benefit if the injury sustained is an employment injury and he must produce the medical certificate for the number of days he or she is unable to work. Meanwhile, this benefit is paid to the employee directly by the Local Office for as long as there is medical leave.

As the name suggests, temporary disablement benefits are only for disablement that is temporary and for a short period. Since the objective of this benefit is to compensate the employee for the loss of wages during the period of disablement, it follows, therefore, that this benefit is paid only for the period the employee is on medical leave. However, no benefit will be paid for the days for which the employee works and earns wages during this period. This means that if an employee receives wages for any of the days during which he is certified to be disabled and unfit for work, then for such days, the employee will not be eligible for any temporary benefits. The daily rate of the temporary disablement benefit payment is 80% of an employee's assumed average daily wage (Note 81) subject to a minimum of RM10 a day (Note 82). Meanwhile, the total expenditure for the temporary disablement has increased by RM13.44 million or 18.72% in year 2007 to RM85.21 million (Note 83).

Thus, temporary disablement benefit consists of daily payments and is the most common type of disablement situation and the most number of benefit claims made to SOCSO. This benefit provided a cash benefit paid to the injured employee who has been certified by the doctor unfit to work for a period of four or more days inclusive of the day of accident.

4.4 Permanent Disablement Benefit

Certain injuries may be more severe and permanent in nature. Permanent disablement benefit is contained in *ESSA 1969* as follows

‘Subject to the provisions of this Act and the regulations, if any-

(b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment for such disablement in accordance with the provisions of the *Fourth Schedule*:

Provided that where permanent disablement, whether total or partial, has been assessed provisionally for a limited period or finally, the benefit provided under this paragraph shall be payable for that limited period or, as the case may be, for life.’ (Note 84)

So, where an accident results in permanent disablement as a result of an employment injury, the injured person after being certified by a medical board will be given permanent disablement benefit (Note 85). If the injured employee is dissatisfied with the decision of the medical board, he can apply to the appellate medical board to review the decision. Thus, the purpose of this benefit is to compensate the disabled employee for the difference in the earning capacity (Note 86) between that which the employee could earn at the time of the accident and that which the employee is now able to earn after the accident.

This benefit applies to both partial and total disablement. Permanent total disablement (Note 87) is a disablement, which is permanent in nature and where the employee is disabled from all work that he was capable of performing at the time of the accident. Permanent partial disablement (Note 88) is where the permanent disablement reduces the earning capacity of the employee in every employment, which he was capable of undertaking at the time of the accident. This means that although the injury is permanent, for example loss of a finger, the injury and resulting disablement may not completely prevent the employee from working. The employee may still be capable of performing some work. However, regardless of this, the injury may affect the capacity of the employee to perform the type of work the employee was capable of doing before the accident. This would, therefore, affect the earning capacity of the employee, which would certainly be reduced.

Assessment and payment of permanent disablement will be made by daily rate or lump sum or periodical pension or both lump sum and periodical payments (Note 89). Periodical payments are to replace income lost through physical inability to earn whereas lump sums are payable upon specified events such as death or loss of a limb in an accident. This benefit also provides cash payment. If a medical board or the appellate medical board assessed disablement at 100%, the daily rate is equivalent to 90% of the average assumed daily wage (Note 90) for life, subject to a minimum daily rate of RM10 (Note 91). An employee who experiences less than 20% disablement may request that the benefit be paid in a lump sum payment (Note 92). Where there is more than 20% disablement, the employee has the option to collect one-fifth of the benefit as a lump sum payment and the balance as a monthly pension to be received for the rest of his or her life. Furthermore, the employee is allowed to continue to work even though he is receiving this benefit (Note 93). The expenditure for permanent disablement benefit amounted to RM171,535,249, a decrease of 0.80% in 2006 as compared to the previous year, and mostly for industrial and commuting accidents (Note 94). However, in year 2007 there is an increased of 10.42% in the expenditure as the number of permanent disablement benefit increased (Note 95).

Thus, permanent disablement benefit is a lump-sum payment or pension. This disability is payable for life or as long as the disability lasts. The number of permanent disablement cases seems to fluctuate over the years as seen in Table 7.

From the table, a total of 10,148 claims were settled in 2007, that is, 1,047 cases more when compared to 2006 due to the increase in awareness of the public. Of this total, 9,473 claims involved lump sum payments in year 2007 (Note 96).

4.5 Medical Benefit

Besides the cash benefits, any medical treatment (Note 97) received by the injured employee will also be provided by SOCSO. The medical services are generally considered to be the most effective as medical assistance are provided at once to injured employees. Where an employee meets with an accident in the course of his or her employment as a result of employment injury or suffers from an occupational disease, the employee is entitled to receive free medical treatment and attendance at any SOCSO’s Panel Clinics or any Government Hospitals or Clinics (Note 98).

SOCSO has a list of Panel Clinics (Note 99) and will settle the medical bill by directly paying for the medical treatment provided. In case of serious injury that requires admission into a hospital, the injured employee is treated in a Government Hospital. The employee is entitled to second-class admission depending on the availability of beds. In the event that specialist treatment is required, it is also provided for in Government Hospitals and the total costs are settled by SOCSO.

Meanwhile, the total medical expenditure incurred through these clinics and doctors have increased by 4.08% to RM4.61 million as a result of increased in accident, when compared to 2006 (Note 100). Furthermore, SOCSO has

initiated a number of measures to improve the level and quality of services provided by its panel clinics. Amongst others is the tightening of conditions for appointment of new clinics where only doctors with experience in providing treatment for occupational diseases are given priority. This could be seen when a total of 22 clinics were removed in 2004 due to change of ownership, closure of business, withdrawal or termination of services (Note 101).

Besides that, SOCSO also provides counter service at the hospital and since 2002, 12 hospitals acted as SOCSO Service Centers. The counter services are located at major towns, namely, Alor Setar, Pulau Pinang, Ipoh, Melaka, Seremban, Johor Bahru, Kuala Terengganu, Hospital Sultanah Rahimah in Kelang, Kuala Lumpur, Kuching, Hospital Ratu Elizabeth in Kota Kinabalu and University Hospital in Kuala Lumpur. These centers handle enquiries and provide advisory services and assistance pertaining to SOCSO's insured persons referred to these centers by various clinics or departments of the hospital concerned (Note 102). Meanwhile, in order to resolve problems associated with complicated and doubtful cases, SOCSO has appointed a total of 18 medical specialists as Medical Advisors since 2000 (Note 103).

In short, medical benefits can be in the form of outpatient treatment in a clinic, dispensary or hospital, or actual hospitalization, or visits of a doctor to the employee's home as stated under *ESSA 1969* as follows

'Such medical benefit may be given either in the form of outpatient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as inpatient in hospital or other institution.' (Note 104)

Medical care includes first-aid treatment, services of a competent physician, surgical and hospital services, nursing, and all necessary medical drugs, supplies, appliances, and prosthetic devices. However, the employee is only entitled to receive such medical benefits of the type allowed by SOCSO and that, which is provided by the clinic, dispensary or hospital to which the injured employee is sent. The scale of medical benefit is under *ESSA 1969* which reads

'(1) An insured person shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the Organization, and the insured person shall not have a right to claim any medical treatment except such as is provided by the dispensary, clinic, hospital or other institution to which he is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person to claim reimbursement from the Organization of any expenses insured in respect of any medical treatment, except as may be provided by the regulations.' (Note 105)

If the employee decides to seek any other type of treatment or specialist care other than of the type allowed by SOCSO, then SOCSO will not pay the employee or reimburse him for any such fees or charges incurred or paid by the employee.

The employer, on the other hand, must submit an accident or occupational diseases report to the local SOCSO office within 48 hours of being informed of the accident or disease (Note 106). Delay in submitting the report will result in the late payment of benefits.

Thus, medical benefit is given free to an insured employee who suffers from disablement due to an employment injury, in the form of outpatient or inpatient treatment. The benefit is provided through a system of panel clinics appointed by SOCSO and through all government hospitals. At the same time, to improve the benefits, counter services should be extended to other towns. In addition, SOCSO should extend and pay or reimbursed for other type of treatments or specialist cares needed by the injured employees.

4.6 Invalidity Pension and Grant

A person is suffering from invalidity if he is incapable of engaging in any substantially gainful activity as provided under *ESSA 1969* as follows

'An insured person shall be considered as suffering from invalidity, if, by reason of a specific morbid condition of permanent nature, he is incapable of engaging in any substantially gainful activity.' (Note 107)

Incapable of engaging in substantially gainful activity means that he is no longer capable of earning (Note 108). So, an employee who is suffering from invalidity is entitled to receive an invalidity pension if he has completed a full or a reduced qualifying period. In addition, invalidity pension is not applicable to persons who are more than 55 years old as mention in *ESSA 1969*

'Subject to the provisions of this Act, an insured person suffering from invalidity as defined in *Section 16* shall, unless he/she has completed his or her fifty-fifth year of age, be entitled to receive invalidity pension if he has completed a full or a reduced qualifying period.' (Note 109)

Full qualifying period means that the employee has contributed not less than 24 months or not less than two-thirds of the number of complete months from first entry into the insurance and the date he submitted a notice of invalidity (Note 110). Whereas, a reduced qualifying period means that he has paid not less than one-third of the number of completed months from first entry into insurance and the date he submitted the notice of invalidity (Note 111).

Furthermore, payment of invalidity pension is provided under *ESSA 1969* and reads as follows

'Invalidity pension shall accrue from the day in which the insured person gives notice of invalidity in accordance with the regulations and shall cease on the day following the day in which invalidity ceases or the day the pensioner dies.' (Note 112)

This means that payment of invalidity pension will be from the day in which the insured employee gives notice of invalidity and ends on the day invalidity ceases or he dies. The basic monthly pension is 50% of his or her average monthly wage (Note 113). Invalidity pension may also be reviewed by SOCSO and SOCSO may increase, continue, reduce or discontinue the pension (Note 114).

An employee who does not qualify for the Invalidity Pension Scheme, as he does not meet any of the contribution qualifying conditions, but has made at least 12 monthly contributions before the notice of invalidity is submitted, is entitled to an invalidity grant.

ESSA 1969 reads

'(1) A person who is certified to be invalid shall, if he or she fails to complete any of the qualifying conditions specified in *Section 17*, be entitled to an invalidity grant equivalent to the contributions paid in respect of him together with interest thereon at the rate specified in the regulations.

(2) The claimant shall not be entitled to an invalidity grant unless he or she has paid twelve monthly contributions in the aggregate since his or her first entry into insurance.

(3) Invalidity grant under this section shall ordinarily be payable only when the person has completed his or her fifty-fifth year of age or dies before attaining that age.

(4) Notwithstanding the provisions of *subsection (3)*, invalidity grant under this Act may, at the option of the person concerned, be made at the time when invalidity is verified to exist:

Provided that the contributions so refunded shall be ignored in determining at any time in future his or her entitlement to or right to pension.' (Note 115)

Normally, an invalidity grant is payable only when that person has completed his or her fifty-fifth year of age or dies before attaining that age. The amount of the grant is equivalent to the total of monthly contributions made by the employee and his or her employer to the Invalidity Pension Scheme plus any interest accrued.

The total benefits of invalidity pension amounting to RM224.30 million were disbursed in 2007, an increase of 8.48% against RM206.77 million in 2006. As at the end of 2007, a total of 2,661 cases were confirmed as invalids and eligible to receive invalidity pension compared to 2,516 cases in 2006. Meanwhile, a total of 4,876 claims were rejected in 2007 due to ineligibility compared to 4,709 claims in 2006 (Note 116). The highest monthly invalidity pension received by a pensioner was RM1,331 in the year 2002 (Note 117). The total number of recipients receiving this benefit is 31,655 employees or an increased of 5.47% in 2007 (Note 118).

Therefore, the invalidity pension and grant are given to employees who are invalid, subject to the terms and conditions provided.

5. Benefits in Practice: A Survey

Interviews of employees, including ex-employees, have been conducted focusing on compensation and damages awarded for injuries suffered during the course of employment. Venues for the interviews were the Social Security Organisation Headquarters in Kuala Lumpur (Note 119) and industries around Bandar Baru Bangi (Note 120).

Some difficulties have been encountered in conducting the interviews that constrained this research. Not many employees agreed to cooperate in view of their satisfaction with the paid compensation and the apprehension that the content of interview will be reported back to their employers. The same goes for the ex-employees who refused to talk about the past. As for the employers, they themselves were reluctant to be interviewed and refused to entertain those questions of this researcher that would have discredited their creditability. Another constraint was that the employees needed the employer's permission to be interviewed, as a result, the researcher had to meet them after their working hours.

By way of fieldwork, this research approached a number of respondents. However, the following cases were selected for analysis. Case One is where the respondent met with an accident after work about 6 p.m. While riding his motorcycle on his way back home, he stopped at petrol station for petrol. It was raining and a lorry hit him from behind when he signalled left to come out of the petrol station. His left leg was broken. He was allowed compensation for temporary disablement.

Case Two involved an employee whose right arm was injured at his workplace due to the negligence of a fellow employee. His claim is still in process due to incomplete documents furnished by his employer. Next case happened during lunch break when the respondent, a female employee, was going to the nearest shop for purchasing.. She slipped,

fell and fractured her left leg. Her case is similar to Case Two whereby her claim is still pending due to incomplete documents supplied by her employer.

As for Case Four, the respondent was very upset, as there was no news about his claim because his employer has not submitted any documents to SOCSO. His accident occurred at his workplace. He was working in the construction area in Putrajaya when he stepped on a nail. He is at present walking with the help of a walking stick. The next respondent Case Five had his right hand amputated from the elbow due to accident at his workplace. According to him the process of claiming and payment takes a long time but he was satisfied with the compensation received.

Both Cases Six and Seven involved motorcycle accidents. The respondent of Case Six felt unsatisfied with his employer, as it has been three months since the accident and he still has no news regarding his claim due to late submission of papers by his employers. He met with an accident on his way back from work when he hurt his back. Case Seven was on her way to work when she had an accident and she needed stitches on her head. Her employer has not submitted any documents to SOCSO.

The following case, Case Eight involved an ex-employee who was on her way to work when she was involved in an accident. Her car was hit by another car sideways when her wrist was injured. She was hospitalized for one week and had received her full payment. Case Nine had an accident in her own home before going to work when she fell from the stairs and broke her leg. Her case is still in process and no payment has been made.

The respondent of next case was on his way to the clinic after work when he fell off his motorcycle at the roundabout. There were scratches on his body, face, arm and leg, and he also broke his front tooth. He had received his payment. Case Eleven had an accident during lunch break when she was on her way to the Bank. She was turning to the right at the traffic light when another car from the left lane overtook her and knocked her car. She sprained her hands and legs. Her employers have not submitted any documents and there is still no news about her compensation.

Next respondent injured herself at home when she fell while locking the gate before going to work. Her arms and legs were injured. Her employers submitted her documents late and her case is still pending. Last case happened at work during sports activity. It was raining the night before and the field was wet and slippery. He fell and hurt his back. He is dissatisfied with his employers for late submission of the documents to SOCSO.

From the survey, it is evident that all the accidents happened during the course of employment either at workplace, or while commuting between place of residence and workplace, or during lunch break.

Table 8 shows that from the number of respondents being interviewed, most accidents, that is 53.3%, occurred while commuting either after, before or even at home just before going to work. Conversely, workplace accidents have declined due to the positive impact of the continuous joint efforts undertaken by SOCSO, government bodies (like the Department of Occupational Safety and Health, the National Institute of Occupational Safety and Health), employees' unions and employers' associations in promoting occupational safety and health awareness at the workplace through seminars, campaigns, periodic inspection and enforcement (Note 121). Further, the respondents interviewed are mostly working in a factory where the machines are not dangerous and most of them are in the assembly line.

From the survey the type of benefits received by the respondents, except for one permanent disablement, is compensation for temporary disablements. It seems the reason for increased total expenditure for temporary disablement in year 2007 (Note 122) although there is an increase in the expenditure of permanent disablement benefit as well (Note 123).

Additionally, from the survey one can find that the payments for benefits under SOCSO received by the respondents have not been smooth. Table 9 shows the survey results of the type of payment to the respondents.

The outcome shows that most of the respondents' claims are still in process either due to incomplete documents by the employers 28.6% or late submission of the documents by the employers 42.8% or new case 14.3% or payment in still in progress 14.3%. Cases that have already been settled and those going to be settled, that is waiting for last payment due to them, constitute 23.1% of the respondents. However, there are still 23.1% of the respondents waiting for their benefits to be approved and the cases here have problems with the employers contribution.

Accordingly, it can be concluded that most of the respondents are satisfied with the compensation paid by SOCSO. Still, there are few cases where the respondents are not pleased or contented, in particular with their employers.

Although this researcher identified number of weaknesses in the law and its application, the fact is that the respondents interviewed have overall shown satisfaction for the compensation received by them. The reason behind their satisfaction seems to be their poor economic background with which they either come and work in Malaysia or if local, work in Malaysia.

It does not however mean everything is good with law and its implementation. We are presently a part of global village and our legal system in relation to employer-employee should reflect current legal developments.

6. Adjudication of Disputes and Claims

In case an employee is dissatisfied with any decision by SOCSO he or she can apply to the Social Security Appellate Board (Note 124) to decide his or her case (Note 125). This board consists of a Chairman, who is appointed by the Minister of Human Resources, and two assessors that will be nominated by the Minister, representing the employers and the employees. Besides being a citizen, the Chairman must have at least ten years experiences as a member of the Judicial and Legal Service of the Federation or an advocate and solicitor of the High Courts in Malaysia. The two assessors represent the employers and the employees and will be nominated by the Minister (Note 126).

At the same time, the Board will have the powers of a Sessions Court Judge (Note 127). The Social Security Appellate Board will decide any dispute or question that arise on matters of employees' social security namely, on the rights of any person to any benefit, its amount and duration, and any claim for the recovery of any benefit admissible under the Act (Note 128). The Board in 2007 received a total of 3,303 cases of appeals (Note 129), which is higher when compared to 2,213 cases received in 2006 (Note 130). For instance, in *Mohd. Nordin bin Othman v. Ketua Pengarah Pertubuhan Keselamatan Sosial* (Note 131) the applicant's appeal against the decision of SOCSO in refusing to accept that the accident was an employment injury was allowed. The Social Security Appellate Board decided that the applicant met the accident enroute to work using the normal route and not while on some deviation. Similarly, in *Fook Thain @ Wong Koh Fong v. Ketua Pengarah Pertubuhan Keselamatan Sosial* (Note 132) SOCSO rejected the claim on the premises that this accident was not a commuting accident. The Social Security Appellate Board found that SOCSO did not do a detailed investigation on the matter that would have produced more evidence and SOCSO did not complete the normal forms. It is clear that the applicant was on his way to report for work from his home when he met with the accident.

Proceedings before the Board are commenced by an application and every such application must be made within three years from the date on which the cause of action arose (Note 133) unless there is a reasonable excuse for not doing so (Note 134). In addition, no civil court will have jurisdiction to decide with any dispute or question under the Act (Note 135). However, the Board may submit any question of law for the decision of the High Court (Note 136).

Pertaining to the appeals made by SOCSO on decision of the Board, the Act (Note 137) provides that an appeal may be made to the High Court by the parties against the decision of the Board on substantial question of law in which event the period of limitation is sixty days from the date the order is made. In actual fact, not many cases have appeal to the High Court (Note 138). From the year 1998 to 2004, out of 2,398 cases decided by the Social Security Appellate Board, SOCSO had appeal only against 48 cases (Note 139). Majority of SOCSO's appeals was granted by the High Court (Note 140). The appeal process is meant to ensure that the Social Security Fund is for the eligible insured persons according to the provisions of the law.

Payment under an order may be stayed pending an appeal against it (Note 141). The procedure to be followed in proceedings before the Board is provided for in detail (Note 142) and parties may be represented, among others, by legal practitioners or trade union authorised by the Appellate Board (Note 143).

7. Limitations

An employee is not entitled to the benefits if he is not involved in an accident in the course of employment and if he does not contribute. Even if there is an accident, the accident must arise out of and in the course of his employment. For example, in *Sarajini a/p Rajoo v. Ketua Pengarah, Pertubuhan Keselamatan Sosial* (Note 144) the applicant failed in her appeal as the Social Security Appellate Board decided that the accident happened while she was working outside her scope of work. Thus, there was an accident but the accident did not arise in the course of her employment and so she was not entitled to the benefits under *ESSA 1969*. Meanwhile, accidents also include while travelling to work and while meeting an emergency but there must be no deviation (Note 145). An employee must also be insured and contribute (Note 146) to SOCSO before he can claim SOCSO's benefit.

ESSA 1969 also forbids an injured employee from suing his employer or co-employee in order to recover damages for work injury (Note 147). Claims made by employees who are insured under the Act against their employers are caught by *Section 31* and are barred (Note 148). The law reads as follows

‘An insured person or his/her dependants shall not be entitled to receive or recover from the employer of the insured person, or from any other person who is the servant of the employer, any compensation or damages under any other law for the time being in force in respect of an employment injury sustained as an employee under this Act.

Provided that the prohibition in this section shall not apply to any claim arising from motor vehicle accidents where the employer or the servant of the employer is required to be insured against Third Party risks under *Part IV* of the *Road Transport Act 1987*.’ (Note 149)

By virtue of the above provisions, an insured person is precluded from recovering damages from the employer in respect of an employment injury sustained by him as an employee under the common law or any other law for the time

being in force. This means that the Act relieves an employer and his or her employee from liability to pay any compensation or damages under any other law in respect of an employment injury sustained by an employee under the Act (Note 150). For the bar under this section to be effective it must be proved that on the date when the injury was inflicted the cover had not lapsed (Note 151). In addition, unless it is proved that the claimant is an employee of the employer, this section has no application (Note 152). The injured employee is only paid for loss of wages or loss of future earnings, but no payment is made for pain and suffering unlike accident claims in court. Therefore, an employee has to accept SOCSO's benefits and cannot take further action in the event such compensation does not adequately cover his or her loss (Note 153). This violates the basic precept of vicarious relationship where the master is responsible for the actions of his or her employees. The protection afforded by *Section 31* extends to an employer who is proposed to be made a third party by an employee who is sued by a co-employee. Thus, the exclusion of liability of employers under the Act is very wide indeed (Note 154).

In addition, an employee is not entitled to claim more than one benefit for the same disablement for the same period. Thus, an employee could not receive both invalidity pension and permanent disablement benefit for the same period and for the same disablement. He could only choose one benefit (Note 155). There should not be an option here, as he should get the maximum benefit available.

At the same time, the time limit within which benefit claims must be made is a period of twelve months after the claim becomes due unless there is a reasonable excuse for not doing so. A claim is not admissible unless made in accordance with these *Regulations* (Note 156). The date when a claim becomes due is specified depending on the benefit in question (Note 157). Claims for benefit have to be made in writing to the appropriate office of the Organization where the staff are required to provide assistance for filling in the claim forms in case the insured persons cannot do so themselves (Note 158). Meanwhile, a legal practitioner (or an official of a registered trade union) may represent the insured person or his or her dependants in claiming the benefits (Note 159).

Hence, while benefits are available to an insured employee but there are terms and conditions that have to be fulfilled before such benefits can be disbursed.

8. Conclusion

There is no doubt that the numerous benefits available through the schemes under the Act are adequate but continuous enforcement needs to be carried out. In terms of employer and employee contribution, strict enforcement and prosecution for failure to register or contribute should be continued. It is noted that many employers do not contribute on behalf of their employees, either through ignorance or plain willfulness. Although SOCSO officers carry out regular checks on employers to ensure they are registered with the organisation and are making payments as required by the law, but there are too few officers to check on all the employers. It is also clear that the duty to provide reimbursement treatment, free medical care and counter service should be extended to all employees and hospitals.

The provisions under *ESSA 1969* have made it compulsory for employers to insure their employees against injury under the two insurance schemes. The differences between the two schemes is that the employment injury insurance scheme is where certain benefits are available to the employee who suffered any injury or diseases arising out of and in the course of his or her employment whereas, the invalidity pension scheme is where certain benefits are available to an employee who becomes invalid due to any reason. Nevertheless, the law forbids an injured employee from receiving benefits from both schemes for the same injury. The provisions, however, are still not clear in determining which scheme a permanently disabled employee should choose from and he could get his or her compensation in installments. These provisions require improvement for the purpose of efficacy and efficiency so that an employee should get the maximum benefit available.

Finally, it is hoped that 'PERKESO Prihatin' will be extended to other benefits to ensure that employees will receive payment as soon as possible.

References

- Black, H.C. (1979). *Black's law dictionary*. (5th edn.). United States: West Publishing Co.
- Burke, J. (1977). *Jowitt's dictionary of english law*. (2nd edn.). Vol. 2. London: Sweet & Maxwell.
- Chan Shick Chin. (2004). *Personal injury: Law, practice and precedents*. Kuala Lumpur: Malayan Law Journal.
- Garner, B.A. (Ed.). (1999). *Black's law dictionary*. (7th edn.). United States: West Publishing Co.
- Goh Chen Chuan. (2003). *Guide to the employment act and labour laws of Malaysia*. Revised edn. Malaysia: Leeds Publications
- Kamal Halili Hassan. (2001). *Undang-undang keselamatan industri di Malaysia*. Kuala Lumpur: Percetakan Dewan Bahasa dan Pustaka.

- Mahinder Singh Sidhu. (1993). *The motor insurer, insured and third party rights*. Kuala Lumpur: International Law Book Services.
- Maimunah Aminuddin. (2007). *Malaysian Industrial Relations and Employment Law*. (6th edn.). Malaysia: McGraw-Hill Book Co.
- Nicholas, C., & Wangel, A. (Ed.). (1991). *Safety at work in Malaysia: An anthology of current research*. Kuala Lumpur: Institut Pengajian Tinggi, Universiti Malaya.
- Penner, J.E. (2001). *Mozley & Whiteley's law dictionary*. (12th edn.). London: Butterworths.
- Walker, D.M. (1980). *The Oxford companion to law*. Oxford, Great Britain: Clarendon Press.
- <http://www.perkeso.gov.my>
- http://www.lawyerment.com/guide/pub/Employment/Employee_Benefits_and_Contributions/
- http://www.mtuc.org.my/mtuc/workers_right.htm#w1
- <http://www.perkeso.gov.my/aduan/clarification%20nst%20article290505.html>.
- Berita Harian*, "Perkeso perkenal khidmat e-elektronik," 17 December 2003, p. B7.
- Berita Harian*, "Perkeso bayar RM650j tahun lalu," 30 September 2003, p. 7.

Notes

Note 1. Act 4.

Note 2. J.E. Penner, *Mozley & Whiteley's Law Dictionary*, 12th edn., London, Butterworths, 2001, p. 302. See also John Burke, *Jowitt's Dictionary of English Law*, 2nd edn., Vol. 2, London, Sweet & Maxwell, 1977, p. 1540; Henry Campbell Black, *Black's Law Dictionary with Pronunciations*, 5th edn., United States, West Publishing Co., 1979, p. 1163; Bryan A. Garner (ed.), *Black's Law Dictionary*, 7th edn., United States, West Publishing Co. 1999, p. 1296; and David M. Walker, *The Oxford Companion to Law*, Oxford, Great Britain, Clarendon Press, 1980, p. 1056.

Note 3. Also known as PERKESO or Pertubuhan Keselamatan Sosial. The official site is www.perkeso.gov.my.

Note 4. http://www.lawyerment.com/guide/pub/Employment/Employee_Benefits_and_Contributions/

Note 5. http://www.mtuc.org.my/mtuc/workers_right.htm#w1

Note 6. See the *Employees' Social Security Act 1969, Section 2(11)*. See also Chan Shick Chin, *Personal Injury Law, Practice and Precedents*, Kuala Lumpur, Malayan Law Journal, 2004, p. 98.

Note 7. See *Abdul Rahim bin Mohammad v. Kejuruteraan Besi dan Pembinaan Zaman Kini* [1998] 4 M.L.J. 323, 327.

Note 8. See the *Employees' Social Security Act 1969, Section 2(11)*.

Note 9. [2002] 2 C.L.J. 750.

Note 10. See the *Employees' Social Security Act 1969, Section 15*.

Note 11. See the *Employees' Social Security Act 1969, Section 2(2)*.

Note 12. See the *Employees' Social Security Act 1969, Section 3*. See also Maimunah Aminuddin, *Malaysian Industrial Relations & Employment Law*, 6th edn., Kuala Lumpur, Mc Graw Hill, 2007, pp. 73-74.

Note 13. See the *Employees' Social Security Act 1969, Section 2(10)*.

Note 14. Chan Shick Chin, *Personal Injury Law, Practice and Precedents*, Kuala Lumpur, Malayan Law Journal, 2004, p. 98.

Note 15. See *Abdul Rahim bin Mohammad v. Kejuruteraan Besi dan Pembinaan Zaman Kini* [1998] 4 M.L.J. 323, 327.

Note 16. See the *Employees' Social Security Act 1969, Section 2(11)*.

Note 17. [2002] 2 C.L.J. 750.

Note 18. See the *Employees' Social Security Act 1969, Section 5*.

Note 19. See the *Employees' Social Security Act 1969, Section 4*.

Note 20. See the *Employees' Social Security Act 1969, section 2(5) and First Schedule*.

Note 21. Act 227. This Act is to provide for the administration of pensions, gratuities and other benefits for officers in the public service and their dependants.

Note 22. Maimunah Aminuddin, *Malaysian Industrial Relations & Employment Law*, p. 74.

Note 23. Goh Chen Chuan, *Guide to the Employment Act and Labour Laws of Malaysia*, Revised edn., Petaling Jaya, Leeds Publications, 2003, p. 156 and Maimunah Aminuddin, *Malaysian Industrial Relations & Employment Law*, p. 78.

Note 24. The *Employees' Social Security Act 1969, Section 6(1)*. See also the *Employees' Social Security Act 1969, the Third Schedule*.

Note 25. The *Employees' Social Security Act 1969, Section 6(2)(a) and (b)*.

Note 26. See the *Employees' Social Security Act 1969, Section 6(4) and Part I of the Third Schedule*.

Note 27. See the *Employees' Social Security Act 1969, Section 6(5) and Part III of the Third Schedule*.

Note 28. Came in force from 1st January 1971.

Note 29. See the *Employees' Social Security Act 1969, Section 2(6A)* for the definition of fund and *Section 68* for Social Security Fund.

Note 30. See the *Employees' Social Security Act 1969, Section 94* and the punishment for false information is also the same.

Note 31. [1995] 1 M.L.J. 371.

Note 32. SOCSO Annual Report 2007, pp. 17 and 27.

Note 33. See SOCSO Annual Report 2007, p. 27 and 28.

Note 34. See SOCSO Annual Report 2006, p. 26 and SOCSO Annual Report 2005 p. 26.

Note 35. See SOCSO Annual Report 2007, p. 28.

Note 36. See Table 1 and also SOCSO Annual Report 2006, p. 14.

Note 37. See SOCSO Annual Report 2006, p. 27.

Note 38. See SOCSO Annual Report 2007, p. 29.

Note 39. See the *Employees' Social Security Act 1969, First Schedule*.

Note 40. See the *Employees' Social Security Act 1969, Section 58*.

Note 41. See the *Employees' Social Security Act 1969, First Schedule*.

Note 42. Goh Chen Chuan, *Guide to the Employment Act and Labour Laws of Malaysia*, p.156.

Note 43. See the *Employees' Social Security Act 1969, Section 24*.

Note 44. The *Employees' Social Security Act 1969, Section 23*.

Note 45. The *Employees' Social Security Act 1969, Section 28 and Fifth Schedule*.

Note 46. As in the *Employees' Social Security Act 1969, Section 16 and Section 17*.

Note 47. See the *Employees' Social Security Act 1969, Section 6 and Third Schedule*.

Note 48. See the *Employees' Social Security Act 1969, First Schedule*.

Note 49. Under the funeral benefit a sum of money is paid to the eligible next of kin of an employee. See the *Employees' Social Security Act 1969, Section 29*. The amount and the persons eligible to receive this benefit are the same under both the Employment Injury Scheme and the Invalidity Pension Scheme.

Note 50. The education loan benefit was introduced in 1997 to assist the children of insured persons who faced financial difficulties in continuing their education in institutions of higher learning. This benefit is in the form of a loan or scholarship given to dependant children as in the *Employees' Social Security Act 1969, Section 57A*. Under the SOCSO Annual Report 2007 p. 62 a total of 228 students were given education loans amounting to RM7,662,629 in 2007.

Note 51. Widow or widower, children, parents, grandparents, brothers and sisters can receive dependant's benefits under the *Employees' Social Security Act 1969, Sections 26, 27 and 36*. If a worker dies as a result of a fatal employment injury, his immediate dependants are entitled to this dependants' benefit.

Note 52. The survivors' pension is payable to the dependants of an employee who dies irrespective of the cause of death. See the *Employees' Social Security Act 1969, Sections 17A, 20A and 20B*.

Note 53. Johari bin Tarmuji, interview by thesis writer, Ampang, Kuala Lumpur, 15 March 2005.

Note 54. SOCSO Annual Report 2007, p. 12.

Note 55. *Berita Harian*, "Perkeso perkenal khidmat e-elektronik," 17 December 2003, p. B7.

Note 56. PERKESO Prihatin pamphlet.

Note 57. *Berita Harian*, "Perkeso bayar RM650j tahun lalu," 30 September 2003, p. 7.

Note 58. For verification of incapacity entitling constant-attendance allowance see the *Employees' Social Security (General) Regulations 1971, Regulation 56*.

Note 59. The *Employees' Social Security Act 1969, Section 30*. See also the *Employees' Social Security Act 1969, Section 15(e)*.

Note 60. The *Employees' Social Security (Maximum Monthly amount of Constant-Attendance Allowance) Regulations 1992, Regulation 2*.

Note 61. See SOCSO Annual Report 2007, p. 49.

Note 62. The *Employees' Social Security Act 1969, Section 57*.

Note 63. See the *Employees' Social Security Act 1969, Section 40*. Physical rehabilitation also incorporates physiotherapy, occupational therapy, reconstructive surgery, as well as the supply of artificial limbs and equipment..

Note 64. SOCSO Annual Report 2007, p. 53.

Note 65. SOCSO Annual Report 2006, p. 48.

Note 66. SOCSO Annual Report 2007, p. 57.

Note 67. SOCSO Annual Report 2005, p. 47. The insured person received vocational training in Computer Aided Design (CAD) at Pusat Pembangunan Kemahiran dan Pengurusan Kedah Darul Aman.

Note 68. SOCSO Annual Report 2001, p. 41 and SOCSO Annual Report 2002, p. 45.

Note 69. SOCSO Annual Report 2006, p. 50 and SOCSO Annual Report 2005, p. 44.

Note 70. SOCSO Annual Report 2007, p. 55.

Note 71. See <http://www.perkeso.gov.my>.

Note 72. SOCSO Annual Report 2007, p. 55 and SOCSO Annual Report 2006, p. 50.

Note 73. SOCSO Annual Report 2007, p. 56.

Note 74. See SOCSO Annual Report 1998, p. 38. See also SOCSO Annual Report 1999, p. 51 (5 haemodialysis machines), SOCSO Annual Report 2000, p. 41 (18 machines), SOCSO Annual Report 2001, p. 42 (14 machines), SOCSO Annual Report 2002, p. 46 (27 machines), SOCSO Annual Report 2003, p. 45 (27 machines), SOCSO Annual Report 2004, p. 44 (40 machines), SOCSO Annual Report 2005, p. 46 (42 machines), SOCSO Annual Report 2006, p. 50 (23 machines) and SOCSO Annual Report 2007, p. 56 (16 machines).

Note 75. As provided in the *Employees' Social Security Act 1969, Section 57(4)*.

Note 76. See the *Employees' Social Security Act 1969, Sections 40 and 57*.

Note 77. Colin Nicholas & Arne Wangel, *Safety at Work in Malaysia*, Kuala Lumpur, Institut Pengajian Tinggi, Universiti Malaya, 1991, p.28.

Note 78. Johari bin Tarmuji, interview by thesis writer, Ampang, Kuala Lumpur, 15 March 2005.

Note 79. The *Employees' Social Security Act 1969, Section 22(a)*.

Note 80. See the *Employees' Social Security Act 1969, Sections 2(23), 22(a) and Fourth Schedule*. See also the *Employees' Social Security (General) Regulations 1971, Regulation 57* for evidence of temporary disablement. Compare the four days rule with the *Workmen's Compensation Act 1952, Section 4(2)(a)*.

Note 81. See the *Employees' Social Security Act 1969, paragraph 1(1)(a) of the Fourth Schedule*.

Note 82. The *Employees' Social Security (Minimum Daily Rate of Benefit) Regulations 1999, Regulation 3*. The maximum daily rate payable is RM52.00 if the wage exceeds RM1,900 per month.

Note 83. See SOCSO Annual Report 2007, p. 38.

Note 84. The *Employees' Social Security Act 1969, Sections 22(b)*.

Note 85. See the *Employees' Social Security Act 1969, Sections 15(b) & 22(b), Second and Fourth Schedule*.

Note 86. The *Employees' Social Security Act 1969, the Second Schedule* gives the percentages of loss of earning capacity for a long list of bodily injuries that are deemed to result in Permanent Total or Partial Disablement. However, *Abdul Samad v. Gammon & Christiani-Nielsen* [1962] M.L.J. 394 appears to suggest that it is for the court to decide on the actual percentage of loss based on the facts and circumstances of each case.

Note 87. See the *Employees' Social Security Act 1969, Section 2(18) and Part I of the Second Schedule*. See also the *Workmen's Compensation Act 1952, Section 3 and Part I and II of the First Schedule*.

Note 88. See the *Employees' Social Security Act 1969, Section 2(17)* and *Part II* of the *Second Schedule*. See also the *Workmen's Compensation Act 1952, Section 3* and *Part II* of the *First Schedule*.

Note 89. See the *Employees' Social Security Act 1969, Section 22(b)*.

Note 90. See the *Employees' Social Security Act 1969, Paragraph 1(1)(b)* of the *Fourth Schedule*.

Note 91. See the *Employees' Social Security (Minimum Daily Rate of Benefit) Regulations 1999, Regulation 3*.

Note 92. The *Employees' Social Security (General) Regulations 1971, Regulation 84*.

Note 93. Goh Chen Chuan, *Guide to the Employment Act and Labour Laws of Malaysia*, p.151.

Note 94. SOCSO Annual Report 2006 p.37.

Note 95. SOCSO Annual Report 2007 p.39.

Note 96. SOCSO Annual Report 2007 p.40.

Note 97. See the *Employees' Social Security Act 1969, Sections 15(f), 37* and *38*.

Note 98. Regarding medical treatment facilities, to date, there are 132 Government Hospitals and ten Health Clinics providing medical care to employees insured by SOCSO. Of these, 97 are located in Peninsular Malaysia and 35 in Sabah, Federal Territory of Labuan and Sarawak. See SOCSO Annual Report 2007, p. 51.

Note 99. After taking into consideration new appointments and those delisted, the total number of panel clinics and panel doctors as at the end of 2007 were 2,896 clinics and 4,718 doctors. Of this, 2,652 clinics and 4,428 doctors were located in Peninsular Malaysia while 244 clinics and 290 doctors were located in Sabah (including Federal Territory of Labuan) and Sarawak. This will ensure that medical facilities are easily accessible to injured employees. See SOCSO Annual Report 2007, p.50.

Note 100. SOCSO Annual Report 2007, p. 51.

Note 101. SOCSO Annual Report 2004, p. 41.

Note 102. SOCSO Annual Report 2002, p. 51.

Note 103. See SOCSO Annual Report 2000, p. 46.

Note 104. The *Employees' Social Security Act 1969, Sections 37(2)*.

Note 105. The *Employees' Social Security Act 1969, Sections 38*

Note 106. See the *Employees' Social Security (General) Regulations 1971, Regulations 71 & 71A*.

Note 107. The *Employees' Social Security Act 1969, Sections 16(1)*.

Note 108. The *Employees' Social Security Act 1969, Section 16(2)(b)*.

Note 109. The *Employees' Social Security Act 1969, Sections 17(1)*.

Note 110. See the *Employees' Social Security Act 1969, Section 17(2)*.

Note 111. See the *Employees' Social Security Act 1969, Section 17(3)*.

Note 112. The *Employees' Social Security Act 1969, Sections 19(1)*.

Note 113. See the *Employees' Social Security Act 1969, Section 20* and *Fourth Schedule*.

Note 114. See the *Employees' Social Security Act 1969, Section 35*.

Note 115. The *Employees' Social Security Act 1969, Sections 21*.

Note 116. SOCSO Annual Report 2007, pp. 45 and 46.

Note 117. SOCSO Annual Report 2002, p. 41.

Note 118. SOCSO Annual Report 2007, p. 45.

Note 119. Social Security Organisation, Aras 7-19, Menara PERKESO, 281 Jalan Ampang, 50538 Kuala Lumpur.

Note 120. Hosiden Electronics (M) Sdn. Bhd., Lot 1, Jalan P/1A, Bangi Industrial Estate, 43650 Bandar Baru Bangi; Denso (Malaysia) Sdn. Bhd., Lot 2, Jalan P/1, Section 13, 43650 Bandar Baru Bangi; Sony EMCS (Malaysia) Sdn. Bhd. (KL Tec) (North Plant), Lot 4, Jalan P/1, 43650 Bandar Baru Bangi; Sony EMCS (Malaysia) Sdn. Bhd. (South Plant), Lot 5, Jalan Kemajuan, Bangi Industrial Estate, 43650 Bandar Baru Bangi and Hitachi Electronic Products (M) Sdn. Bhd., Lot 12, Jalan Kemajuan, Bangi Industrial Estate, 43650 Bandar Baru Bangi, Selangor Darul Ehsan.

Note 121. SOCSO Annual Report 2007 p. 36.

Note 122. See SOCSO Annual Report 2007, p. 38.

Note 123. SOCSO Annual Report 2007 p.39.

Note 124. More often than not, the Appellate Board normally takes pity of the injured employees and so cases could not be used as precedent. Puan Azlaily bt Abdul Rahman, interview by thesis writer, Ampang, Kuala Lumpur, 7 February 2001.

Note 125. See the *Employees' Social Security Act 1969, Part V*. See also *Employees' Social Security (Social Security Appellate Board Procedure) Regulations 1976*.

Note 126. The *Employees' Social Security Act 1969, Section 83*.

Note 127. See the *Employees' Social Security Act 1969, Section 87*.

Note 128. See the *Employees' Social Security Act 1969, Section 84*. The matters decided by the Board are the meaning of an employee, the rate of wages, the rate of contribution, who is the employer, the right of any person to any benefit and as to amount and duration, review of any payment and any other dispute between the employer, employee and the Organization.

Note 129. SOCSO Annual Report 2007, p. 72.

Note 130. SOCSO Annual Report 2006, p. 67.

Note 131. Application No. SS (PP) 71 of 1997.

Note 132. Application No. SS (PP) 92 of 1996. In this case, the applicant left his house in Ayer Kuning, Kampar intending to go to his rented premises in Batu Gajah, change to working attire and then proceed to work. He met with an accident before reaching Kampar town.

Note 133. See the *Employees' Social Security Act 1969, Section 86* and the *Employees' Social Security (General) Regulations 1971, Regulation 124*.

Note 134. See the *Employees' Social Security Act 1969, Section 89*.

Note 135. See the *Employees' Social Security Act 1969, Section 84(4) and (5)*.

Note 136. See the *Employees' Social Security Act 1969, Section 90*.

Note 137. See the *Employees' Social Security Act 1969, Section 91*.

Note 138. Puan Azlaily bt Abdul Rahman, interview by thesis writer, Ampang, Kuala Lumpur, 7 February 2001.

Note 139. See <http://www.perkeso.gov.my/aduan/clarification%20nst%20article290505.html>.

Note 140. However, only a few written judgements were reported as many of the judges in the High Court do not give their written grounds of judgement.

Note 141. See the *Employees' Social Security Act 1969, Section 92*.

Note 142. See the *Employees' Social Security (Social Security Appellate Board Procedure) Regulations 1976*.

Note 143. See the *Employees' Social Security Act 1969, Section 88*.

Note 144. Permohonan No. SS (KS) 77 Tahun 1995.

Note 145. See the *Employees' Social Security Act 1969, Sections 24 and 25*.

Note 146. See the *Employees' Social Security Act 1969, Sections 5 and 6*.

Note 147. Chan Shick Chin, *Personal Injury Law, Practice and Precedents*, pp. 35-36, Kamal Halili Hassan, *Undang-undang Keselamatan Industri di Malaysia*, Kuala Lumpur, Percetakan Dewan Bahasa dan Pustaka, 2001, p. 102 and Mahinder Singh Sidhu, *The Motor Insurer, Insured and Third Party Rights*, Kuala Lumpur, International Law Book Services, 1993, pp. 139 - 140.

Note 148. See *Abdul Rahim bin Mohammad v. Kejuruteraan Besi dan Pembinaan Zaman Kini* [1998] 4 M.L.J. 323, *Tan Peng Loh v. Lee Aik Fong & Anor.* [1982] 1 M.L.J. 74, F.C. and *Che Noh bin Yaacob v. Syarikat Kilang Getah Seng Hin* [1980] 2 M.L.J. 264 (*Section 31* applied).

Note 149. The *Employees' Social Security Act 1969, Sections 31*.

Note 150. However, by a recent amendment, this exemption no longer applies to any claim arising from a motor vehicle accident where the employer or the employee of the employer is required to be insured against third party risks under the *Road Transport Act 1987, Part IV*. See the *Employees Social Security (Amendment) Act 1997, Act A981*.

Note 151. In *Abdul Ghani bin Hamid v. Abdul Nasir bin Abdul Jabbar & Anor.* [1995] 4 M.L.J. 182 the plaintiff was insured by SOCSO between 28 March 1988 and 31 May 1988 but no evidence adduced that he was insured on 22 April 1992.

Note 152. See *Cheng Siak Hor T/A United Penang Trading & Transport Agency & Anor. v. Rozali bin Ahmad* [2002] 7 M.L.J. 275.

Note 153. Mahinder Singh Sidhu, *The Motor Insurer, Insured and Third Party Rights*, p. 139.

Note 154. Chan Shick Chin, *Personal Injury Law, Practice and Precedents*, p. 36.

Note 155. See the *Employees' Social Security Act 1969, Section 96*. Similarly, where a dependant is entitled to both survivors' pension and dependants' benefit for the same period, he may choose to receive the benefit which is payable at the higher rate as provided under the *Employees' Social Security Act 1969, Section 96A*.

Note 156. The *Employees' Social Security (General) Regulations 1971, Regulation 106A*.

Note 157. The *Employees' Social Security (General) Regulations 1971, Regulation 99*.

Note 158. The *Employees' Social Security (General) Regulations 1971, Regulation 45*. The claim forms for Invalidity, Temporary Disablement and Permanent Disablement is Form 10, Dependant's Benefit is Form 24 and Funeral Benefit is Form 26.

Note 159. See the *Employees' Social Security Act 1969, Section 111*.

Table 1. Contributed Employers and Employees Year 2003-2007

Year	Employers		Employees	
	Number	Percentage (%)	Number	Percentage (%)
2003	309,399	3.90	4,426,569	8.79
2004	335,335	8.38	4,567,365	3.18
2005	351,437	4.80	4,882,953	6.91
2006	366,312	4.23	5,454,799	11.71
2007	383,215	4.61	5,450,943	(0.07)

Source: SOCSO Annual Report 2007, p. 18, pp 26-27 Chart 1 & 2.

Table 2. Aggregate Amount Contributed by Employer and Employee

Year	2003	2004	2005	2006	2007
Contributions (RM)	1,143,628,297	1,213,709,009	1,382,155,523	1,586,148,479	1,689,568,125

Source: SOCSO Annual Report 2007, p. 28 Chart 3.

Table 3. Enforcement and Investigation Activities

Type of Activities	2006		2005	
	Number	%	Number	%
Enforcement				
1. Number of scheduled inspection				
- Completed	91,503	39.81	75,048	38.38
- Still processing	27,307	11.88	22,350	11.43
2. Number of unscheduled inspections	19,246	8.37	14,875	7.61
Investigation				
1. Number of cases investigated				
- Certification of Salary	25,477	11.08	24,497	12.53
- Dependants				
- Dependants' Benefit	5,001	2.18	3,455	1.77
- Survivors Pension	27,338	11.89	21,354	10.92
- Employment Injury Cases	15,386	6.69	17,627	9.01
- Others	17,628	7.67	15,505	7.93
Briefings	973	0.42	827	0.42
TOTAL	229,859	100	195,538	100

Source: SOCSO Annual Report 2006, p. 28.

Table 4. The Insurance Schemes' Benefits

Employment Injury Insurance Scheme	Invalidity Pension Scheme
Constant-attendance Allowance	Constant-attendance Allowance
Rehabilitation Benefit	Rehabilitation Benefit
Funeral Benefit	Funeral Benefit
Education Loan Benefit	Education Loan Benefit
Temporary Disablement Benefit	Invalidity Pension
Permanent Disablement Benefit	Invalidity Grant
Dependant's Benefit	Survivors' Pension
Medical Benefit	

Table 5. Type of Medical Rehabilitation, 2005-2007

Type of Rehabilitation	2005	2006	2007
Reconstructive/Corrective Surgery (Orthopedic)	125	173	127
Reconstructive/Corrective Surgery (Plastic)	-	-	-
Physiotherapy/MRI	-	-	-
Corrective Eye Surgery	-	-	-
Dental Surgery	4	5	2
Total	129	178	129

Source: SOCSO Annual Report 2005, p. 46, 2006, p. 53 and 2007, p. 57.

Table 6. Statistics of the Return to Work Programme in 2007

Status of Referred Cases	
Initial assessment session conducted	326 cases
Cases of Motivated to join the RTW programme	260 cases (82.2%)
Not motivated to join the RTW programme	56 cases (17.8%)
Status of those Motivated to join the RTW programme	
Returned to work	166 cases (63.8%)
Rehabilitation stage	74 cases (28.4%)
Still undergoing treatment	20 cases (7.8%)
RTW Hierarchy	
Same job/Same Employer	92 (55.4%)
Similar job/Same Employer	16 (9.6%)
Different job/Same Employer	35 (21.0%)
Same job/Different Employer	2 (1.4%)
Similar job/Different Employer	-
Different job/Different Employer	21 (12.6%)

Source: SOCSO Annual Report 2007, p. 61.

Table 7. Settled Cases of Permanent Disablement

Year	2001	2002	2003	2004	2005	2006	2007
Total number of cases	10,423	11,932	9,589	9,796	9,796	9,101	10,148

Source: SOCSO Annual Report 2001-2007

SOCSO Annual Report 2001 p. 99, SOCSO Annual Report 2002 p. 104, SOCSO Annual Report 2003 p. 146, SOCSO Annual Report 2004 p. 125, SOCSO Annual Report 2005 p. 131, SOCSO Annual Report 2006 p. 126 and SOCSO Annual Report 2007 p. 134.

Table 8. Place of Accident

Place of Accident	Percentage
At workplace	30.7
While commuting between home and workplace:	
1) after work	23.1
2) before work	15.4
3) at home before work	15.4
Lunch Break	15.4

Table 9. Payment to Respondents

Type	Percentage
Last Payment	7.7
Processing	53.8
1) Incomplete documents	28.6
2) Progress payment	14.3
3) Late submission	42.8
4) New case	14.3
No News	23.1
Settled	15.4