



SAFE WORKPLACE SCHEMES FOR STRESS-FREE TEAMS!

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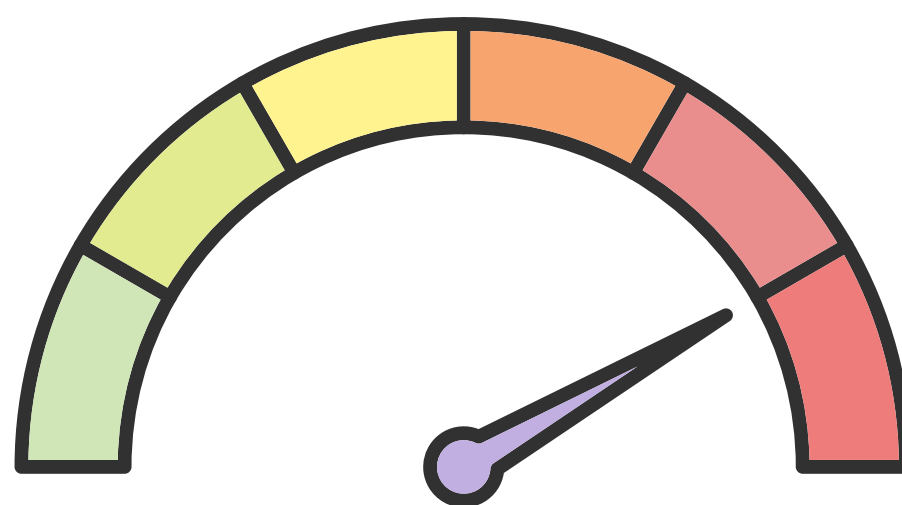
Stress- seems[1] to be the new buzzword around and reducing stress and maintaining work life balance seems to be a new mantra for all professionals. The recent tragic death of two employees from a reputed organization and a bank , respectively, apparently due to long working hours has brought this issue to the forefront again and National Human Rights Commission has suo moto taken cognizance of this issue[2].

According to the World Health Organisation, Stress is defined as a state of worry or mental tension caused by a difficult situation[3]. While the state of worry may depend on each individual, the factor of difficult situations is external.

Stress can be triggered by various challenging situations such as wars, conflicts, disputes, unmet expectations, and autocratic management styles in the workplace. To gain deeper insights, we spoke with Dr. Wilona Annunciation, a consultant psychiatrist and a mental wellness expert, as well as the Founder Partner at Catalysts Clinic in Thane. According to Dr. Wilona, key factors contributing to stress include poor communication, unclear goals, insufficient support systems at work, and a negative work culture.

Opposite to stress, there is another term that doing rounds which is known as leisure sickness, i.e. the tendency of some people feeling sick or experiencing discomfort during their vacations or on their weekends, a concept initially coined by a Dutch researcher, Ad Vingerhoets, after it was found that about 3 percent of the people are left feeling sick on their days off work .[4]

Let's understand the concept of a safe workplace as against employee stress.



STRESS METER

[1] The article reflects the general work of the authors, and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice

[2] <https://www.livelaw.in/top-stories/nhrc-takes-suo-motu-cognizance-of-reports-on-cas-death-due-to-work-pressure-270310>

[3] Stress

[4] What is Leisure Sickness? The Downside Work-Life Imbalance

Role of Company

Employees deserve a right of a safe workplace in India and this right has been elaborated by the Apex Court in its landmark judgement of Vishakha vs Union of India[5]. Our Constitution guarantees every citizen a right to practise trade, profession of their choice under Article 19 (1) (g) as a fundamental right. The Court stated that, “The fundamental right to carry on any occupation, trade or profession depends on the availability of a **"safe" working environment**”.

A Company must ensure that the workplace is safe and secure through its policies and procedures. Apart from ensuring proper leaves, breaks and working hours which take care of the physical being of the employees, employees should be offered a decent and fair atmosphere to work. Management should avoid any kind of discrimination, favouritism and any form of mental harassment to any employees. A detailed code of conduct to address these finer aspects needs to be in place to avoid any conflicts between employers and employees.

For example:

- if a Company wants to permit casual dresses on Friday but not on weekdays, the same needs to be communicated to the employees appropriately to avoid any unpleasant conversations.
- Sometimes employees use undignified language in a joking manner or indulge in body shaming colleagues, for fun. There should be clear guidelines in the Code of Conduct to ensure that such communications are not permissible, as such communications may lead to unnecessary stress, tension and confusion in an employee’s mind. Repeated comments or taunts may disturb the victims and create a negative atmosphere in office.

Applicable legislations

The new Occupational Safety, Health and Working Conditions Code, 2019 has been specifically codified with the objective of regulating occupational safety, health and working conditions of the persons employed in an establishment. Section 6 (1) (d) provides that employers are required to provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees.

As per the current legislative framework, personal injury during the course of employment or contracting occupational diseases due to employment or any sexual harassment faced by woman employees is clearly covered as provided below:

[5] AIR 1997 SUPREME COURT 3011

1. Any injury suffered by the employees is covered under the Employee Compensation Act, 1923 (Act), currently, which will merge in the new Code, once enforced. The Act clearly provides that if personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation, excepting injuries, which does not result in the total or partial disablement of the employee for a period exceeding three days or injuries which are attributable to employee in any manner like employee being drunk or disregarding safety instructions etc.
2. Occupational diseases suffered by the employees are also covered under this Act. [6]
3. A company may be held liable if any woman faces sexual harassment at her workplace. Sexual harassment is specifically covered under the POSH Act and more information on the same can be obtained [here](#).

Determining Liabilities on Employers for mental or emotional harassment

With respect to issues like emotional stress and harassment, it is cogent that if there is a clear nexus between the harassment and the injury or death of the employee, then the employer may be held liable.

The theory that damages at law could not be proved in respect of personal injuries, unless there was some injury which was variously called 'bodily' or 'physical', but which necessarily excluded an injury which was only 'mental', has been held to be wrong [7].

It must be noted that while mental injuries and stress may be recognized, the entire paradigm of the employee needs to be considered. It needs to be remembered that an office or a workplace is a place of performance and thus if the employer or superiors are reprimanding the employees for performance or disciplinary issues, the same cannot be held to be a factor leading to an unsafe workplace.

This has been elaborated by Supreme Court, in Nipun Aneja versus State of Uttar Pradesh [8], wherein the dispute revolved around a suicide committed by the employee. The deceased was an employee of Hindustan Lever Limited. He was serving HLL for past twenty-three years. The Company had released a VRS scheme i.e. Voluntary Retirement Scheme and the complainants complained that the employees who were not ready to opt for the VRS scheme, were being harassed in some manner or the other.

[6] Prevention of Sexual Harassment of Women at Workplace Act, 2013

[7] Madras High Court: Mrs. H.I. Halligua vs Mohanasundaram And Anr on 22 March, 1951: AIR 1951 MADRAS 1056

[8] Supreme Court: Criminal Appeal No 654 of 2017

In this meeting as alleged some of the salesmen including the deceased were issued letter to undertake the work of merchandising. This was not liked by all the employees. They felt that after putting in 23 years of service as salesmen, they could not have been asked to undertake the work of merchandising.

The scheme was discussed in a group meeting with about 50 employees (of similar profile) just prior to the employee taking the step to commit suicide and it was alleged that the deceased was humiliated during the meeting and he felt very bad about it and committed suicide as soon as he came to the hotel room.

Upon the employee committing suicide, his brother lodged an FIR blaming the company and senior officials and alleging that the company and management harassed the employee, thereby abetting the suicide. Police took statements of the colleagues and the wife of the deceased, and on the basis of the statements, the police thought fit to file chargesheet. The filing of the charge-sheet ultimately culminated in the criminal proceedings.

The senior officials and management wanted the criminal proceedings against them to be quashed which was refused by the High Court, and thus the officials approached the Apex Court.

The Supreme Court quashed the petition and specifically stated that it would be an abuse of process of law to put such **senior officials of the company** to trial. The four questions raised by the Apex Court were:

1. On the date of the meeting, i.e., 03.11.2006, did the senior officials create a situation of unbearable harassment or torture, leading the deceased to see suicide as the only escape?
2. Are the senior officials accused of exploiting the emotional vulnerability of the deceased by making him feel worthless or underserving of life leading him to commit suicide?
3. Is it a case of threatening the deceased with dire consequences, such as harm to his family or severe financial ruin to the extent that he believed suicide was the only way out?
4. Is it a case of making false allegations that may have damaged the reputation of the deceased & push him to commit suicide due to public humiliation & loss of dignity.

The Apex Court reiterated that, the offence of abetment needs to be determined on a case to case basis. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behavior and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide and , mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence[9].

As the criteria listed here were not satisfied, and no direct nexus between the role of the senior officials and the employee's suicide was found, the proceedings were quashed.

Case Study II : Employer held liable and causal connection established

In case any employee is injured due to the act of another employee, the employer may be held vicariously liable for negligent acts or omissions by the employee in the course of employment.

In Smt. Dariyao Kanwar & ors. VERSUS M/s United India Insurance Co. Ltd. & anr. [10], the facts of the case are connected to the death of an employee on 15th September 2003, who was engaged as a truck driver in the company. He complained of dizziness while driving the truck and parked his truck in a nearby hotel. He fainted after parking the truck, was taken to the hospital but was declared dead. The prosecution alleged that the death occurred on account of mental stress and strain arising from the prolonged driving. This ground was accepted by the lower court but reversed by the High Court The Supreme Court reiterated the stand taken by the lower court that there was a causal connection to the death of the deceased with that of his employment as a truck driver.

The Court stated that the deceased being a professional heavy vehicle driver when undertakes the job of such driving as his regular avocation, it can be safely held that such constant driving of heavy vehicle, being dependent solely upon his physical and mental resources and endurance, there was every reason to assume that the vocation of driving was a material contributory factor if not the sole cause that accelerated his unexpected death to occur which in all fairness should be held to be an untoward mishap in his lifespan. Such an "untoward mishap" can therefore be reasonably described as an "accident" as having been caused solely attributable to the nature of employment indulged in with his employer which was in the course of such employer's trade or business.

The Court ruled it as a personal injury under section 3 of the Workmen Compensation Act, 1923 that the injury was due to long hours of driving.

[9] Ude Singh & Others v. State of Haryana reported in (2019) 17 SCC 301

[10] Supreme Court: CIVIL APPEAL NO(S). 5416 OF 2012

The Way Forward

Understanding and designing policies keeping employee welfare in mind should be the way forward. It is often seen that companies which go beyond the statutory framework and implement policies for employee benefit have the best teams and last longest. A living example is often quoted of the visionary leader Jamshedji Tata^[11], who offered his people shorter working hours, well-ventilated workplaces, a crèche for young mothers, and provident fund and gratuity long before they became statutory in the West.

To conclude, Dr. Wilona highlights that “organizations need to see beyond compliance and actively work towards creating a workplace where employees feel physically, mentally, and emotionally safe. Prioritizing employee well-being and addressing stress-related concerns with empathy is not just an ethical obligation but a strategic imperative for long-term organizational success.”

She further adds that cultivating a workplace culture rooted in respect, fairness, and open communication helps to proactively identify and address stressors before they escalate into crises. "Empowered, stress-free employees are the backbone of any successful organisation. An organisation must comply to the laws and regulations in terms of letter and spirit.

[11] People First | Tata group

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