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## RESEARCH ARTICLE

### PRECURSORS TO DISCONTENTMENT WITH WORK INJURY BENEFITS AMONG TEA FACTORY EMPLOYEES IN NYAMIRA COUNTY, KENYA

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#### ABSTRACT

Work injury benefits provide financial support to employees who suffer occupational injuries in the course of employment. Work injury compensation is based on the principle of vicarious liability (liability without fault) which provides that victims of occupational injuries are compensated regardless of who is responsible for the accident or injury. This study specifically sought to establish the influence of the mode of payment on displeasure with compensation for job-related injuries. The research adopted a descriptive cross sectional survey design and targeted 741 employees and managers of tea factories managed by the Kenya Tea Development Agency (KTDA) in Nyamira County. Nyamira County was selected due to a relatively high number of injured workers in its tea processing plants who seek the adjudication of courts regarding work injury reparation. The sample size consisted of 254 respondents selected from all the five KTDA factories in Nyamira County, determined according to Krejcie and Morgan (1970) tables of samples. Purposive sampling and proportionate stratified sampling were used to select the study sample. The researcher collected data using questionnaires, interview schedules and focus group discussions. Quantitative data was analyzed using descriptive statistical methods such as means, frequency distribution tables and percentages. Chi-square test of independence was used to determine whether the study's the dependent variable and the independent variable are independent of each other. Data was presented by use of tables, pie charts, histograms, graphs and text. The results of the research revealed that the employee displeasure with compensation for occupational injuries is dependent on the mode of payment of work injury benefits. The study recommends that all payments for occupational injuries be paid in lump sum once the process is concluded.

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## INTRODUCTION

### Statement of the Problem

Work injury benefits, as a form of insurance that provides wage replacement and medical benefits to employees injured in the course of employment, is an important aspect of human resource management and work life in general. Such a scheme provides advantages to employees and employers, because schedules are drawn out to state the amount and forms of compensation to which employees are entitled, if they have sustained the stipulated kinds of injuries. Work injury benefits protects both the employer and the employee from the costs and hardships of employee injury and illness: while the employee receives compensation and medical benefits, the employee signs off on the right to sue the employer, and the employer benefits from immunity from law suits, for the most part. Even though workers' compensation laws are not uniform, a basic requirement in all forms of injury compensations is that workers may not double-dip. An employee who receives workers' compensation may not sue the employer for damages in civil court as well. In fact, workers should not go to courts at all if there is an effective compensation scheme in place, unless they are dissatisfied with the compensation scheme. Employees of tea factories managed by the Kenya Tea Development Agency are discontented with the compensation scheme as currently implemented by the organization. This is evidenced by the number of injured employees who opt to go to court as compared to those who settle for company compensation system.

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But despite this high preference for the arbitration of the courts of law as opposed to being contented with the existing compensation system, the determinants of staff displeasure with injury recompense have not been empirically investigated. The causes of workers' dissatisfaction with the compensation system are therefore unknown. There is therefore need to determine and identify the factors that have led to staff displeasure with the KTDA's work injury compensation system so that they can be addressed to improve the work environment in the company. Without this information, injured employees would continue to move to court leading to wasted man-hours and financial losses inform of costs of litigation.

### Literature Review

Workers' compensation for occupational injuries, also known as work injury benefits, provides cash benefits to employees who are injured on the job. Workers who suffer occupational injuries resulting in permanent disability suffer large and sustained wage losses. Thus, for humanitarian and economic reasons, state laws impose an obligation on employers to supply workers' compensation coverage to employees who suffer personal injury in the course of their employment without regard to fault (Robert, 2008). The benefits are not provided because of liability or negligence on the part of the employer; rather they are provided as a matter of social policy (Aswathappa, 2008). In exchange, employees give up the right to pursue legal actions and awards. Statutory compensation law provides advantages to employees and employers, because schedules are drawn out to state the amount and forms of compensation to which employees are entitled, if they have sustained the stipulated kinds of injuries (Kramer, 2007). This enables employers to buy

insurance against such occurrences. However, as Louis (2009) notes, the specific form of the statutory compensation scheme may also provide detriments. Statutes often award a set amount based on the types of injury, and on the ability of the worker to find employment in a partial capacity: a worker who has lost an arm can still find work as a proportion of a fully able person. Nevertheless, this does not account for the difficulty in finding work suiting disability. Workers' compensation should protect both the employer and the employee from the costs and hardships of occupational injury and illness. While the employee receives compensation and medical benefits, the employee signs off on the right to sue the employer, and the employer benefits from immunity from law suits, for the most part (Olson, 2007; Steinberg, 2006). In the United States of America, according to Whittington (2004), each state has a workers' compensation program that provides cash benefits, medical care, and rehabilitation benefits to workers who are disabled by work-related injuries and diseases as well as survivors' benefits to families of workers who experience workplace fatalities. There are also several federal workers' compensation programs. However, there are no federal standards for state workers' compensation programs, and there are considerable differences among the states in the level of benefits, the coverage of employers and employees, and the rules used to determine which disabled workers are eligible for benefits.

The initial US state workers' compensation programs were enacted in 1911, which makes workmen's compensation (as the program was known until the 1970s) the oldest social insurance program in the U.S. Over the last 100 years, workers' compensation programs have experienced periods of reform and regression. As an example, the level of workers' compensation cash benefits relative to wages deteriorated in most states in the decades after World War II. One consequence of the deterioration in state workers' compensation programs was the creation of the National Commission on State Workmen's Compensation Laws by the Occupational Safety and Health Act of 1970. The National Commission's 1972 *Report* was critical of state workers' compensation programs, describing them as "in general neither adequate nor equitable." The National Commission made 84 recommendations, and described 19 of the recommendations as essential. The reforms in state workers' compensation programs in the next few years were impressive: the average state compliance score with the 19 essential recommendations increased from 6.9 in 1972 to 11.1 in 1976 to 12.0 in 1980 (Robinson et al., 1987). But reform of most state workers' compensation laws then slowed, so that by 2004 (when the U.S. Department of Labour stopped monitoring the states), on average states complied with only 12.8 of the 19 essential recommendations of the National Commission (Whittington, 2004).

In Kenya, the colonial government created the Special Crops Development Authority (SCDA) in 1960 to promote the growing of tea by Africans under the auspices of the Ministry of Agriculture. After Independence, the Kenya Tea Development Authority was formed through legal notice number 42 of 1964 and took over the liabilities and functions of the SCDA to promote and foster the growing of tea in small farms, which were previously said to be unviable in view of the expertise and costs required, as witnessed in the plantation sector (KTDA, 2011). Since then the growing of tea by the small-scale sub-sector in Kenya has carved a niche for itself in the global tea trade. Kenya Tea Development Agency (KTDA) Limited was incorporated on 15<sup>th</sup> June 2000 as a private company becoming one of the largest private tea management agencies. The Agency currently manages 63 factories in the small-scale tea sub-sector in Kenya (KTDA, 2011). KTDA is committed to the production, processing and marketing of high quality tea for the benefit of farmers and other stakeholders. Its key goal is to meet and exceed expectations in providing quality products and associated services (KTDA, 2011). In this endeavour, KTDA is guided by the core values of customer focus, high standards of ethical practices, social responsibility, and equal opportunity employment and team work (KTDA, 2011). One of KTDA's competitive advantages is its human

resources capability that is charged with the responsibility of ensuring that it attracts and retains competent employees for efficiency and quality service. Its total work force is at least 15,871 employees for the various Companies under its management (KTDA, 2011). To maintain a healthy work force, KTDA has a vibrant welfare scheme that includes an effective medical scheme for individual workers and their dependents, and compensation and benefits scheme that develops and implements competitive compensation policies. Nevertheless accidents still occur, and despite the existence of work accident compensation scheme, employees still opt for litigation in courts (KTDA, 2007-2012). The number of accidents, injuries and fatalities reported in the tea factories in Nyamira County calls for improvements in accident and injury preventive measures to augment safety. According to Dessler (2008) courts have recognized that it is impossible to totally eliminate hazards and hazardous conduct by employees. Given that the scope of occupational hazards remains awesome and unrecognized (Shaw, 2002), there is continuous need to improve injury preventive measures and hazard elimination strategies so as to reduce workplace injuries. Several factors are suspected to cause dissatisfaction with compensation schemes around the world. For instance, when new forms of workplace injuries such as stress, repetitive strain injury, silicosis are discovered, the law often lags behind actual injury and offers no suitable compensation, forcing the employer and employee back to the courts (although in common-law jurisdictions these are usually one-off instances (Olson, 2007). A state may legislate the value of total spinal incapacity at far below the amount required to keep a worker in reasonable living conditions for the remainder of his life (Louis, 2009). But as Olson (2007) points out, the same physical loss may have a markedly different impact on the earning capacity of individuals in different professions.

ILO/SAMAT (2010) avers that while injury benefit types are broadly similar in Southern Africa countries, the mode of payment varies significantly depending on whether the scheme is organized as a social insurance fund or based on individual employer liability. The five countries with individual employer liability schemes provide compensation as a lump-sum, whereas the six countries with social insurance provide a combination of periodic payments for severe disabilities and lump sums for more minor ones. For example, Botswana (individual employer liability) provides a lump sum equal to five years remuneration for permanent incapacity and four years remuneration for death. Swaziland (also individual employer liability) provides a lump-sum equal to the percentage of disability multiplied by four and a half years of earnings. Namibia, South Africa, and Zimbabwe (all social insurance) provide lump sums for permanent partial disabilities of less than 30 percent but a monthly pension for those which equal or exceed 30 percent. Zambia (also social insurance) follows the same principle but sets the ceiling for a lump-sum payment considerably lower, at ten percent disability (ILO/SAMAT, 2010). In most of the countries which provide lump-sum payments, scheme administrators cite anecdotal evidence that these amounts are exhausted rapidly by workers. They describe cases in which injured workers or their families have returned to the Labour Ministry after exhausting a payment to seek additional assistance, to be informed that none is available. Most of the schemes which are contemplating conversion to social insurance describe such cases as a major motivating factor (ILO/SAMAT, 2010).

### Objective of the Study

Specifically the study sought to:

1. Establish the influence of the mode of payment on dissatisfaction with compensation for occupational injuries among tea factory employees in Nyamira County, Kenya.

### Research Hypothesis

This study was guided by the following hypothesis:

- H<sub>01</sub>:** Mode of payment is not a significant determinant of dissatisfaction with compensation for occupational injuries.

## METHODS AND MATERIALS

### Research Design

A research design is the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to the research purpose with economy in procedure (Kothari, 1990). This study adopted a descriptive cross sectional design.

### Study Area

The study area was Nyamira County which has five tea factories managed by Kenya Tea Development Agency (KTDA). Nyamira County was selected due to relatively high incidences of occupational injuries reported in its tea factories as recorded in the factories' accident registers. Tea factories in the aforementioned County have reported a high number of employees seeking the arbitration of courts concerning work injury compensation compared to other regions (Factories' Workmen Compensation Files, 2007-2012). This scenario provides a ground for investigating the determinants of dissatisfaction with compensation for occupational injuries among employees of tea factories in Kenya.

### Target Population

This study targeted all the 741 employees of the five KTDA managed tea factories in Nyamira County (KTDA Monthly Returns, November 2011) and the Occupational Safety and Health Officer in charge of the area under study.

### Sampling Techniques

Proportionate stratified random sampling and purposive sampling were used to select the study sample. Stratified random sampling ensured tea factory employees of all the cadres, categories and departments were represented. Members represented in the sample from each stratum were proportionate to the total number of elements in the respective strata. This ensured that each sub group characteristic was represented in the sample. The Occupational Safety and Health Officer in charge of the area under study was purposively sampled due to the information he had by virtue of the position he held.

### Sample Size

The sample size consisted of 254 respondents selected from all the 5 KTDA managed tea factories in Nyamira County, determined according to Krejcie and Morgan (1970) tables of samples. The sample was distributed among the various cadres of employees and managers of KTDA factories in Nyamira County.

### Research Instruments

Primary data was collected using questionnaires, interview schedules and focus group discussions. Questionnaires were administered on non-managerial staff of the five tea factories under study. To obtain raw data from managers, shop floor supervisors, section heads and the Occupational Safety and Health officer, the researcher used face to face interviews. In each factory, a focus group panel comprising six respondents was constituted. It was led by the facilitator who guided the group in exchange of ideas and experiences on determinants of dissatisfaction with employee compensation for occupational injuries.

### Methods of Data Analysis

In this study, data was collected, edited, coded, tabulated and analyzed. Descriptive statistical methods and inferential statistics were used to analyze quantitative data. Data was analyzed using percentages, frequencies and chi-square techniques. To determine whether the study's categorical variables are independent of each other, the researcher used chi-square test of independence. The test discloses whether there is any association or relationship between the dependent variable and the independent variable. If there was no

association or relationship between the independent variable (mode of payment) and the dependent variable (dissatisfaction with compensation for occupational injuries); the variables could be assumed to be independent. The researcher tested the null hypotheses that:

**H<sub>01</sub>:** Employees' dissatisfaction with work injury compensation is not dependent on the mode of payment for work injury compensation used in KTDA factories in Nyamira County.

## RESULTS

### Measurements

Data on mode of payment for work injury compensation were collected on the number of employees who were paid by installments or by lump sum. Data was scored on a range of 3-15 (or 20%-100%) and rated such that scores of between 20.0% - 46.0% were rated as poor and coded 3, scores of between 47.0% - 73.0% were rated as moderate and coded 2, while scores of more than 74.0% were rated as good and coded 1. Data on caps on disabilities was collected on the amount of money paid to employees who sustained no disability, partial disability, permanent disability, and death. Data on caps of cadre of employees were collected on the money paid to unionisable employees, managerial employees and casual employees for each type of injury. Data on caps on value of disabilities and data on caps on cadres were scored on a range of 3-15 (or 20%-100%) and rated such that scores of between 20.0% - 46.0% were rated as poor and coded 3, scores of between 47.0% - 73.0% were rated as moderate and coded 2, while scores of more than 74.0% were rated as good and coded 1. Data on employee dissatisfaction with injury compensation that is characterized by the desire of injured employees to opt for court settlements instead of company compensation system was collected. The data was scored on a range of 4-20 (or 20%-100%) and rated such that scores of between 20.0% - 46.0% were rated as poor and coded 3, scores of between 47.0% - 73.0% were rated as moderate and coded 2, while scores of more than 74.0% were rated as good and coded 1. The measurement scales described above are summarized in Table 4.2.5.

Table 4.2.5. Measurement of Variables

		Scores/Code		
Variable		3	2	1
Duration of Payment	Raw score	3-6	7-10	11-15
	Percent	20-46	47-73	74-100
Mode of Payment	Raw score	3-6	7-10	11-15
	Percent	20-46	47-73	74-100
Caps on Disability	Raw score	4-8	9-13	14-20
	Percent	20-46	47-73	74-100
Caps on Cadres	Raw score	3-6	7-10	11-15
	Percent	20-46	47-73	74-100
Dissatisfaction	Raw score	4-8	9-13	14-20
	Percent	20-46	47-73	74-100

### Mode of Payment and Employee' Dissatisfaction with Work Injury Compensation

The objective of this study was to determine the relationship between mode of payment for work injury compensation and employees' dissatisfaction with work injury compensation in KTDA factories in Nyamira Country. Data on mode of payment for work injury compensation were collected on the number of injured workers who were paid by installments, or by lump sum. Data was scored on a scale of 3-15 and converted into a percentage scale of 20.0% - 100.0%, and rated such that scores of between 20.0% - 46.0% were rated as poor and coded 3, scores of between 47.0% - 73.0% were rated as moderate and coded 2, while scores of more than 74.0% were rated as good and coded 1, as shown in Table 4.2.5. The average dissatisfactions of employees who rated mode of payment for work injury compensation as good, moderate or poor were compared as summarized in Table 4.2.10.

**Table 4.2.10. Dissatisfaction with Work Injuries' Compensation based on Mode on Payment**

		Mean Dissatisfaction (%)	N	Percent- N	Stdv.
Mode of Payment	Poor	65.24	103	44.70	15.30
	Moderate	62.56	36	15.62	14.42
	Good	61.77	91	39.49	15.16
	Total	63.45	230	100.00	15.14

Note. N = number of employee; stdv = standard deviation.

Table 4.2.10 shows that employees who rated mode of payment for work injury compensation as poor had a high degree of dissatisfaction (65.24%; stdv = 15.38) than employees who rated mode of payment for work injury compensation as moderate (62.56%; stdv = 15.62), and employees who rated mode of payment for work injury compensation as good (61.77%; stdv = 15.16). Further, Table 4.2.10 shows that most respondents (44.70%) rated the mode of payment for work injury compensation as poor while 39.49% of respondents rated the mode of payment for work injury compensation as good. Another 15.62% of the respondents rated the mode of payment for work injury compensation as moderate. The information in Table 4.2.10 seems to indicate that employee' dissatisfaction with work injury compensation is dependent on the mode of payment for work injury compensation as there is a clear order of increasing dissatisfaction as the rating of mode of payment for work injury compensation changes between poor to good through moderate. Hence it can be deduced from these results that employee compensation is dependent of the mode of payment for work injury compensation. The number of employees with different degrees of dissatisfaction was compared against the number of employees who rated the mode of payment for work injury compensation as good, moderate or poor. The results of the analysis are summarized in Table 4.2.11.

**Table 4.2.11. Distribution of Employees by Mode of Payment and Degree of Dissatisfaction**

		Status of Dissatisfaction				
			High	Moderate	Low	Total
Mode of Payment	Poor	f	15	52	36	103
		p	6.5	22.6	15.7	44.8
	Moderate	f	5	24	7	36
		p	2.2	10.4	3.0	15.7
	Good	f	19	49	23	91
		p	8.3	21.3	10.0	39.6
Total		f	39	125	66	230
		p	17.0	54.3	28.7	100.0

Note. f = number of respondents; p = percentage of respondents.

Table 4.2.11 shows that 36 (15.7%) of the respondents rated the mode of payment for work injury compensation as poor and had low levels of dissatisfaction with compensation for work injuries while 23 (10.0%) of the respondents who rated the mode of payment for work injury compensation as good also had low dissatisfaction with compensation for work injuries. But while 15 (6.5%) of the respondents who rated mode of payment for work injury compensation as poor had high dissatisfaction with compensation for work injuries, 19 (8.3%) of the respondents who rated the mode of payment for work injury compensation as good had high dissatisfaction with compensation for work injuries. These results seem to contradict the findings in Table 4.2.10 since most people who rated mode of payment for work injury compensation as poor had low dissatisfaction, while it was expected that good rating of mode of payment for work injury compensation be accompanied by low dissatisfaction and vice versa. The data in Table 4.2.11 was further tested using chi square to determine if there was a significant relationship between mode of payment for work injury compensation and employees' dissatisfaction with work injury compensation in KTDA factories in Nyamira County. The data was tested under the hypothesis that employees' dissatisfaction with work injury compensation is independent of mode of payment.

$H_{01}$ : Employees' dissatisfaction with work injury compensation is independent of mode of payment for work injury compensation used in KTDA factories in Nyamira County.

The results of the analysis are summarized in Table 4.2.12.

**Table 4.2.12. Chi Square results for Dissatisfaction with Work Injury Compensation and mode of Payment**

Variable	N	df	$\chi_o^2$	$\chi_c^2$	$\alpha$	Decision
Mode of Payment and Dissatisfaction	230	4	15.5	9.4	.02	Reject $H_0$

Note. N = number of respondents; df = degrees of freedom;  $\alpha$  = probability;  $\chi_o^2$  = calculated chi value;  $\chi_c^2$  = table chi value.

Table 4.2.12 shows that there is a significant difference in the number of employees with different degrees of dissatisfaction based on different rating of mode of payment. This is because  $\chi_o^2 = 15.515 > \chi_c^2 = 9.488$ ; and  $\alpha = .023 < .05$ . These led to the rejection of the null hypothesis. This confirms the findings suggested by the results in Tables 4.2.10, which were somehow disputed the findings in Table 4.2.11; but which have not been sustained since they have been rejected through a hypothesis test. The study therefore established that employees' dissatisfaction with work injury compensation is dependent on the mode of payment for work injury compensation used in KTDA factories in Nyamira County. This means that mode of payment for work injury compensation is one of the factors that cause dissatisfaction with work injury compensation among the employees of KTDA factories in Nyamira County. Hence employees are concerned about whether they are paid by installments, or in lump sum.

## DISCUSSION

The study findings established that employees' dissatisfaction with work injury compensation is dependent on the mode of payment for work injury compensation used in KTDA factories in Nyamira County. Thus employees are concerned about whether they are paid by installments, or in lump sums. It is worth noting that the mode of payment usually adopted by the Directorate Occupational Safety Health Services and KTDA's insurer are those stipulated by the International Labour Organization convention (1964). The ILO C121 Employee Injury Benefits convention lays out the principles concerning the method of compensation payment. That is, periodical payment in case of death of the breadwinner or permanent total loss of earning capacity. The convention states that lump-sum payment may be considered only: if partial loss of capacity is not substantial; if lump-sum payment is considered particularly advantageous for the injured person; if the country lacks administrative facilities for periodical payment; and in exceptional circumstances, if the injured person prefers lump-sum payment. The ILO convention No. 121 further provides for flexibility in periodical payments to permit changes in the amounts and conditions of payment. Incrementals in periodical payments are provided if the disabled persons require constant help or attendance of another person. The condition of periodic payment can be reviewed, suspended or cancelled depending on the changes in the degree of working capacity or substantial changes in the cost of living (ILO, 1964).

Majority of the interviewees in this study attributed the continued escalation of court cases concerning reparation for work-related injuries to ambulance chasers (advocates). They noted that advocates induce victims of occupational injuries to seek compensation through the court option. While they feign to be driven by the welfare of the injured workers, according to some key informants, the advocates were motivated by their own selfish desire to make money through charging the claimants legal fees. It was reported that in some cases compensation benefits that courts awarded victims could be withheld by their legal representatives for some time. While the company's insurer made the payment in lump sum, the legal representatives paid the beneficiaries in installments in some cases. Sometimes the

beneficiaries could lose a portion of their benefits which was used to settle legal fees. According to the study respondents, legal representatives sometimes overcharge their clients legal fee. This further lowers the victims' total compensation package. Beneficiaries of work injury benefits may fail to invest the sum of money received. The money may be utilized to meet the unlimited needs of their families. Most of the beneficiaries are low cadre employees who provide manual labour, operate or work with machines. Given the recent inflation rates in Kenya, the compensation sum may be quickly exhausted. According to ILO/SAMAT (2010), in most of the countries which provide lump-sum payments, scheme administrators cite anecdotal evidence that these amounts are exhausted rapidly by workers. They describe cases in which injured workers or their families have returned to the Labour Ministry after exhausting a payment to seek additional assistance, to be informed that none is available. Most of the schemes which are contemplating conversion to social insurance describe such cases as a major motivating factor (ILO/SAMAT, 2010). The fact that annual inflation rates are not factored in during the determination of work injury benefits, may add to the inadequacy of the magnitude of compensation.

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