Disabilities and occupational diseases: Questionnaire of the 4th Committee (2013)

General context of the questionnaire

Regardless of the eventual reimbursement of the preventive and curative health-related costs, there is the problem of providing a replacement income to the worker when he is unable to carry on his employment and earn his own income due to an illness or an accident.

Questionnaire

[1] What are the causes which give the right to the income replacement indemnities that are paid as a result of an inability to work?

- Every illness, or an accident, either work related or out of work, which render the worker unable to work.

[2] Does it make a difference whether the inability is caused by a handicap, illness or accident (as a result of a professional activity or not)?

- Necessary conditions for indemnity payment from the insurance entity are:
  a) In case of illness it is required that the worker has worked for 120 days during the previous year.
  b) In case of an accident it is required the half of the days above.
  c) In case of a work related accident it is required at least one day of insurance.
  d) Finally, there is no difference, whether the inability has been caused due to illness, accident or else.

[3] Does the employer need to take care of all or part of the compensation for incapacity resulting from an occupational disease of one of his workers?

- In case of an occupational disease, how is the disease found, recognized and controlled? How does the worker get the compensation for his occupational disease?
- Specify the conditions and duration of the compensation.

  In case of an occupational disease or any other disease or work related accident, the employer has the following obligations in parallel with the insurance entity:

  a) To pay to the worker remuneration for 13 working days in case that the worker has not completed one year since he has been hired.
b) To pay to the worker remuneration for 25 working days in case that the worker has completed one year since he has been hired.

In both cases above (a & b) the employer pays the difference between the daily income of the worker and the daily indemnity that the worker received from his insurance entity (for example: if the worker’s daily income was 40 $ and the insurance entity paid to him as a daily indemnity 18$, the employer pays the rest 22$).

- In case of an accident at work, the worker has every right to demand damages of pain and suffering by a civil action, before the Civil Courts. When the worker has been insured, the employer is not exonerated of the worker’s demand for damages of pain and suffering in case of an accident at work. The appropriate Court adjudges with reasonable rule the demand of the sufferer worker.

[4] Similarly, does the employer have to take care of all or part of the compensation for incapacity resulting from an accident at work of his employee?

- It has been answered (case 3).

- In case of incapacity resulting from an accident at work, specify the conditions and duration of the compensation.

- Till two years and then disability retirement.

- If the employer does not take care of the compensation, how is the incapacity to work resulting from an accident at work compensated?

- If the employer does not take care about the indemnity he is obliged to pay, the worker can apply against him in front of the Civil Court.

[5] If the illness is not caused by a professional activity, is the worker still entitled to an income during the incapacity to work? If yes, to what income replacement indemnity is the worker entitled and who pays for this?

- Regardless of the reason of the illness (if it is caused due to occupational activity or due to any other reason), sustain the above mentioned in case 2.

[6] What are the conditions to be met by the worker to qualify for an income replacement indemnity (eligibility: training and payment of contributions for example; conditions for grant: being unable to work and have ceased all activity, for example)?
The worker must be unable to work and have ceased any activity. The facts above will emerge after a medical opinion from the worker’s insurance entity and a legal statement of the employer.

[7] What formalities must be met by the worker to prove his incapacity to work and have it recognized?

- The worker must appear to the health services of his insurance entity (doctors – commissions) or to public hospitals, which have exclusive responsibility to decide about the worker’s inability to provide work.

[8] How is the amount of income replacement indemnity to which the worker is entitled determined? (for example: a percentage of the lost remuneration)? Does the worker’s family situation affect the amount of compensation (whether or not the worker has family members who depend on him for their income for example)?

- The amount of income replacement indemnity, which is paid by the worker’s insurance entity, is determined in basis of the worker’s 120 last days of work and insurance and according to his protected members. About the occupational diseases decide the doctors of the worker’s insurance entity, the cooperate with the insurance entity doctors, the health commities and, finally, the public health foundations. If the worker’s health does not restore the worker’s insurance entity pays him a compensation, under the rules which are set by the health commission for a period of time till two years and if the illness persists or the worker’s health has not been restored, he submits an application in order to be qualified for disability retirement.

[9] Is it possible to cumulate the income replacement indemnity with another income or social benefits?

- The worker takes extra money benefits from « I.K.A. » (Social Insurance Foundation), for example, benefit for paraplegia, blindness, assistance e.t.c. Social welfare, also, pays for some cases of diseases money benefits.

[10] How is the medical control of the incapacity to work done and by whom?

- By doctors of worker’s insurance entity, health commissions and public hospitals.

[11] How is the income replacement indemnity granted and terminated (for example: is it by a decision taken by the control authority and communicated to the worker)? Is there any appeal against such decisions? Before which court?

--After a decision of the worker’s insurance entity. There is the possibility of an objection against it before the Local Administrative Commission of the Social Insurance Foundation and also the possibility of an appeal before the Administrative Court.
[12] Does the sick worker have protection against dismissal or is the employer permitted to terminate the employment agreement of sick workers at any time?

-The sick worker is not protected by any rule of the labour legislation against dismissal and the employer has the right to terminate the employment agreement whenever. So, it is not forbidden the formal notification of termination of an employment contract during health permit. It is forbidden only during recreation permit.

[13] If the worker has protection against dismissal, please specify this dismissal protection.

-The worker does not have protection against dismissal, but he has every right to apply against the dismissal, by a civil action, before the Civil Courts, because every dismissal is susceptible of challenge and control before the Civil Courts.

[14] Does it make a difference to the dismissal protection whether the worker is unable to work as a result of handicap or chronic illness instead of a «normal illness»?

-It does not make any difference to the dismissal protection whether the worker is unable to work as a result of handicap or chronic illness instead of a «normal illness».