

Comparison Of Occupational Accident Compensation According Status Quo Between East Java, Indonesia And Western Australia

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ABSTRACT: Occupational safety and health is one of the important factors that can affect employees' productivity. Risk of accidents and occupational diseases often occur because the occupational safety and health program is not performing properly which can have an impact on the level of employees' productivity. The aims of the research were to analysis compensation of occupational accident based on Status quo and its comparison in between East Java, Indonesia and Western Australia. The research methodology selected for this occupational accident compensation investigation comprised a comprehensive literature review, primary data taken from social security company in Indonesia and national agency of occupational health and safety and compensation in Western Australia, a statistical analysis of the comparative data, and exploration of occupational accident management in Indonesia and in Western Australia. Based on data that analyzed will be resulted determination of feasible management point could enact to vary of occupational accident compensation in Indonesia.

Keywords: Occupational Accident; Compensation; Comparison.

1 INTRODUCTION

In last three years, occupational accident in Indonesia increasing alarmingly. This is especially true in developing countries. Work related accident causes a considerable number of problems. In fact, for the company itself, there was absolutely downward productivity raised because of occupational accident. In Indonesia, incidents numbers of occupational hazards affecting workers were developed. Unfortunately, work related accidents occurred rapidly, even though the government had taken some formally activities in order to promotes health and safety in workplace. In fact, banner campaigns for safety and holding some symposiums and seminars regarding occupational health and safety. However, this issue had been trending in mass media for many times and emphasize amount of occupational accident cases are raising steadily. Moreover, victims of workplace accidents in Indonesia have not fully protected, especially for compensation.

sequences, inasmuch as they affect the income which will take the place of the salary. There is no doubt that part of the overall costs of an accident must, except in very favorable circumstances, be borne directly by the victims. The bar chart in figure 2, illustrates the comparison of workers in Indonesia by active status that registered in BPJS Ketenagakerjaan from 2009 to 2013. It is measured in real number. Overall, it can be seen that active employees increased, but non active employees remained at a higher rate throughout this time even decreased in last two years. At the beginning of the period, in 2009, the workers accounted for 8.5 million active in company, whereas non active workers exceeded at this initial time, at just over 20 million. Over the next two years, the form of levels became a bit similar, with both components increasing around 20 per cent. However, numbers of non active workers reach the peak point at over 24 million in 2011 and claimed as the highest number of workers status, and got fluctuated in 2012 to 2013, decreased to 18 million and increased until 20 million eventually. Non active employees were still higher overall, and became a bit serious problem in Indonesia at that time. However, over the following four years, the patterns of the two components were noticeably different. The numbers of active workers from 2009 increased quite sharply to 13 million in 2013, while the non active workers stayed nearly the same, increasing to only 4 million differences from 2009 to 2011, and decrease averagely 3 millions from the peak.

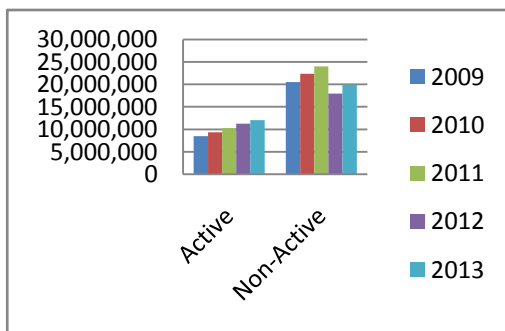
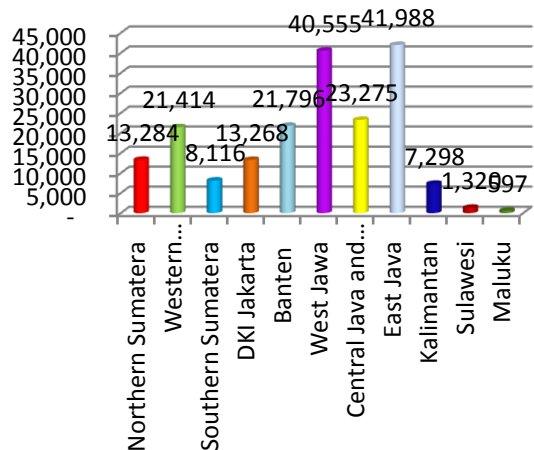


Figure 1. Chart of Employment rates by active workers in Indonesia

Workers who become victims of accidents frequently receive compensation or allowances both in cash and in kind. Although these do not affect the intangible consequences of the accident (except in exceptional circumstances), they constitute a more or less important part of the material con-



At the end of the period, the number of non active workers in 5 years was almost twice that of active workers. Figure 2. Stats of occupational accidents in Indonesia Based on data from BPJS Ketenagakerjaan, East Java was claimed as the region with the highest number of occupational accident among 11 regions in Indonesia. Moreover, East Java is also one of the provinces in Indonesia densely populated and growing every year. The number of people registered in the province of East Java in 2010 amounted to 37,476 million (BPS, 2010). Conditions of employment in East Java influenced various factors, such as level of education, opportunities employment, number of companies, and the investment level of each area. Moreover, also look at the economic circumstances of each area. Because each region has the ability to develop the potential of the existing sectors typically absorb sizeable workforce is the industrial sector, the trade, hotels, and restaurants (restaurant). Based on data from BPS-Statistics Indonesia, number of the job seekers in 2012 was 815,221 people, or increased by 4,72 percents compared with in 2011. 474,989 people have been placed in work. Number of foreign workers, who have job permit in 2012, was 1,473 people, or increased by 3,80 percents compared with in the previous year. There is a considerable number of issues related to occupational health and safety system in Indonesia, such as unprotected workers exposed to toxic and hazardous materials in production process, weak law enforcement of existing regulations, and lack of inspection by government officials, which have remained mostly unattended. There is no significant breakthrough to improve the safety of the workers. Every year the number of work-accidents in Indonesia remains very high causing disabilities and deaths. This perpetuates the disturbing image that the workplace is a killing field where workers are slaughtered gradually. For instance, in the Mining sector, workers are exposed to many occupational hazards. Hazard identification and assessment, as a structured and systematic procedure, although it is obligatory by law in Indonesia, does not take place in mining sites as it already is in other workplaces. Occupational health and safety is one aspect of labor protections that set forth in one of Indonesian Law. Although the provisions on occupational health and safety has been arranged in such a way, but in practice in Indonesia is not as expected. There are so many factors that affect the field

occupational health and safety such as human factors, environmental and psychological. There are still many companies that do not meet health and safety standards. Nowadays, there are so many accidents news that still reported. Overcoming this problem, there's need one goal to improving quality life of labor, that is provides skilled treatment to help individuals achieve and maintain independence in all facets of their lives, so that it could improves their productivity and indirectly it will increasing performance indicators of the company, and in general it can increase national productivity and infrastructure for better dynamic economic development.

2 MATTER AND METHOD

Variables

For this purpose, variable data will be concerned in case types, liability fund of compensation and coverage benefits of compensation, while exclusively, data will be taken on gender and age of occupational accident victim, accident location, and time of accident.

Data

Data will be collected from Indonesia National Agency of Social Security on Employment, regional office in East Java, Indonesia and WorkSafe and WorkCover Western Australia. The data will be elaborated with comprehensive study literature regarding management of occupational accident compensation in Western Australian and East Java, Indonesia. As the inclusive variable case types of occupational accident, such as the number of cured cases, partial disables, function disable, total disables or permanent incapacity to work and the number of fatal occupational injuries in each region of country are derived from official sources.

Objective and Methods

This explanatory research aimed to determine the comparison of occupational accident compensation in Indonesia, (East Java) and Australia (Western Australia) through the managerial approaching prior to get compensation indicators. The data used are secondary data obtained from Indonesia National Agency of Social Security on Employment, regional office in East Java, Indonesia and WorkCover Western Australia, and technically, these are kind of managerial disclosure of social security, especially compensation for occupational accident in both countries period 2009-2013. The sampling method employed was purposive sampling method. The selection criteria for the sample as follow:

1. Numbers of case and type of accident case involves in incident rates and accident frequency rate for 2009-2013.
2. Proportion of total occupational accident claim payments in 2009-2013.
3. The amount of liability fund in 2009-2013.
4. Coverage benefits for occupational accident victims in 2009-2013.
5. The number of companies and active workers, registered in Ministry of manpower and transmigration in East Java, Indonesia National Agency of Social Security on Employment (BPJS Ketenagakerjaan), regional

office in East Java, Indonesia and WorkCover Western Australia, in 2009-2013.

The data will be taken with a 5-year observation. In addition, the analytical method used is path analysis, using relationship models such as the following:

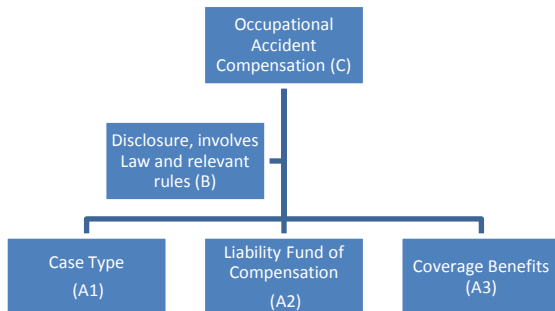


Figure 3. Diagram of Research Theoretical Model

4 RESULT AND DISCUSSION

Result and Discussion

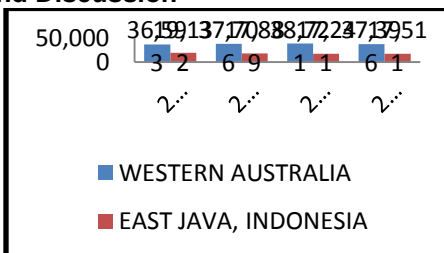


Figure 4. Number of Occupational Accident Cases

The graphs compares number of accidental cases related work and the percentages of claim payment as the liability fund towards the work incidents. Both these charts provide information about the difference claim activities in East Ja-

va, Indonesia and Western Australia. Overall, claim activities in Australia tend to be more aggressive than recently happened in Indonesia during 2009 through 2013. For instance, number of work related accidents in Australia respectively higher than Indonesia. The highest point of accident cases in Australia was reached in 2012/2013, as 38.721 cases. It is not a significant number if we look forward with in last five years in Australia. From the beginning time in 2009/2010, data showed there were around 1.000 cases higher raised each year in Australia. Meanwhile, the result would be different when it compared to Indonesia, where the highest number of occupational accident cases was 19.132 in 2009/2010 and respectively decreased through last 4 years to 2013. However, the lowest number of work related accident in Indonesia was 17.241 cases in 2011/2012. It was lower around 500 hundred cases than the previous period, but increased in to 17.511 cases in next period, 2012/2013. By far the highest claim payment was Australia, based on the SafeWork Western Australia data. It highlighted the amount of liability fund of occupational accident claims. However, the trends for both countries were increased by the time. Truthfully, the highest expenditure for payment of occupational accident was in 2012/2013, reached 764.9 million dollar. It was barely same with last 4 years before from 2009-2012, where the difference could be slighted as it was not significantly different. In Indonesia, total claim payment per year grew dramatically from 502.7 million Indonesian rupiah at initial time in 2009/2010 until 762,4 million Indonesian rupiah eventually in 2012/2013. Generally, the trends of claim payment were actually influenced by the number of occupational accident cases per year and adjusted for inflation to allow meaningful comparison over time. Although it showed that Indonesia and Australia lodged in different amount of claim payments, but it could be noted that number of awareness of employer to maintain the safety of workers. Indirectly, if we rewind the plot of injury, it started from the lack of control and remained that there were unsafe condition and unsafe action that stimulates of injury eventually.

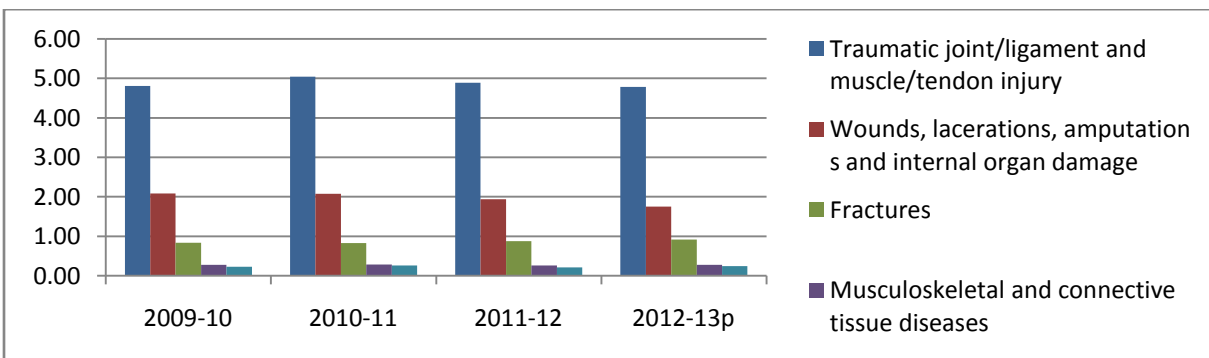


Figure 6. Frequency rates of injury by nature of injury group in Western Australia

In figure 5, the graph shows information regarding group of natural injury based on frequency rates of injury in Western Australia over 5 years based on financial year period during 2009 - 2013. Overall, it highlights the most 5 common injuries at the work place. To begin, mostly workers got traumatic injury in their company. Considerably, in 2010-11 was the peak occurrence traumatic injury in Western Australia, but it was relatively flatted at the same point around 5.80 % to 6%. However, the lowest point of injury was mental dis-

ease. It could be involved with mental disorder that just around 0.21%-0.26%. Even it respectively considered as the lowest one, yet it tend to spend a lot of budget for investigation, especially to distinguish it genuinely nature of injury in kind of mental disease or it caused by another factor which is not related to work place. That is why, mental disease took a serious treatment and include in most common injury in work place.

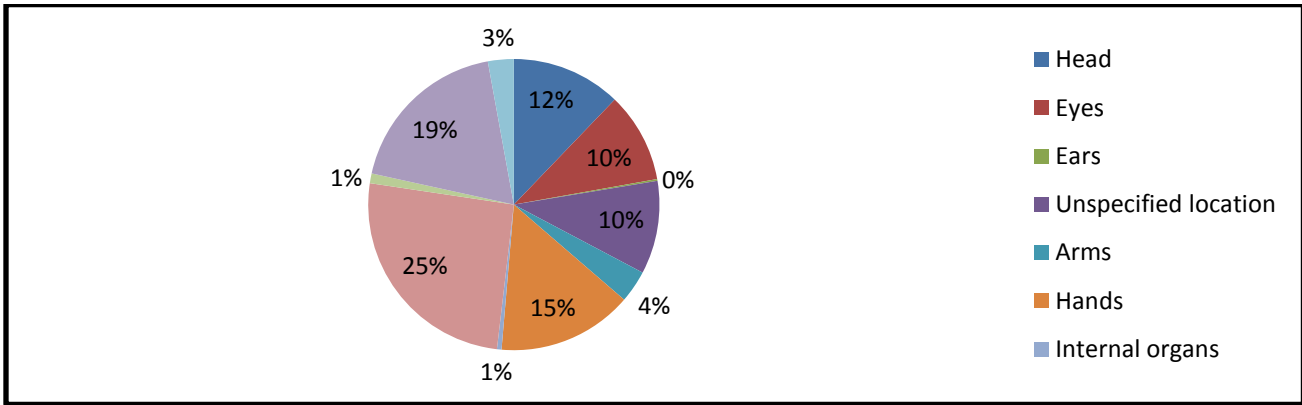


Figure 7. Fatalities by bodily location of injury in East Java, Indonesia

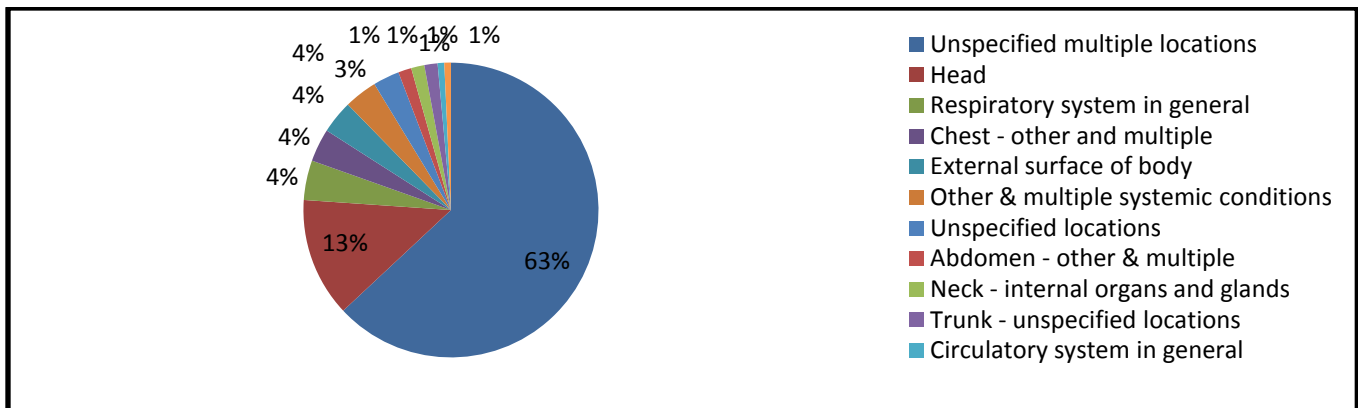


Figure 8. Bodily location of injury subgroup in Western Australia

Regarding fatalities related injury, herewith the comparison based on bodily location (Fig.7 & Fig.8). The two pie charts compare different location of fatalities related injury in East Java, Indonesia and Western Australia. However, the reports are bit different explained the part of body which got harmed by the injury. In Indonesia, illustration of fatalities by bodily location sort in to general part of body, while in Western Australia, tried to be more specific to point it out. The comparison took in a whole body got injured and there are significant changes for each. What follows is a brief description of these shifts. In East Java, Indonesia, the largest range of percentage of location of injury was fingers as 25% reflecting from whole body got injury. It assumed had a close relationship with source of injury. In Indonesia, there was a tendency that manufacturing role a big deal, since it involves machine to operate in chain of production process. It should be noted supervisor as a control, have a responsibilities to prevent occurrence of accident or injury in work place. However, the lowest range of fatalities was fatality of ear, this figure to just 0%, the smallest of that number figures. On the other hand, the highest number of fatalities by bodily location in Western Australia was in unspecified multiple locations, while injuries on neck, internal organs and glands, some trunk location, and circulation system in general during the same number as small as 1%. As the most specific part, head became the most serious form of fatalities in bodily location, either in Indonesia or Western Australia, the number of fatalities in head took around 13% from whole part of body injured. In general, state worker's compensation law is based on the concept that a worker who either sustains an injury or incurs an illness arising during and be-

cause of employment is entitled to protection against financial loss without being required to sue the employer. In exchange for worker's having lost the right to sue, worker's compensation system guarantees benefits to all workers who meet the criteria for award of benefits. The field of disability benefits, disability, whether temporary or permanent, or partial or total, is equivalent to economic loss for which to individual is to be compensated monetarily. In fact, because not all conditions that can arise out of an injury are accounted for in a schedule, provision concerning worker's compensation must determine the percentage by which the bodily location of injury to be impaired. In this case, some points such as nature of the injury and the employee's occupation or industrial division, expertise, age, and the proportion of compensation benefit. Medical information is necessary for the decision process, a critical problem arises in the use of that information. In general, there is no formula under which knowledge of the medical condition may be combined with knowledge of other factors to calculate the percentage by which the employee's use of the body is impaired. Accordingly, each commissioner or any stakeholders must come to a conclusion based on his or her assessment of the available medical and non medical information. It is essential for physician to provide the recipient of the evaluation with more than a number that represents a percentage of impairment. Moreover, by providing a comprehensive medical picture as a report of medical evaluation, recipient will be able to determine how medical information fits with the non medical to improve understanding of how impairment may affect the claimants' employability.

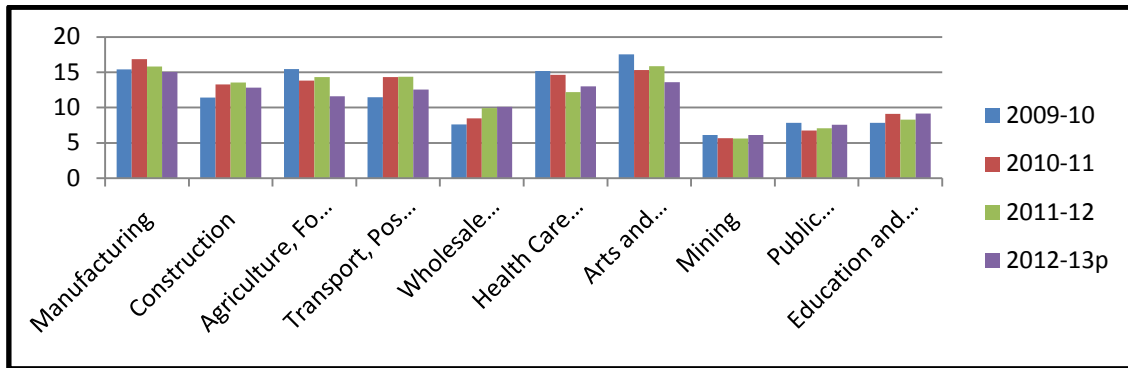


Figure 9. Frequency rates of injury by industry division in Western Australia

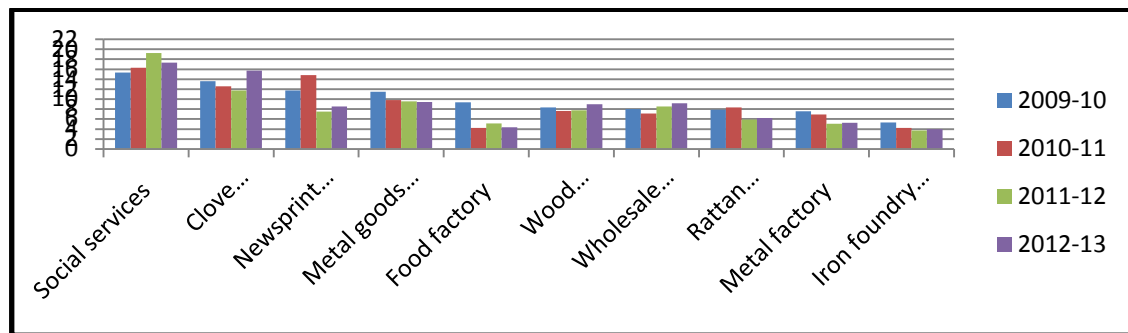


Figure 10. Frequency rates of injury by industry division in East Java

Another point that we should figure out to compare occupational accident compensation between East Java, Indonesia and Western Australia is the frequency rate of injury which is described by industry division. These graphs illustrate number of victims by occupational injury per man-hour worked during 2009 – 2013 in East Java, Indonesia and Western Australia. Overall, it can be seen both tended to more fluctuate either in five years calculation or respectively in each industry division. In 2009-2010, Western Australia showed that industrial sector in arts and recreation services was the top area had occupational accidents, it reached barely 18% among other industries throughout five years, but it decreased gradually to 2013 under 14%. Meanwhile, numbers of accident related work in wholesale trade sector rose significantly from under 8% to steady state 10% in 2011 to 2013. The lowest industrial was mining sector that respected around 6 % leveled off during 2009 to 2013. Otherwise, in East Java, Indonesia, the highest number of work related accident was in social services. It gradually increased from below 16% at the beginning in 2009 and reached the peak over 18% in 2011-2012, and declined insignificantly in the next year as 17%. It also considered that was higher than the peak number in Western Australia. In contrast, the smallest percentages of accident related work was in iron foundry industry. In 2009-2013, number of occupational accident in this sector tended to decrease gradually until just 4% eventually in 2012-2013. The declining accidents considered a good system of occupational accident and injury compensation management, followed with good corporate governance from all stakeholders to bring a good upbringing of safety culture in workplace. Data shows that it is not easy to acquire the significance of the role of occupational accident compensation system in both East Java (Indonesia) and Western Australia without have a comprehensive information

of these two countries, in term of wider framework of social security like insurance and health care systems and their role in the systems for triggering rule of occupational health and safety conditions in Indonesia and Australia, particularly in Western Australia. Based on national social security system concept in Indonesia, there is a tendency that Indonesia wants to emulate the United States system. In some country applied welfare state concept, provided some services relating to the welfare of citizens, and it is fully provided by the government, particularly education and health services. Regarding social security in Indonesia, there are four compulsory services based on the law, health insurance, occupational accident insurance, old age insurance as a provident fund insurance, and life insurance. These programs used to undertake in some state enterprises in Indonesia or any private insurance companies. However, like United State, which give freedoms to citizens prefer choose insurance agent that they believe. However, Australian workers' compensation system is based on nineteenth century British law. Before the implementation of workers' compensation arrangements, an injured worker's only means of receiving compensation was to sue their employer for negligence at common law. A further point to note concerning between Indonesia and Western Australia system and others based on the managerial of insurance system. For instance, in Indonesia there are some basic regulations as well as the law that rule company to cover health and safety of workers during their term in work. It is stated in Act No. 1 in 1970 and also Act no. 3 in 1992 regarding social security program. These rules basically worked by National Social Security Agency of Employment (BPJS Ketenagakerjaan) that also pretend to be national insurance and covered four program, which are Occupational Accident Insurance as well as Life Insurance, except Health Insurance that organized by National

Social Security Agency of Health. However, in Australia, there is a compulsory regulation that although financed from the contributions of employers, are managed jointly by their representatives and those of employees, thus ensuring some degree of representation of both employer and employee interests that has potential to span issues of compensation, rehabilitation and prevention. Accident can be defined as unexpected, undesirable, and uncontrolled situation that can result in lost to humans, property and the environment (Suraji, 2000). Occupational accident is a risk that must be faced by workers in doing their jobs. To cope with the loss of some or all of the income that result from social risks such as death or disability due to accidents at work both physically and mentally, it is necessary to have accident insurance. Basic regulations in Indonesia regarding occupational health and safety that involves occupational accident compensation are:

1. The Republic of Indonesia Statutory Chapter 27 article 2
2. Act No. 1 / 1970, Occupational Safety & Health
3. Act No. 3/1992, Employment Social Security
4. Act No. 13 / 2003, Manpower; Chapter X, Subsection 5 : Occupational Safety and Health, Article 86 and 87
5. Minister of Man Power Regulation No. Per 05/MEN/1996, Occupational Safety & Health Management System
6. Government Regulation No. 14/1993 on the Implementation of the Social Security Program to workers as last amended by Government Regulation No. 53/2012 on the Eighth Amendment to Government Regulation No. 14/1993 on the Implementation of the Social Security Program to workers

From those regulations, there was coherence management system implemented in Indonesia that is Occupational Health and Safety Management System (SMK3). This system is the part that cannot be separated from the other management activity in company, such as production management, human resource management, financial management, and one of them compensation. The implementation of Occupational Safety and Health Management System consist of the warranty of ability, proponent activity, and the identification of hazard source, assessment and recognition of risk at work. Otherwise, in Australia, basic regulation though in relevant law that administered workers' compensation in implementation of Workers' Compensation and Injury Management Act 1981 (the Act) and Workers Compensation and Injury Management Regulations 1982, resolution of disputes, provision of quality policy advice to government and maintenance of excellent stakeholder relationships. (WorkCover WA, 2007) In Australia, there are 11 main workers' compensation systems. Over time, each of the eight Australian States and Territories has developed their own workers' compensation laws. There are also three Commonwealth schemes: the first is for Australian Government employees, Australian Defense Force personnel with service before 1 July 2004 and the employees of licensed self insurers under the Safety, Rehabilitation and Compensation Act 1988; the second is for certain seafarers under the Seafarers Rehabilitation and Compensation Act 1992; and the third is for Australian Defense Force personnel with service on or after 1 July 2004 under the Military Rehabilitation and Compensation Act 2004. However, workers rarely succeeded in these actions due to what has been described as the 'unholy trinity' of legal defenses: common employment, voluntary assumption of risk and contributory negligence. To limit the application of those defenses, the Employment Liability Act 1880

was enacted in Britain. This Act was adopted in the Australian colonies between 1882 and 1895. According to institutions play role in occupational health and safety, these two countries barely similar, yet different structure, in Indonesia, institution responsible for safety and health at workplace is the Ministry of Manpower and Transmigration. Meanwhile, in Australia, there is Department of Employment that manages Australia's engagement with the International Labor Organization (ILO), a specialized agency of the United Nations, on international labor issues. Yet, specifically, there are two main national agencies that have great role in focusing occupational health and safety issues in Australia. They are WorkSafe and WorkCover Australia. The WorkSafe is a part of the Department of Commerce Western Australian Government. It is an agency that has a role to responsible for the administration of occupational safety and health based on the Occupational Safety and Health Act 1984. The main function is to promote and secure the safety and health of people at work. Meanwhile, WorkCover WA is the statutory authority responsible for administering the Workers' Compensation and Injury Management Act 1981 on behalf of the state. The role of WorkCover is to minimise the social and economic impact of work-related injury and disease and achieve cost effectiveness for employers and the community. (WorkSafe WA,2013) Furthermore, both of those acts directed all stakeholders put some attention to establish well occupational health and safety environment. However, occupational accident is caused by the low or the lack of safety program. According to Davies and Tomasin (1990), safety is a hazard risk free, including physical injury and health damage risk for a period of time. Davies (1990) concluded that work safety in civil engineering context is a way to maintain the safety of someone who is building, operating, maintaining, devastate, and other technical works. Diego (2011), stated workers who are the victims of work-related accidents suffer from material consequences, which include expenses and loss of earnings, and from intangible consequences, including pain and suffering, both of which may be of short or long duration. An effective accident prevention program requires the commitment of all organization staff. Following are specific suggestions for supervisors and employees regarding accountability for accidents. Consistently applied to all eligible employees, a formal light- or modified-duty or early return-to-duty program has the potential to return injured employees to work quickly while reducing overall costs. The personnel director, risk manager, safety officer, employee's department head, position ergonomic evaluator, and employee health nurse should be involved in determining the employee's suitability for light duty in relation to the prospective position assignment. In addition to the light- or modified-duty or early return-to-work program, a system should be in place to clear all employees to return to work after absence from any type of accident or surgery, whether or not work-related. The interests of the surgeon or physician who clears an employee who was injured in an auto accident (not related to work) or who has recovered from surgery to return to work are not the same as those of the employer. The returning employee should be evaluated with regard to the physical requirements of his or her job description. Failure to clear such employees could result in claims of aggravation or complications that could result in workers' compensation claims. On the other hand, the employer has a need to verify that employees have recovered to a point that they can perform their job activities safely. Many states have implemented workers' compensation managed care arrange-

ments or programs. Within those programs there may be rules governing clearance for return to work. It is suggested that the responsible party be thoroughly familiar with their respective state's rules in this regard. Workers who become victims of accidents frequently receive compensation or allowances both in cash and in kind. Although these do not affect the intangible consequences of the accident (except in exceptional circumstances), they constitute a more or less important part of the material consequences, inasmuch as they affect the income which will take the place of the salary. There is no doubt that part of the overall costs of an accident must, except in very favorable circumstances, be borne directly by the victims.

5 CONCLUSION

To sum up, Indonesia and Australia have a different type of occupational accident system management system. Overall, these two country have own approaching jurisdictional country, where Indonesia adopted Western and United State system partially, while Australia strongly based on British Law, that is 19th British Law. In Indonesia, based on basic regulation on occupational accident compensation stated all companies should covered all workers with social security program, one of them is occupational accident compensation/benefit (JKK) where it privately underwritten by company and covered prevention program such as comprehensive education about safety in workplace and rehabilitation expenses which is include medical expenses. Meanwhile, Australia has quite different law and regulation based on territories. In Western Australia, scheme of compensations are privately underwritten based on basic regulation, which is Act 1981 about Workers' Compensation and Injury Management, and the coverage is more comprehensive than Indonesians' since it regulated retraining and return to work program to workers. Claims of occupational accident are intended to recognized private sector agents in Western Australia since it ruled by under the law and the premium insures subject to WorkCover Western Australia. Otherwise, in Indonesia, claims and premium are organized by BPJS Ketenagakerjaan based on Act 1992 No. 3 about Employment Social Security and Government Regulation No. 14/1993 on the Implementation of the social security program. Based on supplementary data analysis on number of cases, trends of payment, and frequency rate of occupational accident by industrial division, Western Australia had more establish a good management system of occupational accident compensation since the ratio of accident respectively smaller than Indonesia during 5 years. However, the beneficial thing can be developed in Indonesia about the system is the advantages coverage benefits that undergone in Western Australia, retraining and return-to-work program. As Indonesian government had make a space for educating workers to stay safe in work place, this might be a good starting to add some extra training which is not only intended to prevent accidents, but also how to cover workers after get relapse from accidents in work place.

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Appendix. Basic comparison indicator of status quo between East Java, Indonesia and Western Australia

| Comparison Indicator | East Java (Indonesia) | Western Australia |
|-----------------------------|--|--|
| Basic Regulation | <ol style="list-style-type: none"> 1. Act No. 3/1992, Employment Social Security 2. Government Regulation No. 14/1993 on the Implementation of the Social Security Program | Workers' Compensation and Injury Management Act 1981 |
| Approaching Country | Western Europe and United State of America | United Kingdom |
| Policy | <ol style="list-style-type: none"> 1. Ministry of Manpower and Transmigration 2. National Social Security Agency on Employment (BPJS Ketenagakerjaan) | WorkCover Western Australia |
| Claims | National Social Security Agency on Employment (BPJS Ketenagakerjaan) | Recognized private sector agents |
| Premium | Based on Act No. 3/1992, Employment Social Security | Insurers subject to WorkCover Western Australia oversight |
| Coverage Benefits | Prevention and rehabilitation | Prevention, rehabilitation, retraining and return to work. |
| Scheme Funding | Privately underwritten by company | Privately underwritten |