

The concept of disability insurance in Algerian law

تحديد مفهوم التأمين عن العجز في القانون الجزائري

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Abstract:

A person may be exposed in his life to risks that threaten his being, affect his daily income, and cause him to lose his source of livelihood.

This health condition falls within the scope of diseases determined by the legislator, which is the state of disability that limits the ability of the employee or self-employed worker to perform his work normally.

Disability cases vary according to the different social security systems (public system, self-employed system), and the disability cases applicable to the category of workers and employees constitute the first and second categories (the general system while the third category applies to the self-employed), the law requires that the disability be total and permanent.

Keywords: types of disability; health risks; social security.

الملخص:

قد يتعرض الشخص في حياته لمخاطر تهدد كيانه، وتؤثر على دخله اليومي، وتتسبب في فقدانه لمصدر رزقه. تقع هذه الحالة الصحية في نطاق الأمراض إلي يحددها المشرع، وهي حالة العجز التي تحد من قدرة الموظف أو العامل لحسابه الخاص على أداء عمله بشكل طبيعي.

تختلف حالات العجز باختلاف أنظمة الضمان الاجتماعي (نظام عام، نظام للعاملين لحسابهم الخاص)، وتشكل حالات العجز المطبقة على فئة العمال والموظفين الفئتين الأولى والثانية (النظام العام بينما تنطبق الفئة الثالثة على العاملين لحسابهم الخاص)، يشترط القانون أن يكون العجز كلياً ودائماً.

الكلمات المفتاحية: أنواع العجز؛ المخاطر الصحية؛ الضمان الاجتماعي.

The first axis: the nature of disability

Disability is a condition that leads to the loss of earning capacity, so that the disabled person and his family are exposed to destitution and need due to his interruption of work and deprivation of his income and source of livelihood.

A person is considered in a state of disability when his condition stabilizes, and there is no development and the period of stability of the disability is prolonged, so most legislation goes to consider a person in a state of inability to work at the end of a period of time.

The Algerian legislator has adopted the same approach, since the state of disability is assessed at the end of the period during which the insured benefits from cash payments under sickness insurance.

Disability is a condition that affects a person in his physical integrity and affects his physical strength, and the extent of disability is estimated by tables to determine the physical injury and the percentage of disability corresponding to it.

The Algerian legislator refers to disability as "a situation that reduces at least half of the capacity of the insured so that he is unable to obtain in any profession a wage exceeding half the wage of a worker of the same category in the profession he was practising, whether on the date of the treatment he received or on the date of the medical examination of the accident".

First: Linguistic Definition

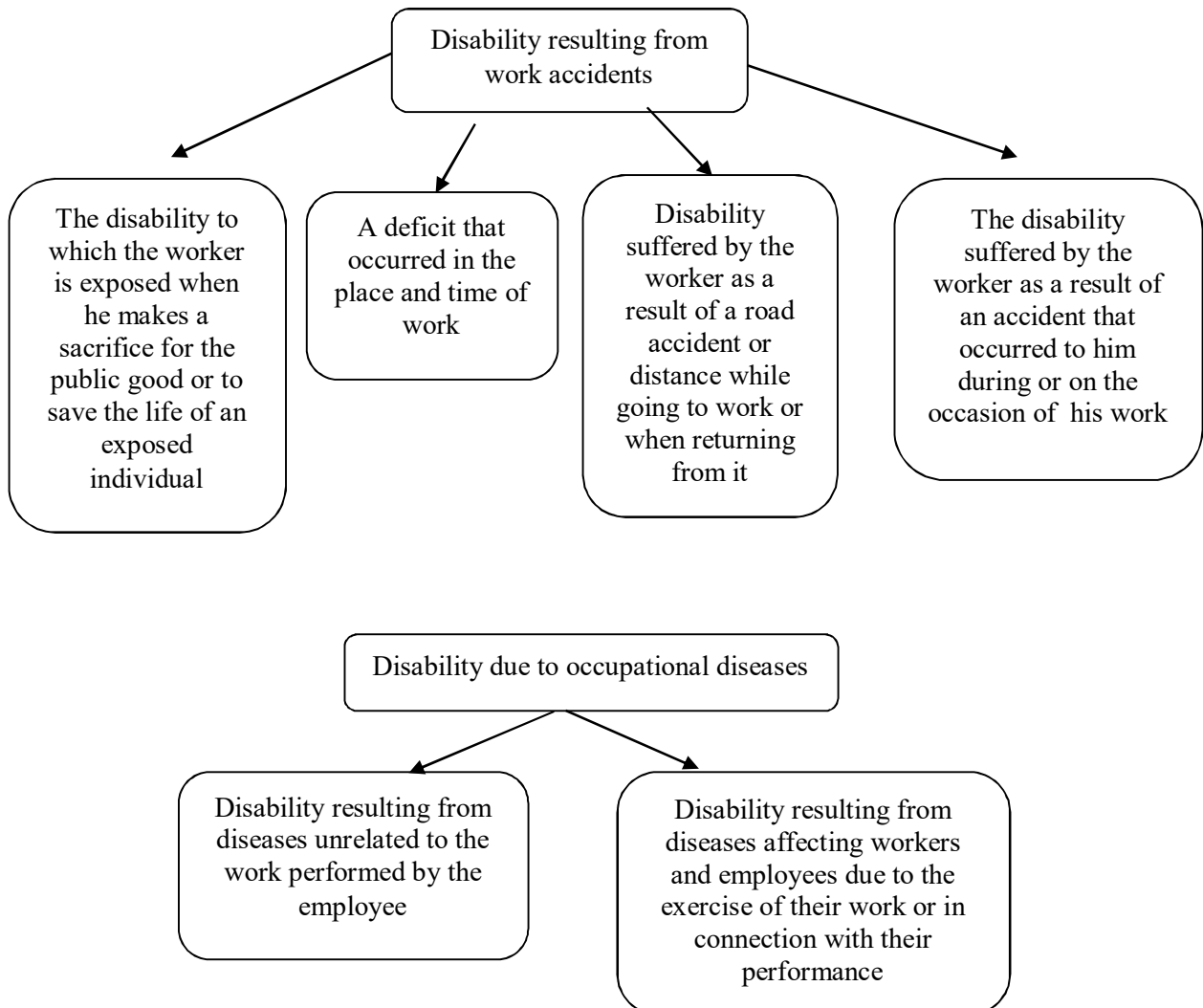
Disability in arabic is the opposite of determination.

Disability refers to inability to do something, weakness of a person,

Disability to work: working capacity is reduced.

Example: A woman's disability: she grew old.

The reasons for disability are as follows:



Secondly: Definition of Medical Disability

Deficit in the medical concept: "A health condition or illness that affects a person in his physical integrity, affecting his physical strength and hindering him from carrying out work permanently or temporarily."

The medical dictionary defined it as: "Any person who is unable to engage in a normal professional activity due to illness, accident or disability."

Thirdly: Definition of disability legally

Disability is defined in the legal terminological concept: "inability to work, which is a condition that results in a person's entitlement to compensation on the shoulders of specialized guarantee funds", and disability is that illness that loses the injured person the way to earn in general and reduces his ability to work.

The Algerian legislator, in order to protect this category, has issued laws to cover these laws by benefiting from in-kind and monetary payments when they stop practicing work or activity.

« Invalidity is defined as the condition of a natural person who is reduced in his capacity to work as a result of an accident at work or a non-occupational disease and which makes it possible to allocate social insurance coverage to the insured person by the social security institution».

Batna University Hospital Center



The second axis: Forms of disability, its classification and assessment in the Algerian Social Insurance Law

Section I: Forms of Disability

There are many forms of disability in the Algerian social security law, and the social insurance legislation differentiates between:

as follows: {
Total disability
Partial disability

1- Total disability: total or permanent

It is the disability that permanently prevents the insured from practicing any profession from which he receives income. Total disability leads to the loss of the insured ability to earn, and it also means the injury of one of the mental or psychological diseases or incurable chronic diseases that are determined by regulation, and the entitlement to the total disability pension is required that no other work of the worker is proved.

2- Partial disability (non-permanent):

This type of disability results in the inability of the worker to work, as it is a disability that weakens the worker's production, and the difference between permanent disability and partial disability is due to the limited ability of the injured worker to work part-time.

Section II: Classification and Assessment of Disability

The Algerian legislator classified disability into three categories, based on the amount of the pension granted to the incapacitated insured is estimated, with reference to the text of article 36 of the aforementioned Law 83/11.

Table showing the types of disability in light of the Social Insurance Law

Legal basis	Disability rate	Disability	Category
According to social security laws	60% of the average annual wage subject to deduction	The percentage of incapacity for work reaches less than half and the incapacitated is unable to wage work	Category 1
According to social security laws	80% of the average annual wage subject to deduction	A helpless person can never do paid work.	Category 2
According to social security laws	80% of the average annual wage subject to deduction, plus 40% for the assistant person	The disabled cannot practice any activity and needs the help of others to do daily chores	Category 3

Category 3	Category 2	Category 1
Falls into this category every person who is absolutely impossible to carry out any paid activity and needs the help of others to carry out daily and necessary work	Any person who is unable to perform any paid work falls into this category.	This category includes disabled persons whose ability to work is half possible.

Artificial Orthopedic Center Indecapia Setif



The percentage of disability is estimated by the treating physician (general health condition, age, ability of the insured to work, mental and physical strengths, qualifications...).

The state of disability shall be assessed without distinction between illness or work accident that caused such disability, even if these factors or some of them precede the date from which the right to disability insurance begins.

Third Theme: Conditions for benefiting from the due payments from disability risk insurance

There are conditions required by law in order for the insured to benefit from disability risk insurance, and with reference to the Algerian Insurance Law to be entitled to disability pension, some conditions must be met, mainly represented in:

General conditions: mainly represented in:

- a. Affiliation with one of the social security funds, i.e. the incapacitated person has the capacity of (insured) in addition to paying annual contributions regulated by law.
- b. Mandatory medical observation.
- c. The condition of the period of work specified by law.
- d. Non-combination of performances.

Practicing the professional activity in order for the insured to obtain a disability pension to prove on the date of inspection that he is practicing a professional activity that entitles him to the right to receive a wage.

Special conditions:

A-The deficit must go to half the worker's ability to work, i. e. 50%.

B- Age requirement, the application for disability pension shall not be accepted unless the socially insured has not reached the age of retirement.

C- The insured undergoes the examinations required by the social security authorities.

D- The insured shall not engage in any paid or unpaid activity for the second and third categories.

E-The disability suffered by the insured shall not be the result of illness, beatings and physical wounds subject to special legislation.

For unpaid workers, the socially insured is required to benefit from the disability pension to be exposed to a total and final disability that makes him absolutely unable to practice any professional activity and the pension is calculated on the basis of 80% of the annual income subject to the requirement of tax on income declared by the insured.

The amount of the pension may also be reviewed according to the development of the health condition of the insured and the change in the state of disability, so the social security bodies may review the amount of the pension by adjusting it or raising its value if it is found that his health condition has changed according to medical examinations, whether by recovery or relapse.

It may also suspend its payment if it is proved that the beneficiary's ability to work exceeds 50%, and the right to retain the disability pension shall be forfeited in the case of practicing a professional activity, as the disability benefits paid to social insurers of the second and third categories shall be canceled at the end of the month of entitlement practiced during the paid or unpaid activity.

As for the benefit of the category of unpaid workers from the payments due for disability insurance, they are mainly represented in:

- The unpaid worker suffers a total and final disability (class 3).
- A period of 06 months must elapse from the date of the first medical examination.
- He must not have reached the age that entitles him to retirement.
- The applicant must be registered for at least one year at the date of the first medical examination.



The fourth theme: Causes of disability:

The inability to work is the result of a long-term illness, an accident at work or an occupational disease

1- **for long-term illness:** The Algerian legislature has imposed two conditions; the first is to account for long-term diseases represented by two conditions.



The first condition: Neurological and psychological diseases, cancer, blood diseases, lymphatic abscess, malignant hypertension, cardiovascular diseases, muscular diseases, brain diseases, kidney disease, chronic inflammatory joint diseases, serious leg polio.

The second condition is to determine its maximum duration (03 years) based on Article 16 of the aforementioned Law No. 83/11.

2- **Disability resulting from an occupational accident or illness:** It is defined as: “Every accident that results in a physical injury resulting from a sudden and external cause that occurs in an accident outside the workplace or the so-called track accident or that occurs between the workplace and the place of work”.

As far as occupational diseases are concerned, I consider them: “Those diseases resulting from poisoning, rotting and illness caused by an occupational source”.

The fifth pillar: Disability insurance procedures

The declaration of an accident is the first action taken by an employee in the event of a work accident; The Algerian legislature has set out the measures to be taken in the event of a work accident, whether occurring at or outside the workplace, such as road injuries or injuries during the period of assignment: “the work accident must be declared by the injured person or on his behalf to the employer within 24 hours, except in cases of force majeure and holidays are not counted”, the employer as of the date of receipt of the incident to his work for the Social Security Authority within 48 hours and the working days are not counted. the Social Security Authority shall inform the labor inspector supervising the institution or the employee exercising his powers with special urgency.

First, the work accident is authorized by the injured

The victim must declare the accident to the employer within 24 hours of the date of the accident except in cases of force majeure according to Article 13 of the Law 83/11, the legislator excludes the event of the coincidence of the accident with the arrival of a holiday.

The permit method is personal if the accident occurs at the workplace, while in other cases, such as outside the workplace, the permit is either written notice or a letter of guaranteed access.



Second: The declaration of the work accident by the employer

Article 13/02 of Law 83/11: “The employer shall declare the accident to the Social Security Authority within 48 hours from the date of receipt of the report to his place of work without counting the holidays”.

For its part, the Social Security Authority shall immediately notify the labor inspector supervising the institution or the employee exercising his powers under special legislation. In the event of failure to permit within the time limits, the injured person, his or her rights holders, the trade union organization or the labor inspectorate may permit the work accident to be declared within 40 years from the date of the accident, in accordance with article 14 of Law No. 83/13.

Third: Authorization of the work accident by the Social Security Authority

Article 13/3 of Law No. 83/13 stipulates that: “The work accident must be declared by the Social Security Authority immediately to the labor inspector supervising the institution or to the employee exercising his powers under special legislation”.

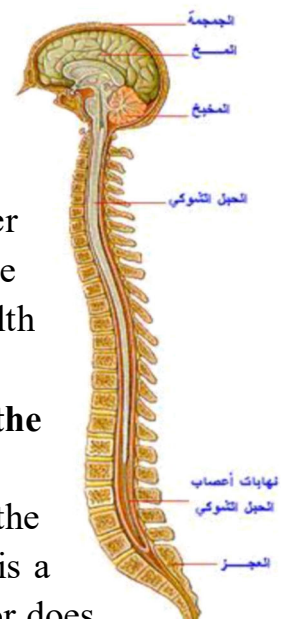
The Social Security Authority has the power to declare an accident at work, as the employer failed to perform his duty to declare the work accident, the injured person submits the work accident to the Social Security Authority, which in turn investigates and interrogates the incident.

The sixth pillar: Assessment of the deficit

The disability is assessed by a attending physician, and after the expiry of the period of insurance compensation for the disease, the disease is estimated based on the patient's health condition.

Section I: Assessment of disability after completion of the period of sickness insurance

The assessment of the disability is made after the expiry of the period of compensation for the sickness insurance , whether it is a short-term holiday or a long-term holiday, the Algerian legislator does not assess the disability pension until a period of time has elapsed during which sickness insurance payments or compensation are granted. The Social Security Authority automatically considers the rights arising from disability insurance without the insurer submitting the application. This is based on article 35 of Law 83/11.



Section II: The basis for calculating the disability pension

The disability pension payable to the insured is calculated on the basis of remuneration and is calculated by reference to:

- The last annual salary received and subject to social security contributions.
- With regard to the average annual wage during the 30 years most advantageous to the insured during his life, and when the beneficiary has completed the 30 years of disability insurance, the disability pension is calculated, the average annual wage is calculated appropriate for the periods of work performed.

Conclusion:

Social insurance is a compulsory system for taxpayers and members of social security bodies, and the management of this system and the management of its expenses are based on State bodies whose main objective is to achieve the public benefit, which is primarily represented in achieving economic and social security for those subject to the provisions of this law.

Social security legislation makes membership compulsory in order to benefit from the benefits provided by these bodies in terms of in-kind and monetary performances, in addition to covering some risks that threaten the life of the person in his being and health (illness, death, disability, old age, ...).

Thus, the main objective of social insurance in general is to ensure an adequate standard of living for the socially insured and for his family when he loses the ability to earn.

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