



SAFE-IN-INDIA (“SII”) RECOMMENDATIONS TO ESIC ON THE ESIC ACT, REGULATIONS AND PROCESSES



Recommendations have been colour coded in three categories based on our current understanding:

Red – Those that may be longer term and may have dependency in central or state governments or are complex enough to need longer time.

Black – Those that we believe are not very simple and may need some time due to some dependency of ESIC on external parties.

Green (Immediate) – Those that we believe can be implemented very quickly by ESIC.

1.0 The Employees’ State Insurance Act 1948.

	Issue/Challenge/Experience	Problem/Data/Rationale	Recommendation	Potential Benefit
1.1	The Preamble says ‘An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provisions for certain matters in relation thereto’	<p>The significance of the Preamble lies in its components, much like that of Indian Constitution, and it embodies the philosophy of such a Constitution. Important Legal judgments have been passed based on Indian Constitution and indeed of Acts like ESIC.</p> <p>The current ESIC Act Preamble though sufficient, does not ask the Corporation to provide these benefits with speed or efficacy or to ensure worker-interest, etc.</p>	<p>The Preamble should be extended to state and do so with efficiency and speed that protects workers’ social security, health and livelihoods effectively.</p> <p>The Act/ Rules must also define clear turn-around times, service levels and penalties in case individual ESIC offices do not comply with them.</p>	An extended Preamble that does not just talk of delivery of services but also the quality and quantum of services. This is ESIC’s reason/ justification to exist for and their employees to be paid for. This should improve ESIC’s effectiveness over time and test its current processes.
1.2	The Act defines a number of governance bodies eg. Corporation, Standing Committee, Medical Benefit Council, Regional Boards.	The Indian manufacturing sector now has majority of workers as contract workers. This trend is accelerating. In safe-in-India’s experience, of the	Include representatives of contract workers and small tier 2/3 factories in these bodies.	The bottom end of the worker-pyramid, which is least educated, poorest, and most impacted by

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	Local Committees, etc. These are tri-partite bodies with representation from the government labour ministry, employer trade bodies/ Associations and employees’ trade union representatives.	injured in Gurgaon-Manesar registered with SII, more than 90% are contract workers. These workers are not represented by labour unions (again almost 100% of SII workers are not being helped by any worker union). There is no small /tier 2/3 SMEs representation in these bodies. This makes these bodies far less effective for workers who need ESI the most.		any inefficiencies in ESIC systems and processes will benefit for their representation in these important governance bodies.
1.3	The above governance bodies do not include one for “Claims Management”	<p>In SII’s experience, Claims payment processes need significant improvement on the ground. Of the total 105 files with SII:</p> <ul style="list-style-type: none"> -A typical worker visits ESIC Branch or Regional Office 10-20 times and their claims are/were still pending. - Although the ESIC processes stipulated in ESIC regulations 1952 are good, the reality on the ground does not match it. - There is other data that we will quote in this document further below to support this assertion. <p>On surface, it would appear that an insurance company, not paying claims quickly and adequately, is merely profit/Surplus-driven. In absence of a customer-experience focused Preamble to the Act, there is not enough focus on customer-service in the system and no</p>	<p>Set up a ‘Quality of Claims Management Governing Council’ with an empowered mandate including:</p> <ul style="list-style-type: none"> - Review actual processes v/s those stipulated in the Act and the Regulations. Develop customer experience matrices to ensure gradual improvement of processes eg. Claims Completed/Total Claims received or Accident reports Received/Total Accident injuries received in ESIC 	<p>A new focus on workers and their experience will sharpen the actual implementation of processes. Once management starts measuring their service performance and is accountable for it, services will improve. There is a management mantra “what gets measured, gets done”:</p> <p>In addition, such measures will highlight the ESIC branches and regional offices that are doing a better job and where their efforts are not just going</p>

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		governing body or matrices we are aware of being tracked and reported to ensure that Workers, the insurance-premium payers, are being treated as ESIC staff’s salary-paying customers rather than an inconvenience to ESIC staff.	<p>Make the management accountable for delivery of quality of service.</p> <ul style="list-style-type: none"> - Constantly improve the processes. 	unrecognized but they are probably feeling under negative peer pressure from inefficient colleagues.
1.4	These governing bodies have regular meetings with specific agenda. Sometimes General Purpose sub- committees are formed for specific purposes.	Although these are public bodies managed by central and state governments, and funded by industry including public sector, the agenda and minutes are not made public. This vitiates the spirit of accountability to public in general and workers in particular.	Agendas and minutes of all these body meetings should be put in public domain by simply posting them on ESIC website as is envisaged in RTI Act also.	Public accountability of government bodies is a basic necessity for its fair functioning. Managers and executives will feel more responsible if this is done.
1.5	Capacity of Hospitals (The Act is not specific on this issue but we believe it should be)	We have been made aware that the hospital bed capacity in Gurgaon for 700,000 IPs should be 700 as per the Norms of ESIC but the actual bed capacity available is 250 only (including the 100 bed hospital in Gurgaon although helpfully, extended to 150) and 100 bedded at Manesar. It is this reason that we are anecdotally aware of medical cases not getting desirable and timely services e.g. Simple Surgery cases like Hernia waiting for treatment for more than six months.	<p>Increase hospital capacity in Gurgaon/Manesar, one of the largest industrial belts in India, immediately.</p> <p>The Act should be very clear on actions required from the Central and State governments when the actual capacity falls below norms by say more than 20%.</p> <p>Implement the recent ‘beds at dispensaries’ initiative launched of 6-30 beds at each dispensary to</p>	<p>Better service to sick and injured workers and their families.</p> <p>Less pressure on Doctors and other ESIC medical staff.</p> <p>Longer assets life of ESIC infrastructure.</p> <p>Implementing ‘beds at dispensaries’ will release hospitals of less serious</p>

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		<p>This is clearly extremely mentally distressing and financially disastrous for workers, especially the poor contract workers. This seems all the more unacceptable in the context that ESIC collects annual premium of Rs10,000cr approx and expends nearby Rs.3,500cr, remaining earmarked for reserves which continue to grow but not expended for the purpose they were created. Vast reserves have been built by ESIC instead of investing in much needed capacity and quality of service.</p>	<p>more than the current 3 out of more than 1500 dispensaries in the country.</p>	<p>cases and let hospital staff focus on more serious cases.</p>
1.6	<p>Provision of Social Security Officers/Branch Managers (also called ESI Inspectors)</p>	<p>We are anecdotally aware of the extreme shortfall of these officers in field at Gurgaon-Manesar. The ESIC branch staffs constantly complains that they cannot get the required documents from principal/ immediate employers, which they are responsible for, as they do not have the time to go out and visit factories. We have sometimes been asked to chase employers by ESIC staff instead of doing it themselves for this reason. We are happy to help where our capacity allows but that is not a systemic solution.</p> <p>In addition, our evidence is that many small tier 2/3 factories not only flout</p>	<p>Recruit the required Social Security officers / Branch Managers to the approved/required/ sanctioned strength/ headcount. In the current environment of reducing Inspector-raj, this is probably counter-intuitive. However, the evidence presented dictates that much better governance of small factories is needed.</p>	<p>Injured workers will get faster health-care and due compensation.</p> <p>ESIC’s volume of pending cases will reduce dramatically saving time and cost, thereby paying for some, all or more than the costs incurred on the SSOs.</p> <p>Increases the ‘cost of accident’ for the primary employer thereby improving safety</p>

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		safety regulations but also play with the ESIC system by not paying premiums until an accident, but also delay critical documents like Accident Reports. Of the 105 Total files, active files with SII, only 16% cases the Accident reports were submitted immediately (48 hours) after the accident. In another 38% cases, Accident Reports and other documents were submitted after the intervention of SII team. Remaining 46% still do not have Accident Reports and/or other documents, despite the cases being with ESIC for 1-12 months.		
1.7	Definition of ‘wages’ and ‘employee’	We are anecdotally aware and have been often advised by ESIC staff and employees that these definitions have become convoluted over period of decades and lead to confusion, disagreements that are sometimes taken to court, and inefficiency.	Simplify these definitions in consultation with industry (large and small), and organized and contractual labour.	Fewer Disputes. Early resolution. Fewer pending cases.
1.8	Section 73: Employers not to dismiss or punish employees during the period of sickness.	In the total 105 files, only 30% still are with the same employer. Of the remaining, 52% do not/did not have jobs and another 18% have been forced to find jobs with lower salaries with another employer as these workers	ESIC receives online information from primary employers about their workers, including names. ESIC need to put in place a mechanism, which identifies injured workers discontinued	Hold Primary employer responsible for injured workers’ future until they find alternative employment or at least PDB.

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		<p>were fired by the primary/ immediate employer.</p> <p>In most cases, the workers know that once they are injured, if they cannot be as productive as before the injury (which is not possible in the majority of the cases) , they will lose the job once the ESIC health-care and compensation process is on track. This information has been borne out in more than 10 focus groups conducted by SII attended by more than 200 injured workers.</p>	<p>within a short period of time after the accident (at least one year). ESIC regulations should be enhanced to penalize such primary employers financially and offer such penalty to the impacted worker as a compensation</p>	<p>Increases the ‘cost of accident’ for the primary employer thereby improving safety.</p>
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2.0 The Employees’ State Insurance (General) regulations

	Issue/Challenge/Experience	Problem/Data/Rationale	Recommendation	Potential Benefit
2.1	IP number	<p>We are also anecdotally aware of several cases of IP frauds where contractors create IP numbers for generic names, which are then used only after accident.</p> <p>In addition, we are aware of cases where a worker has been issued more than one IP number.</p>	<p>Replace IP number with Aadhar Card number. Once a worker is registered in ESIC with his Aadhar card, he will have a permanent and convenient IP number. Although ESIC already links the IP number with Aadhar Card, the suggestion is that it could be the same number.</p>	<p>Supports PM’s Aadhar card campaign.</p> <p>Reduces ESIC’s work around issuing different numbers.</p> <p>Removes the more than one IP numbers fraud. Increases ESIC income.</p>

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		<p>This reduces security available to workers, reduces ESIC income and encourages less safe work practices.</p> <p>With Aadhar Cards now available to more than 1bn Indians, another IP number is probably unnecessary to identify an IP.</p>	<p>Aadhar cards are now easily available and the process is not very difficult for especially workers who are more informed and educated than in small villages, tribal areas, etc where people may not have Aadhar cards.</p>	<p>Improves worker safety and security post-accident</p>
2.2	Physical documentation process v/s Online	<p>The regulations are drafted mainly for physical movement of documents e.g. by post, which is still being followed at least in Gurgaon-Manesar, and anecdotally in many other parts of the country rather than the online systems introduced by ESIC. This is causing inefficiency, delay in claims, severe inconvenience to injured workers (In 105 files with us, workers have visited ESIC 10-20 times) and higher cost of operations for ESIC. More often than not workers are being asked to move documents from one ESI location to another and resubmit documents, all of which should not be required in online systems and is in fact ESI staff responsibility.</p> <p>It would also appear on surface that manual systems are attractive for some</p>	<p>Update the Regulations with the online system instructions and enforce implementation.</p>	<p>Reduced complexity and delays for workers and ESIC workers once trained and instructed to use the system.</p> <p>Lower cost of operations for ESIC.</p> <p>Lower chances of corrupt practices in ESIC.</p>

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		of the ESI staff who can then claim to have not received the documents or ask workers to do things they should be doing themselves.		
2.3	Reg. 11 and 14: Declaration by persons in employment on appointed date (form 1) within 10 days of a worker joining (<p>This 10 day rule gives the factories a loop hole that lets them register a worker in ESI after an injury. In 38% of the 105 files with SII, the workers were given ESI number after the accident.</p> <p>We are also aware of the issue that Primary Employers do not register workers for ESI immediately on employment as such registration also starts the much more expensive Provident Fund Cycle. The government and workers are the losers on account of this seemingly/ presumably corrupt/ bad practice and it should not be tolerated.</p>	<p>Remove the 10 day rule. Factories should not be allowed to have any worker in their premises without ESI cover being provided on the day of joining. The online system provides the company HR/admin the functionality to register online within a few minutes of a worker joining. They should use the worker information as per his Aadhar Card and not a different name, spelling, etc.</p> <p>Penalty for non-compliance should be high and monetary. We suggest at least Rs100, 000 per unregistered worker. Again, the SSO will be of effect here and the SSO costs can be paid from these penalties.</p>	<p>Better risk cover for workers.</p> <p>Higher cost of accident for factories and therefore improved safety standards.</p> <p>Increased income to ESIC (we suspect very significantly)</p>
2.4	Reg. 15-B: Changes in family	The process states the need for Form 2. However, this Form is not required anymore as the process is now online.	Delete Form 2 process but also provide a worker the facility to change family details directly in ESI	

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		The workers are not encouraged and often discouraged to do this additional work by primary employers. In 60% of the 105 files with SII, workers have not/inadequately completed the family information.	systems rather than depending on primary employer. Workers should also be provided an APP which they can use to find/update such information.	
2.5	Reg.45 – Sickness Benefit and Sickness Leave (also for TDB and PDB)	<p>Medical Certificate for Leave/MRE Form process is not working as intended or efficiently for workers. Our 100+ injured worker experience data shows:</p> <p>1. On first consultation with a Doctor, the OPD slip is done manually and not online. Leave is scribbled, often illegibly and unclear to the workers, on this OPD slip.</p> <p>2. These sick/injured workers are asked to take this OPD slip on THE SAME DAY to Dispensary to obtain Medical Certificate, which in Manesar is 2 kms away from hospital. This is very difficult for the injured workers especially with limited Dispensary timings. At dispensaries, after queuing up for hours, they are asked to obtain the MRE/Medical Acceptance Card from BO or Employer, which is not required to be</p>	<p>Leave process should be done in one place – the hospital or Dispensary wherever a sick or an injured worker has to visit for his medical check weekly.</p> <p>The worker should not have to run around with papers which is ESIC’s responsibility to move around.</p> <p>The best solution is to implement the Dhanvantri system properly in Gurgaon-Manesar and other parts of the country where it is being neglected.</p> <p>All inverters should be fully operational all the time. If not already, this should be out-sourced to be a professional firm and SLA agreed for 99%+ performance. This is easy to achieve.</p>	<p>Relief to sick and injured workers.</p> <p>Significant cost savings for ESIC.</p>

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		<p>done by the workers as per the Regulations</p> <p>3. The Dispensary then issues a Medical certificate to workers and asks the worker to take this to branch office within office hours, 3-20 kms away from the Dispensary and/or Hospital. Sometimes the right branch office itself is not clear to worker or the ESI staff; we have had 7 cases where the workers have been sent to the wrong branches in the first instance or they have been sent around from one branch office to another, although it is the ESIC staff responsibility to collect documents at any branch office and post them internally to the right branch office.</p> <p>4. The Branch office then issues the payment but often with delay of 2-4 months.</p> <p>5. This process which makes every injured/ sick worker visit all three places many times (<i>instead of only the hospital to see a doctor</i>) every week or in 15 days until the worker is sick or recovering from injury.</p>	<p>Mention appropriate Branch Office in TIC and against each IP online so that this information is easily available.</p> <p>Increase frequency of SuvidhaSamagan from monthly to fortnightly. This is an effective forum which provide relief to suffering workers both by accelerating action through quicker decisions and communication with them.</p>	
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		<p>In discussions with ESIC staff, the reasons stated are:</p> <ol style="list-style-type: none">1. Doctors do not like the online system and prefer traditional hand-written OPD slips.2. The staff also finds it easy to leave the process to workers rather than take the responsibility. Clearly, this also raises the probability for harassment/ possible corruption.3. The electricity supply is not uniform and computers are sometimes not working. Dharuhera and Manesar BO are often out of electricity for 4-5 hours per day or sometimes even the whole day. We have also heard that some of the BO staff have to go to the Hospital to do their work on computers. Their inverters are apparently not working for the last two months. This is an unacceptable excuse in modern India and given ESIC’s vast financial resources.		
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		Clearly, this is not only extremely problematic for workers, but also expensive and inefficiency for ESIC.		
2.6	Reg. 65: Notice of Accident	<p>The section provides a useful list for worker to notify the primary employer of the accident with relevant detail orally or verbally. In almost all of the 105 files, workers did not provide this in writing to the employer though clearly at the time of accident in the factory premises, there is the employer staff that notices the accident and records (or not) as per their internal process. It is in any case very difficult for an injured worker to start writing letters in the middle of a crisis situation.</p> <p>In case of road accidents, workers must provide this report orally or in writing but there are cases with SII where the employers claim that they were not advised of the accident details by the employer.</p>	Allow workers or their representatives to write this letter online in a standard simple format to ESIC so that ESIC can check this information with accident reports when received. An App for Workers can resolve this issue too.	<p>Timely Record of accident will provide ESIC additional information to progress the healthcare and claims more efficiently.</p> <p>It will also add pressure on the primary employer to complete their documentation about the accident quicker.</p>
2.7	Reg. 68: Report of accident by the employer	This is a critical document in ESIC process without which claims are not processed irrespective of the state of injured worker. Sympathetic pragmatic	Appoint SSOs to the designed capacity (see recommendation 1.6 above) and/or	<p>Faster relief for workers.</p> <p>Less follow up work in ESIC, ultimately</p>

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		<p>measures have been stipulated but we have not seen this being used in any case in the 100+ files we have. Of the 105 Total files active files with SII, only 16% cases Accident Rate was submitted immediately (48 hours) after the accident. In another 38% cases, Accident Reports and other documents were submitted after the intervention of SII team. Remaining 46% still do not have Accident reports and/or other documents despite the cases being with ESIC for 1-12 months.</p> <p>Clearly, Principal/primary employers are not keen to issue these reports/ certificates to avoid an inspection and delays help to bury the case. ESIC staff does not have the capacity and/or willingness to chase primary employers as about 70% of our files have not been chased by ESIC as required per the regulations.</p> <p>There is absolutely no reasonable argument for the primary employer to delay the Accident Report and indeed any other document. We all understand that the reason could be potential/ probable corruption in the system –</p>	<p>Provide/ levy a significant penalty rule for delay in accident report submission after the accident e.g. Rs5lacs if not submitted within 48 hours of the accident. Although, this may encourage some corruption, a large potential financial penalty will encourage the right behaviours ultimately until the industry learns to self-regulate.</p>	<p>improving the process efficiencies and savings costs.</p> <p>Increased cost of accident for the Principal/ Primary Employer.</p>
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		both at primary employer and in some of the ESIC staff.		
2.8	Reg. 71 (ii): Rehabilitation of injured workers	<p>In our 105 files, ‘NOT A SINGLE’ worker has been offered or taken any rehabilitation support from ESIC. In fact, none of the 105 workers were aware of this facility from ESIC.</p> <p>In our discussions, we have been anecdotally made aware that this is not a focus area at least in Gurgaon-Manesar and there are no specific funds allocated to and/or monitored for this initiative.</p> <p>This is a key assistance that can be provided to permanently disabled workers.</p>	<p>Design specific and effective rehabilitation scheme and communicate internally and externally.</p> <p>Allocate specific funds to the scheme based on actual data e.g.number of permanently disabled workers.</p> <p>Outsource it if this cannot be done internally.</p>	<p>Long term relief for injured workers and their families.</p> <p>A more productive manpower in the country improving country’s competitiveness.</p>
2.9	Reg.72: reference to medical board	<p>Of the 25 pending PDB cases with ESI, only one has been completed today. All the remaining are pending for at least 1-6 months even after issuance of TDB, after which there should have been no reason to delay PDB.</p> <p>The PDB process is anecdotally most prone to corruption given significant amounts involved.</p>	<p>ESIC Branch Office and Regional Office must be accountable to close the PDB cases within one or two months of TDB.</p> <p>Management Information about such cases should be regularly reported in public domain, including other turn-around statistics.</p>	<p>Closure of issues for injured and permanently disabled workers so that they can move on to the next, hopefully productive, chapter of their lives.</p> <p>Fewer pending cases in ESIC, improving efficiencies, reducing</p>

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			The internal management Information should be made more efficiency oriented e.g. not only total number and value of PDB granted, but also conversion rates e.g. Proportion of TDBs converted to PDBs within one month, two months, etc. Please see attached SII MI for end Feb17 as a limited example.	staff work and ESIC cost/case.
2.10	Receptionist to receive documents (Missing Files and Documents in ESIC Offices)	<p>Of 64 currently active files with SII:</p> <p>In 10 cases, workers were told that there files were completely missing and they had to resubmit their documents.</p> <p>In 5 cases, documents that workers confirmed were submitted by them, ESIC officials advised them missing.</p> <p>There does not appear to be a standard Reception Desk in ESIC Offices. Instead, workers find staff/officers as advised at these offices and submit documents to them directly. Such staff members mostly refuse to acknowledge the documents being submitted by workers or even SII.</p>	<p>If the processes were genuinely implemented online such physical files will not be needed. In the interim:</p> <p>All ESIC offices should have a receptionist as required by the Regulations and this Receptionist should not and cannot refuse to acknowledge the receipt of documents on a photo-copy of the same document. Such acknowledgements should have a clear date, time and person who received it.</p> <p>In case of a missing document after receipt, ESIC should have no right to ask the worker to get it</p>	<p>Faster process.</p> <p>Reduced cost for ESIC.</p> <p>Reduced cost for workers and employees who also have to spend time following up on duplicates.</p> <p>Name Tags will result in not only identification of poor employees but also good employees who will get better feedback from workers.</p>

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			<p>but must obtain it directly from principle employer, etc and this should be summed to received and claims process progressed.</p> <p>All ESIC staff should have their names in Hindi clearly displayed on their tables and should have a name-tag on their shirts so workers can record who they gave the documents to and/or interacted with.</p> <p>Name tags could have the ‘Make in India’ logo, inculcating a culture that ESIC’s good work supports Indian workforce without which there will not be a ‘Make-in-India.</p>	
2.11	Advise by ESI staff to workers on day to day basis	<p>ESIC staff should provide regular feedback to workers on process. Our data and worker focus groups suggest that:</p> <ul style="list-style-type: none"> - Such advice is not uniformly provided. - Often the workers do not understand the technicalities explained hurriedly. 	<p>Provide a standard chick-list to ESIC staff to provide feedback (please see an example of check-list being used by SII to provide needed clarity to workers regarding ESIC process.</p> <p>Review Help Desk strategy and processes for both Hospitals and Offices, and make them more effective. Measure their</p>	<p>Improves the process for both workers and ESIC staff.</p> <p>Reduced traffic at ESIC.</p>

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		<p>- Advice can be wrong and or incomplete. In almost all cases, the information provided is ad hoc, unstructured and piece meal. All documents required are not asked once but on every subsequent visit more documents are asked.</p> <p>The help desk at ESIC Manesar Hospital does not appear to be busy most times, which is surprising given the number of cases that come to SII looking for advise and support. On many occasions, we have observed that the main Help desk officer is out on duties not related to Help Desk.</p>	effectiveness by how busy they are and the type of help they are providing.	
2.12	Workers’ representatives	At times, when we have accompanied aggrieved workers to support them through the process, some of the ESIC staff have told us not to be present and that we have no right to be there. This is clearly incorrect as not only the workers have every right to take with them anyone they see fit and helpful.	Issue a reminder to all ESIC offices that workers can be accompanied by people of their choice.	Quicker resolution of issues and therefore less footfall/cost for ESIC.
2.13	ESIC Staff motivation	We have tried finding out whether good ESIC staff are recognized and rewarded	Institute a reward scheme for good service for ESIC staff based on external feedback.	Motivation for staff and improvement in service to workers.

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		in anyway and it appears that there are no effective schemes of this nature. (
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Evidence Data-Base:

1. REGISTERED WORKERS: All injured workers contacted SII or contacted by SII: 450
2. ACTIVE ESIC CLAIM FILES: Number of injured workers where SII is actively assisting in ESIC Claims: 64
3. TOTAL ESIC CLAIM FILES (ACTIVE+INACTIVE+COMPLETED+ATTRITION): Number of injured workers where SII created full files but some of them have inactive due to workers going back to their villages, or satisfactory closure of files or worker not keen to pursue claims for a variety of reasons: 105 (above 64 is part of this number)
4. FILES COMPLETED SUCCESSFULLY: 6 (part of above 105)