

Beyond the Boardroom, When Workplace Safety Becomes Personal Liability

The fatal accident at a factory in Talegaon, Pune, which reportedly claimed the lives of two workers, has brought the question of individual accountability for workplace safety into focus. According to reports, the investigation under the Bharatiya Nyaya Sanhita, 2023 (BNS) was expanded to include the Company's Managing Director on the ground that he was considered the "occupier" of the factory premises under applicable law. He was subsequently taken into custody.

While the investigation concerns alleged offences under the BNS, the incident also raises an important question from a labour-law perspective: what responsibilities does the law attach to an employer or occupier, and when can a breach of workplace safety obligations expose individuals to personal liability?

The Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code), provides an important statutory framework for examining workplace safety obligations. Section 2(1)(u) defines "employer" to include the occupier of a factory and, in relation to other establishments, the person or authority having ultimate control over the establishment. Where the affairs of an establishment are entrusted to a manager or managing director, the definition also includes such manager or managing director. Contractors are also covered.

Section 6 of the OSH Code sets out the duties of employers, including obligations relating to workplace hazards and applicable safety and health requirements. Where a contravention of safety duties results in an accident causing death, Section 103(1)(a) of the OSH Code provides for imprisonment of up to two years, a fine of at least INR. 5,00,000, or both and in case of serious bodily injury to any person within the establishment, Section 103(1)(b) provides for imprisonment of up to one year, a fine of at least INR. 4,00,000, or both. Section 109 further addresses offences committed by companies and the circumstances in which persons responsible for the conduct of the Company's business, or officers whose consent, connivance or neglect is established, may face liability.

This does not mean that every director or senior executive is automatically liable for a workplace accident. The individual's statutory role, the duties applicable to the establishment and the evidence connecting the individual to the alleged contravention remain central to determining liability.

The courts have recognised this distinction. In *J.K. Industries Ltd. v. Chief Inspector of Factories and Boilers* (1996) 6 SCC 665, the Supreme Court examined the statutory responsibilities of a factory occupier under the Factories Act, 1948. In *Sunil Bharti Mittal v. Central Bureau of Investigation* (2015) 4 SCC 609, the Court clarified that criminal liability cannot ordinarily be imposed merely because of an individual's position in a Company, personal involvement or a statutory basis for vicarious liability must be established.

ELP Comments

Workplace safety must be embedded in corporate governance and day-to-day operations, rather than treated as a matter of procedural compliance alone. Companies should clearly allocate responsibilities, maintain effective safety systems, address identified hazards promptly and ensure appropriate oversight of contractors and other persons operating at their workplaces. These considerations extend beyond factories to construction sites, warehouses, offices and other workplaces.

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