

The Protection of Workers from the Professional Diseases in the Jordanian Social Security Law

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Abstract

There are a relation between the occupational works and the disease incidences symptoms since a long time and the level cases of occupational disease have increased because of the industrial revolution , the increasing of using chemical and the raw material in the industrial sector. As a result of that the legal protection of workers against these diseases came late. For this purpose the international organizations have paid the attention to this important case, therefore they issue a statements, conventions and recommendations about this matter to help the workers and protecting them from the occupational diseases. This study sheds the lights on the causes of workers protection from the occupational diseases especially after the exist of some occupational diseases which are not cover by medical insurance in the Jordanian social security law in addition of the difficulty and the complexity of adding any disease which could not be covered in the occupational diseases in the future.

Introduction

In spite of the real manifestation of occupational disease and noticed it in the Medical field since along time , but the manifestation of the legal protection of workers from the damages that are caused by it came late. But the concept of industrial accident is not comprised on the occupational disease in the beginning but it was limited on the accident works. Some of them explain this delays that the occupational diseases were less happened from the accidents work. Comparatively. (1) Now we can notice that there are a limited diseases come out to the light which concern on the worker who exposure to the specific material which used in the work or because of a special conditions of him, it's not possible to adapt with it because its a sudden fact. And then its accident work because of the nature of occupational disease which is privileged in progressive incidence. Therefore it should be found a legal solution to guarantee the protection of those infecting workers.

Significance of the Study and the Statement of the Problem

Statement of the Problem

As a result of development and diffusion of industry ,there are a multi of harms industrial accidents that injures workers because of their practicing these jobs or different industries , the worker in the workshop is exposed to the accident work while he is working as we mentioned before. But he became to expose of diseases after a period of time of his practicing some of these works in certain industries or manifestation of symptoms of the disease after leaving the work and this is called occupational diseases. The subject of protection workers from the occupational hazards is one of the most important basic subjects that the international organizations paid the especial attention by issuance agreements and recommendation on this matter to help the national legislator to save the protection of occupational diseases. The importance of occupational diseases is in the increase numbers of victims and the infecting of Permanent disability. So the occupational diseases which infect the worker we can call it the spontaneous combustion, it devours the materials which have saved the temperature range and it raises gradually even it reach the degree of certain combustion then it burned.

Occupational disease arise and developing gradually and intangible from the impact of chemical materials in the working environment on the body of the worker which may reach him to the infection of partial or total disability and sometimes it lead to death. The manifestation and the increasing number of occupational diseases are linked of enormous different industrials. The employer exerts all his best to achieve the prevention of these diseases because the worker could not do anything to protect himself from these diseases, in spite of his strong attention of prevention of these Diseases. What rises our wondering in this topic, what are the ways or means to be followed to determine the occupational disease? We will answer it through the first request in this research. And if we don't know the means that determine the occupational disease through it, the second question which comes to our mind is what are the conditions that should be available in the disease to consider it occupational disease? And we will study it in the second request.

Statement of the Problem

The statement of the problem in this study is the manifestation of multi occupational disease which are not covering of insurance protection in the Jordanian social security and the difficulties and complicating in adding any kind of these diseases in the attached table with law, because the Jordanian legislator did not add any disease in the list of occupational diseases since the issuance of law No.30. Year 1978. The Hashemite king dome of Jordan testifies a new kind of developing in different industrials which means that there are a multi of occupational diseases should be covered by the insurance protection , in addition to not text the Jordanian law on applying the preventive procedures to avoid the manifestation of occupational diseases symptoms on the insured in the future.

Research Methodology

With regard to these difficulties it's necessary to follow the comparative research procedures and demonstrating the situation in the comparative legislation and the adoption of international agreements. And what Jordan should do to adopt with the economical and social conditions unless we achieved the main goals of this research, as we follow the curriculum interpretation in the research.

What is occupational disease?

Occupational disease is different from country to another because it depends on the degree of the industrial development and the diffusion industries in it. So the occupational disease in a country of agriculture economy is different of occupational diseases in the industrial development country. The risks of occupational disease are manifested by the symptoms of the worker body gradually and in a different ways which are facilitated and attach to the harm on human body, either by visibility like a crass glare in welding industry or because of the poor lighting in the precision manual industries or through the respiratory such as the inhalation of toxic gases, or through the skin when it touch with chemical and germs or through the sense of hearing like a frequent noises.

Possibly we can classify the occupational diseases in two groups, the first group which belong of the occupational diseases that have a relation of work and the work environment contributes -beside other elements in making a certain diseases that have a multi Causes which could be exist or not- the occupational factors are one of them. So Public people are infected of it but when the workers are infected under specific conditions. Therefore, the occupational factors are enhancing in a different degrees of making the infection of disease. Group two is non-occupational diseases are very worse, as a result of exposure of specific work conditions. These diseases are

Common and infected common people and the workers when it infecting to their causes. Jordanian legislator intervenes to protect the worker who infects of Occupational disease.

According to the second article from the law No7 year 2010, according to article A from article two of the executive instructions insurance that related to the occupational injuries and occupational health No 7, year 2010. Therefore we should know the concept of occupational disease and the main conditions to name it occupational disease and how to approve the infection of occupational disease, so we are going to classify this research in three requirements as follows:

Requirement One the Definition of Occupational Disease

The legislative protection of occupational diseases come later after the issuance of infection of occupational injuries and the reason behind that is the need of the protection in this field and it need a legal regulation which depend on the technical development and the technology and the development of medical science which makes a barrier to the issuance of these legal regulations in early time for this matter.

The difficulty of distinguishing between occupational diseases and other diseases makes it difficult to approve the direct relation between the diseases itself and the nature of the work that the worker do it. All this relations make it difficult to find a combination definition of the occupational disease. Let alone that there is no definition of the occupational disease in the Jordanian law and we will present some definition of the occupational disease from the international organizations or the findings of jurisprudence scholars. It could saying that the occupational disease is the illness that causes by practicing a certain job which stipulate to verify it is should be a physical harm which is arising from the external impact that has a relation of practicing work.(2)Or the disease which is infected workers in any certain disease, or a group of jobs and not others or any poisoning case that the workers infect of it as a resulting a particular job or a group of jobs , or a disease that is arises mainly because of the job or the predisposition of job to make it happen or increase it to diffuse it and it must be listed in the schedule of occupational diseases.(3) if the occupational disease as we mentioned before is the disease which affects the health of the worker slowly because of his performance in the work , we can say without the work performance the worker would not infected of disease, its difficult on the infecting worker approving the causing relation between the disease and the work it self and does any disease which the worker infecting of it has the occupational status and it should be compensated for the occupational disease. The provisions that the Jordanian legislator texts on it is explain that there are a certain conditions to protect from the infection of the occupational disease , but the question that we want to answer it is are those conditions can reveal on the definition of this disease ? And that is what we ill talk about it in the second requirement.

Second Requirement

The Conditions of Occupational Disease

Jordanian legislator has identified the conditions that are available in the occupational disease which infects the insure because it considers occupational disease which covered of the rules of Jordanian social security law, and this condition can be deduction from the article two from the social security law No7Year 2010 is come to effect. And from the article two paragraph A from the executive instructions of **work** injuries, health and occupational safety and its follows:

Condition One: the name of disease and the work that the insure work in it are mentioned in the occupational diseases table No1. That supplementing by law or what the council decides by depending on the recommendation of medical references.

From this condition it clarifies that the insured worker could be benefit from the Insurance protection depending on the rules of the work injuries insurance, the workers must have infected of the occupational disease that the legislator reported

It in the table No1 that is supplementing by Jordanian law No7. Year 2010. Its Clear that the Jordanian judiciary awards keep to the rules that issuance of this condition.

Condition Two: there is a causality relation between the occupational disease and the factor causative of him.(4)

Jordanian legislator has identified the supplementing table of occupational disease Law, also he identified the actions that infected this disease, so if they come together it considers occupational disease. If any one of them are available id not Enough to consider it occupational disease and the insured should work in a jo That arising this disease (5).This means that the availability of causal relationship Between the disease that the insured is infected of it and between the work, and this can be achieved when the worker works in a job that infecting the occupational disease. In other words, the nature of the materials within the scope of his work It's led to the incidence of the occupational disease and this is a Irrefutable Presumption that no one can doubt of it.

Condition Three**The insured works in a certain job which inevitable to continue contacting with the causative factor.**

In this case to consider the disease occupational, the insured must be worked in a job or specific industry which requires the continuing contact with the causative disease or the circumstance which surrounding of it because of using the materials of this job or products or the direct contact and the concomitant to it continually and it perform to the exposure of injury of disease which considers of the occupational disease like the diets gastric and epidemics.(6) Which generate about the work in the specialist hospitals for treatment diets gastric and the epidemic disease as well as working in the laboratories. So any injury which manifests on the insured of this disease as a result of his profession in this work and his continuing contact after a period of time or the expiry of this industry and because of his continuing contact with this occupation, he would be covered of the insurance protection of work injuries according to the rules of the Jordanian social security. Jordanian legislator a fortiori with the non text on this condition in the executive instruction of work injury, health and occupational safety ,because it may lead to depriving many workers from settled insurance protection to safe the work injuries and occupational disease because these disease could infect the insured who work in the occupational different industrial and if the job doesn't require the continuing of the causative factor of disease ,but it's enough to be a factor in the place who practice this industry which based on the using of material which are causative of disease. But if he transact of accounting or administrative works that don't require the direct and continuing contact of these materials (7) and if the insured is very clops of this materials it could be infected of occupational disease. Therefore we suggest on the Jordanian legislator dispense with this prejudicial condition of the workers truly in the law No (7). Year 2010 which was issued recently?

Condition Four: The Rate Of Disease Diffusion Between The Workers Is More Than The Rate Of Diffusion In The Rest Of The Society.

It's clear from the text condition in the clause (A) article two from the executive instruction of work injuries and the occupational diseases in the Jordanian law that the rate of occupational disease diffusion which claim of his existence between the workers in the job or working more than the rate of diffusion between the rest of the society, and this is normal thing ,sometimes practicing the work or in a job or industry infected the insured's workers for infection of any occupational disease. And the infection of this disease would be more popular and the example of that is the pneumoconiosis disease. We can say that this condition has no justification, is it possible to deprive the insured who infecting of occupational disease as a result of his direct contact with the job because that this occupational disease which infected from during the work in this job is less diffusion between the rest of the society. Jordanian legislator should cancel this condition which are stipulated in the article (3), clause (3) from the executive instruction of work injuries, in the ex law rule No19 Year 2001. When the current law is issued but it kept the case as it is, and the legislator goal is regulative which is control the process of occupational diseases but it is illegal justification and leads to deprive lots of rights that they deserve it and reduction of extending insurance protection for work injuries.

Condition Five**The exposure time of the causative factor scientifically enough for happening the disease and its clear that there is a link of this condition with the previous one which explained before.**

Because of the nature of occupational disease and considers it the outcomes of group of accidents which are slow gradually in developing and it has no certain Root or specific date. It conceivable to manifest the symptoms of this disease on the worker after he leaving the job, the insured protection is not limit on the time when they work in this industry, or the causative job of this disease but the insurance institution is responsible on occupational disease and it should contract in all the insurance rights of them for two years from the termination of his service in a particular job. If the symptoms are manifested on the worker he should approving the causal relationship between this job and the occupational disease which he suffered from by a report from the medical insurance. As per of the Jordanian law rules but it is to be registered for a period of time for continuing the insurance protection and this is arbitrary matter because this issue is artistic each disease has his nature and the stages of development. And the time that the symptom infection begins, it should be specify the time for disease which extends the protection.

And if the insured stop directly on this activity it could be infected of occupational disease. Unfortunately successive Jordanian social security e texts did not specify which are the valid of it as procedure routine and according to the Jordanian labors law rules any worker who apply for any work he should make medical test for get disease free certificate (8) but that does not exempt the Jordanian legislator to find the explicit text in the Jordanian law or which text on it that related to the executive instruction for work injuries and occupational diseases.

Demands Three

How to approve the occupational disease

If the aforementioned conditions apply on the insured who suffered from the **occupational** disease as a result of practicing this career, this legally means there **is** a causal relation between his infection of the disease and the work. And the **Jordanian** legislator should make a Irrefutable presumption on the original **occupation** and it calls the presumption supporting, presumption of law that don't accept the reverse evidence to make a relevant between between the disease and **the** work.(9) The infection of occupational disease maybe not reflect negatively on the ability of the insured on work and earning ,it maybe cost him his life. This means that the presumption of law does not exceed the scope of infection of disease itself. if the case of insured is relapsed as a result of his infection of occupational disease he or his heirs approve the evidence of exist a causal direct relation between the condition of the disease case and the infection of occupational disease is not enough evidence to approve of the infection of occupational disease and the disease factors are activated on a direct way or direct about the independent reason of this disease. (10)

It's clear that the Jordanian legislator gave the medical experience an important role in determining the real causes of infection of occupational disease and this is clear in the text (8) from the article (A) from the article four of the executive instructions insurance, according to the medical boards No7, year 2010. the medical boards concerns with the extent the infection of the occupational disease and identify the beginning of the disease. if the insured proved that his case is infected of occupational disease according to the article rules(39) from the law and the article rules (2)of chapter one from part five of this instruction. And it reduces the burden on the insured the worker from approving the causal relationship in the existence of experience people in these medical broads to approve that the disease which affected of the worker is occupational disease.

Conclusion

At the end of this research its clear for us that the protection of workers from the occupational disease is important and we should care of the preventive procedure in the first step . the concern that the medical services should available it in the industrial places and it should be concentrate on the preventive side , which means preventing from the infection not only the cure only. The preventive programs in the case of exposure of different occupational disease like the chemical, physical or biological vitality, which requires to safe the protection means and the preventive from the bad because these bad effectiveness are dangerous on the worker body and it could infects him of poisoning. Its could be detected in the early stages by making the periodical medical tests for workers that the nature of work require the exposure and the infection of the occupational disease , the treatment in this stage would be more influential and it avoid the worker of the dangerous source or preventive from it in this way ,it could be stopped the infection and stopped the effectiveness of it and the degree of the disability would reduced of it and reduce the negative effectiveness on the worker health.

So the preventive procedure is make a periodical medical tests for workers who exposure of occupational diseases in the text of Jordanian social security law. This research also shows the difficulty of distinguishing between the occupational disease and other diseases and it perform to difficulty of approving the direct relationship between the disease and nature of the work which the worker practices it , so it should be found a correct definition to overcome these difficulties. And we should expanding of the definition of occupational disease to extent the insurance protection on what calls a Exposed area to reach the legal protection to protect workers from the dangerous of occupational diseases which are not listed in the occupational disease table and the occupation original of it. And we also talk about the difficulties of the condition that require from the Jordanian legislator to consider the infection of insured of occupational disease is work injury and we suggest to dispensing on some extra conditions through our studies of these conditions in their places

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