

LABOUR LEGISLATION AND CASE LAW- II

M.B.A (HRM) First Year

Semester – II, Paper-II



Director, I/c

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M.B.A (HRM) – LABOUR LEGISLATION AND CASE LAW - II

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FOREWORD

Since its establishment in 1976, Acharya Nagarjuna University has been forging ahead in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining 'A+' grade from the NAAC in the year 2024, Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 221 affiliated colleges spread over the two districts of Guntur and Prakasam.

The University has also started the Centre for Distance Education in 2003-04 with the aim of taking higher education to the doorstep of all the sectors of the society. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even to housewives desirous of pursuing higher studies. Acharya Nagarjuna University has started offering B.Sc., B.A., B.B.A., and B.Com courses at the Degree level and M.A., M.Com., M.Sc., M.B.A., and L.L.M., courses at the PG level from the academic year 2003-2004 onwards.

To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers involved respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.

It is my aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn be part of country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My congratulations to all the Directors, Academic Coordinators, Editors and Lesson-writers of the Centre who have helped in these endeavors.

Prof.K. Gangadhara Rao

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202HR26: LABOUR LEGISLATION AND CASE LAW-II

UNIT – 1

Employee Compensation Act 1923, Employee State Insurance Act 1948, Employee State Insurance Act, 1948, Employees Provident Fund and Miscellaneous Provision Act 1952.

UNIT – 2

Employment Exchange (Compulsory Notification of Vacancies) Act 1959, Maternity Act 1961, Payment of Gratuity Act 1972,

UNIT – 3

Cine Workers Welfare Fund Act, 1981, Building and other Construction Workers Welfare Cess Act, 1996,

UNIT – 4

Equal Remuneration Act, 1976, Minimum wage Act, 1948,

UNIT – 5

Payment of Wages Act, 1936, Payment of Bonus Act, 1965
Building and other Construction Workers welfare Cess Act, 1996,
Unorganised Workers Social Security Act, 2008.

Case Law: There shall be a compulsory question on Case Law in the Paper.

Note: The Case Law in respect of below listed circulated to the students and the same covered in the question paper setting.

CASE LAW

1. The Industrial Disputes Act, 1947

- a) Bangalore Water Supply and Sewage Board Vs. A. Rajappa and Others Reported in A.I.R 1978 (SC 548)
- b) Miss A. Sundarambai Vs. Government of Goa, Daman and Diu. Reported in 1989 (I) LLJ 61 (SC)
- c) Karibetta Estate, Kotagiri Vs. Its Workmen, Reported in 1960 (II) LLJ 257 (SC)
- d) Express News Papers Limited Vs. Their Workmen and Staff. Reported in 1960 (2) LLJ Page 227 (SC)
- e) Workmen, Fire Stone Tyre and Rubber Co. of India (P) Ltd. Vs. Management of Fire Stone Tyre Rubber Co. of India (P) Ltd. Reported in SCLJ, Vol.6 – Page 456.
- f) State Bank of India Vs. N. Sunder Money. Reported in AIR 1976 SC IIII.
- g) Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation.
- h) Reported in 1985 (II) LLN, 817 (SC).
- i) Barauni Refinery Pragatisheel Shramic Parishad Vs. Indian Oil Corporation Ltd. And Others, Reported in 1990 II LLN, (SC) 288.

2. Employee State Insurance Act, 1948

- a) The Regional Director, E.S.I Corporation and Others Vs.
- b) Francis Decosta and another, Reported in 1996 LLR, 953 (SC).

3. Minimum Wages Act, 1948

- a) Haryana Unrecognised School Association Vs. State of Haryana.
- b) Reported in 1996 LLR, 560 (SC).

PREScribed BOOKS:

- Astudy on Mine Management, Legislation & General Safety
L.C.Kaku , www.weblibbox.com
- Sharma (2016) Industrial Relations and Industrial Legislation R.C 2nd Edition
Eastern Economy Edition 2016
- PBN sinha, Indu Bala Sinha (2017) Industrial Relations and Trade Unions
& Labor Legislations, , 3rd Edition Person Publication.
- M.C. Kuchhal, VNK Kuchhal (2018) Business Legislation & Management, 3rd
editions, Vikas Publications
- Jeremy Bentham (2020) Theory of Legilsation, , Alpha Edition,
- Jayant K.Jaiswal, (2020) OSHWCC- The Occupational safety Health,
Working Conditions code , 2020
- Dr.O.P.Gupta Sanjay (2021) Labor Legislations in India, Publication
- Pooja Dubey & Dr.Sweta (2021)Business Legislation and Inudtrial
Relations, AB Publications,.
- Lakshmi Narain Aggarwal (2021) Labor Legislation, CBCS L.N. Koli Publications
- Singh, Sudeshna Singh, Praveen kumar (2021) Labor Legsilation Padam, Vayu
Education of India

JOURNALS:

- 1) Labour Law Reporter
- 2) Labour Law Journal
- 3) Indian Labour Year Book
- 4) Supreme Court of India Judgment.

CONTENTS

SL. NO.	LESSON NAME	PAGE NO.
1	EMPLOYEE COMPENSATION ACT 1923	1.1 – 1.11
2	EMPLOYEES' STATE INSURANCE ACT, 1948	2.1 – 2.13
3	THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952	3.1 – 3.15
4	EMPLOYMENT EXCHANGE (COMPLUSORY NOTIFICATION OF VACANCIES) ACT 1959	4.1 – 4.7
5	MATERNITY ACT 1961	5.1 – 5.12
6	PAYMENT OF GRATUITY ACT 1952	6.1 – 6.13
7	CINE WORKERS WELFARE FUND ACT 1981	7.1 – 7.6
8	THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996	8.1 – 8.17
9	EQUAL REMUNERATION ACT 1976	9.1 – 9.9
10	MINIMUM WAGES ACT 1948	10.1 – 10.12
11	PAYMENT OF WAGES ACT 1936	11.1 – 11.14
12	PAYMENT OF BONUS ACT 1965	12.1 – 12.11
13	UNORGANIZED WORKERS SOCIAL SECURITY ACT 2008	13.1 – 13.10

LESSON -1

EMPLOYEE COMPENSATION ACT 1923

Aims and objectives:

- To explain why the Act ensures financial protection to workers and their dependents.
- To describe how the Act outlines employer liability in cases of workplace accidents or diseases.
- To illustrate how the Act is applied in real workplace injury scenarios.
- To determine compensation amounts using the Act's provisions for temporary, permanent, partial, or total disability.

Structure

- 1.0 Introduction
 - 1.1. Short title, extent, and commencement
 - 1.2. Definitions
 - 1.3. Employer's liability for compensation
 - 1.4. Compensation to be paid when due and penalty for default
 - 1.5. Method of calculating wages
 - 1.6 Commutation of half-monthly payments
 - 1.7. Distribution of compensation
 - 1.8 Notice and claim
 - 1.9 Power to require from employer statements regarding fatal accidents.-
 - 1.10 . Compensation to be first charge on assets transferred by employer
 - 1.11 Special provisions relating to masters and seamen
 - 1.12 Summary
 - 1.13 Key words
 - 1.14 Self Assessment Questions
 - 1.15 Reference Books

1.0 Introduction

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident. Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; it is hereby enacted as follows:-

1.1. Short title, extent, and commencement

- (1) This Act may be called the Workmen's Compensation Act, 1923.
- 2 It extends to the whole of India
- (3) It shall come into force on the first day of July, 1924.

1.2. Definitions.- (1) In this Act unless there is anything repugnant in the subject or context-

- (b) "Commissioner" means a Commissioner for Workmen's

Compensation appointed under Section 20;

(c) “Compensation” means compensation as provided for by this Act;

5[(d) “dependant” means any of the following relatives of a deceased workman, namely-

(i) a widow, a minor [legitimate or adopted] son, an unmarried [legitimate or adopted] daughter, or a widowed mother; and

(ii) if wholly dependant on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii) if wholly or in part dependant on the earnings of the workman at the time of his death-

(a) a widower,

(b) a parent other than a widowed mother,

(c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter 8[legitimate or illegitimate or adopted] if married and a minor or if widowed and a minor,

(d) a minor brother or an unmarried sister or a widowed sister if a minor,

(e) a widowed daughter-in-law

f) a minor child of a pre-deceased son,

(g) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(h) a paternal grandparent if no parent of the workman is alive];

(i) “employer” includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

(k) “managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

2[(l) “minor” means a person who has not attained the age of 18 years;]

(m) “partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in 3[Part II of Schedule I] I] shall be deemed to result in permanent partial disablement;

(n) “prescribed” means prescribed by rules made under this Act;

(i) “qualified medical practitioner” means any person registered

under any 5[Central Act, Provincial Act or an Act of the Legislature of a 6[State]] providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Act;

(o) “seaman” means any person forming part of the crew of any ship, but does not include the master of 9[the] ship; total disablement” means such disablement, whether of a Temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

1[Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of Schedule I or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent or more];

“wages” includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or

the value of any travelling concession or a contribution paid by

the employer of a workman towards any pension or provident

fund or a sum paid to a workman to cover any special expenses

entailed on him by the nature of his employment;

“workman” means any person 2[***] who is-

(i) a railway servant as defined in 3[clause (34) of Section 2 of the Railways Act, 1989 (24 of 1989)], not permanently employed in any administrative, district or subdivisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

4 (a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or]

(ii) employed in any such capacity as is specified specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of 7[the Armed Forces of the Union] and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department 1[acting on behalf of the Government] shall, for the purposes of this Act, unless a

contrary intention appears, be deemed to be the trade or business of such authority or department.

2[(3) The Central Government or the State Government, by notification in the the Official Gazette, after giving not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply, in case of a notification by the Central Government, within the territories to which the Act extends, or, in the case of a notification by the State Government, within the State, to such classes of persons:

Provided that in making addition, the Central Government or the State Government, as the case may be, may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only].

1.3. Employer's liability for compensation

(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable-

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding 3[three] days;

(b) in respect of any 4[injury, not resulting in death 5[or permanent total disablement], caused by] an accident which is directly attributable to-

(i) the workman having been at the time thereof under the influence of drink of drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workman, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen

8[(2) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman whilst in the service of one or more employers in any employment specified in Part C of

Schedule III for such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment:

Provided that if it is proved-

(a) that a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease

peculiar to that employment during a continuous period which is less than the period specified under this sub-section for that employment, and

(b) that the disease has arisen out of and in the course of the employment, the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section:

Provided further that if it is proved that a workman who having served under any employer in any employment specified in Part B of Schedule III or who having served under one or more employers in any employment specified in Part C of that Schedule, for a continuous period specified under this sub-section for that employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to the employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section].

2[(2-A) If a workman employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.]

(3) 3[The Central Government or the State Government], after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of sub-section (2) shall apply 4[in the case of a notification by the Central Government, within the territories to which this Act extends or, in case of a notification by the State Government, within the State as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by 2[sub-sections (2), (2-A)] and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury,-

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has taken place between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4[4. Amount of Compensation.- (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:-

(a) where death results from the injury an amount equal to 5[fifty per cent] of the monthly wages of the deceased workman multiplied by the relevant factor; or an amount of eighty thousand rupees], whichever is more;

(b) where permanent total disablement results from the injury an amount equal to 8[sixty per cent] of the monthly wages of the injured workman multiplied by the relevant factor; or an amount of [Ninety] thousand rupees, whichever is more;

(c) Where permanent partial disablement results from the injury in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury;

(d) Where temporary disablement, whether total or partial results from the injury a half-monthly payment of the sum equivalent to twenty-five per cent of monthly wages of the workman, to be paid in accordance with the provisions of sub-section (2).

1[(1-A) Notwithstanding anything contained in sub-section (1) while fixing the amount of compensation payable to a workman in respect of an accident occurred outside India, the Commissioner shall take into account the amount of compensation, if any, awarded to such workman in accordance with the law of the country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the workman in accordance with the law of that country.]

(2) The half-monthly payment referred to in clause (d) of sub-section (1) shall Nbe payable on the sixteenth day,-

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or

(ii) after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:

Provided that -

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first\ half-monthly payment, as the case may be; and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

1.4. Compensation to be paid when due and penalty for default

(1) Compensation under Section 4 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be, without prejudice to the right of the workman to make any further claim.

4[(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall,-

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent

per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

Explanation.- For the purposes of this sub-section, “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).

5[(3-A) The interest and the penalty payable under sub-section (3) shall be paid to the workman or his dependant, as the case may be.]

1.5. Method of calculating wages

1[In this Act and for the purposes thereof the expression “monthly wages” means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated] as follows, namely-

(a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one- twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

2[(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be 3[***] the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;]

4[(c) 5[in other cases [including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b)], the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

1.6 Commutation of half-monthly payments

Any right to receive half monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lumpsum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

1.7. Distribution of compensation.-

1[(1) No payment of compensation in

respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

2[Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation 3[of an amount equal to three months' wages of such workman and so much of such amount] as does not exceed the compensation payable to that dependant shall be deducted by the

Commissioner from such compensation and repaid to the employer].

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.]

(4) On the deposit of any money under sub-section (1), 4[as compensation in in respect of a deceased workman] the Commissioner shall, if he thinks necessary, cause notice to be published or to be served on each dependant in Such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation.

If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the\ employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

6[(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto. Compensation not to be assigned, attached or charged.- Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set- off against the same.

1.8 Notice and claim

(1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within 4[two years] of the occurrence of the accident or, in case of death, within 5[two years] from the date of death:]

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of Section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

[Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the workman to absent himself from work, the period of two years shall be counted from the day the workman gives notice of the disablement to his employer

1.9 Power to require from employer statements regarding fatal accidents

(1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

1.10 . Compensation to be first charge on assets transferred by employer

Where an employer transfers his assets before any amount due in respect of any compensation, the liability whereof accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.]

1.11 Special provisions relating to masters and seamen

This Act shall apply in the case of workmen who are masters of ships or seamen subject to the following modifications, namely:-

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any Seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within 4[one year] after the news of the death has been received by the claimant, or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been.

1.12 Summary

The Employees' Compensation Act, 1923 is a social security legislation that ensures financial protection to employees (or their dependents) in case of accidental injury, occupational diseases, disablement, or death during the course of employment

1.13 Key words

Partial disablement means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Employer includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him

Managing agent means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer

1.14 Self Assessment Questions

1. Discuss the categories of disablement under the Employees' Compensation Act.
2. Explain the procedure for claiming compensation.
3. Describe occupational diseases and how compensation is determined for them.
4. How is compensation calculated for death and permanent total disablement?
5. Explain the powers and functions of the Commissioner for Employees' Compensation.

1.15 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON -2

EMPLOYEES' STATE INSURANCE ACT, 1948

Aims and Objectives:

- To Define key terms of the Employees' State Insurance Act, 1948 such as *insured person, contribution, benefit period, and dependent*.
- To Explain the purpose, scope, and major provisions of the Act, including the categories of employees it covers and the types of benefits offered.
- To Illustrate how the Act is applied in a workplace by calculating employer and employee contributions for different wage levels.
- To Evaluate the effectiveness of the Employees' State Insurance Act, 1948 in protecting workers' social security, and **propose** improvements or amendments based on contemporary labour needs.

Structure

- 2.1 Introduction
- 2.2 Definitions
- 2.3. Establishment of Employees' State Insurance Corporation.
- 2.4. Constitution of Corporation
- 2.5. Term of office of the members of the Corporation.
- 2.6. Eligibility for re-appointment or re-election.
- 2.7. Constitution of Standing Committee
- 2.8 Term of office of members of Standing Committee.
- 2.9. Medical Benefit Council
- 2.10. Resignation of membership
- 2.10. Resignation of membership
- 2.11. Cessation of membership
- 2.12. Disqualification
- 2.13 Filling of vacancies
- 2.14. Fees and allowances
- 2.15. Principal officers
- 2.16. Staff
- 2.17. Powers of the Standing Committee
- 2.18. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.
- 2.19. Regional Board, Local Committees, Regional and Local Medical Benefit Councils.
- 2.20. Contributions
- 2.21 Method of payment of contribution
- 2.22 Summary
- 2.23 Key words
- 2.24 Self Assessment Questions
- 2.25 Reference Books

2.1 Introduction

Short title, extent, commencement and application.

(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to the whole of India

(3) It shall come into force on such date or dates as the Central Government may, by

notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and [for different States or for different parts thereof].

(4) It shall apply, in the first instance, to all factories (including factories belonging to the Government other than seasonal factories.

[Provided that nothing contained in this sub-section shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act].

(5) The appropriate Government may, in consultation with the Corporation and 6

[where the appropriate Government is a State Government, with the approval of the Central

Government], after giving [one month's] notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment, or class of establishments, industrial, commercial, agricultural or otherwise

2.2 Definitions

In this Act, unless there is anything repugnant in the subject or context,-

(1) "appropriate Government" means, in respect of establishments under the control of the Central Government or 3 [a railway administration] or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government

(3) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(4) "contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

(5) Clause (5) omitted, *ibid*.

(6) "Corporation" means the Employees' State Insurance Corporation set up under this Act;

[(6A) "dependant" means any of the following relatives of a deceased insured person, namely:

[(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter;]

[(ia) a widowed mother;]

(ii) if wholly dependent on the earnings of the insured person at the time of his

death, a legitimate or adopted son or daughter who has attained the age of twenty-five years] and who is infirm;

(iii) if wholly or in part dependent on the earnings of the insured person at the time of his death,

(a) a parent other than a widowed mother,

(b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,

(c) a minor brother or an unmarried sister or a widowed sister if a minor,

(d) a widowed daughter-in-law,

(e) a minor child of a pre-deceased son,

(f) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(g) a paternal grandparent if no parent of the insured person is alive;

(7) “duly appointed” means appointed in accordance with the provisions of this Act or with the rules or regulations made thereunder;

[(8) “employment injury” means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;]

(9) “employee” means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and —

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere; or

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment ; or

(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service; and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products of, the factory or establishment;] [or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), 3 [and includes such person engaged as apprentice whose training period is extended to any length of time]

but does not include —

(a) any member of [the Indian] naval, military or air forces; or

[(b) any person so employed whose wages (excluding remuneration for overtime work) exceed [such wages as may be prescribed by the Central Government] a month:

Provided that an employee whose wages (excluding remuneration for overtime work)

exceed [such wages as may be prescribed by the Central Government] at any time after (and not before) the beginning of the contribution period, shall continue to be an employee until the end of that period;]

(10) “exempted employee” means an employee who is not liable under this Act to pay the employee’s contribution;

[(11) “family” means all or any of the following relatives of an insured person, namely: —

(i) a spouse;

(ii) a minor legitimate or adopted child dependent upon the insured person;

(iii) a child who is wholly dependent on the earnings of the insured person and who is —

(a) receiving education, till he or she attains the age of twenty-one years,

(b) an unmarried daughter;

(iv) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the insured person, so long as the infirmity continues;

[(v) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;]

[(vi) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;]

[(12) “factory” means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or a railway running shed;]

(13) “ immediate employer ” in relation to employees employed by or through him, means a person who has undertaken the execution on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer and [includes a contractor].

“ seasonal factory ”, means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid

processes and includes a factory which is engaged for a period not exceeding seven months in a year —

(a) in any process of blending, packing or repacking of tea or coffee; or (b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify;

(20) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds;

(21) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury temporarily incapable of [doing the work which he was doing prior to or at the time of the injury];

(22) "wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes 3 [any payment to an employee in respect of any period of authorized leave, lock-out, strike which is not illegal or layoff and] other additional remuneration, if any, [paid at intervals not exceeding two months], but does not include —

(a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;

(b) any travelling allowance or the value of any travelling concession;

(c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(d) any gratuity payable on discharge;

[(23) "wage period" in relation to an employee means the period in respect of which wages are ordinarily payable to him whether in terms of the contract of employment, express or implied or otherwise;]

2.3. Establishment of Employees' State Insurance Corporation.

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

2.4. Constitution of Corporation

The Corporation shall consist of the following members, namely: —

[(a) a Chairman to be 3 [appointed] by the Central Government;

(b) a Vice-Chairman to be 3 [appointed] by the Central Government;]

(c) not more than five persons to be [appointed] by the Central Government 4

d) one person each representing each of the 1 [States] in which this Act is in force to be [appointed] by the State Government concerned;

(e) one person to be [appointed] by the Central Government to represent the 3 [Union territories;]

(f) [ten] persons representing employers to be [appointed] by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

(g) [ten] persons representing employees to be [appointed] by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;

(h) two persons representing the medical profession to be [appointed] by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government;

[(i) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States; and

(j) the Director-General of the Corporation, ex-officio.]

2.5. Term of office of the members of the Corporation.

(1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation, other than 7 [the members referred to in clauses (a), (b), (c), (d) and (e) of section 4 and the ex-officio member,] shall be four years commencing from the date on which their [appointment] or election is notified.

Provided that a member of the Corporation shall notwithstanding the expiry of the said period of four years, continue to hold office until the 8 [appointment] or election of his successor is notified.

(2) The member of the Corporation referred to in clauses 9 section 4 shall hold office during the pleasure of the Government 10[appointing] them.

2.6. Eligibility for re-appointment or re-election.

An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for 11[re-appointment] or re-election as the case may be.

Authentication of orders, decisions, etc. All orders and decisions of the Corporation shall be authenticated by the signature of the Director General of the Corporation and all other instruments issued by the Corporation shall be authenticated by the signature of the Director General or such other officer of the Corporation as may be authorised by him.]

2.7. Constitution of Standing Committee

A Standing Committee of the Corporation shall be constituted from among its members, consisting of —

- (a) a Chairman 2 [appointed] by the Central Government;
- (b) three members of the Corporation, [appointed] by the Central Government;]
 - [(bb) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time;]
- (c) [eight] members elected by the Corporation as follows: —
 - (ii) [three] members from among the members of the Corporation representing employers;
 - (iii) [three] members from among the members of the Corporation representing employees;
 - (iv) one member from among the members of the Corporation representing the medical profession; and
 - (v) one member from among the members of the Corporation elected by [Parliament;]
- [(d) the Director General of the Corporation, ex-officio].

2.8 Term of office of members of Standing Committee.

(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or 10[clause (b) or clause (bb)] of section 8, shall be two years from the date on which his election is notified:

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

(2) A member of the Standing Committee referred to in clause (a) or 10[clause (b) or clause (bb)] of section 8 shall hold office during the pleasure of the Central Government

2.9. Medical Benefit Council

(1) The Central Government shall constitute a Medical Benefit Council consisting of —

- [(a) the Director General, the Employees' State Insurance Corporation, ex-officio as Chairman;]
- [(b) the Director General, Health Services, ex-officio as Co-Chairman;]
- (c) the Medical Commissioner of the Corporation, ex-officio;
- (d) one member each representing each of the 2 [States (other than Union territories)] in which this Act is in force] to be 4 [appointed] by the State Government concerned;

(e) three members representing employers to be [appointed] by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

(f) three members representing employees to be 4 [appointed] by the Central

Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government; and

(g) three members, of whom not less than one shall be a woman, representing the medical profession, to be [appointed] by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government.

(2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a member referred to in any of the clauses (a) to (d) of sub-sec. (1), shall be four years, from the date on which his 5 [appointment] is notified:

[Provided that a member of the Medical Benefit Council shall, notwithstanding the expiry of the said period of four years continue to hold office until the 5 [appointment] of his successor is notified.]

(3) A member of the Medical Benefit Council referred to in clauses (b) and (d) of subsection (1) shall hold office during the pleasure of the Government 7 [appointing] him.

2.10. Resignation of membership

A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

2.11. Cessation of membership

[(1)] A member of the Corporation, the Standing Committee or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof:

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.

[(2) Where in the opinion of the Central Government any person [appointed] or elected to represent employers, employees or the medical profession or the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, has ceased to represent such employers, employees or the medical profession, the Central Government may, by notification in the Official Gazette, declare that with effect from such date as may be specified therein such person shall cease to be a member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be.]

[(3) A person referred to in clause (i) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament.]

2.12. Disqualification

A person shall be disqualified for being chosen as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council —

- (a) if he is declared to be of unsound mind by a competent Court; or
- (b) if he is an undischarged insolvent; or
- (c) if he has directly or indirectly by himself or by his partner any interest in subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a shareholder (not being a Director) of a company; or
- (d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

2.13 Filling of vacancies

(1) Vacancies in the office of 3 [appointed] or elected members of the Corporation, the Standing Committee Medical Benefit Council shall be filled by 5 [appointment] or election, as the case may be.

(2) A member of the Corporation, the Standing Committee or the Medical Benefit

Council 3 [appointed] or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is [appointed] or elected would have been entitled to hold office if the vacancy had not occurred.

2.14. Fees and allowances

Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

2.15. Principal officers

[(1) The Central Government may, in consultation with the Corporation, appoint a Director General and a Financial Commissioner.]

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) [The Director General and the Financial Commissioner] shall be whole time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government [and of the Corporation].

(4) [The Director General or the Financial Commissioner] shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing [Director General or Financial Commissioner] shall be eligible for reappointment if he is otherwise qualified.

(5) [The Director General or the Financial Commissioner] shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being 7 [the Director General or the Financial Commissioner] if he is subject to any of the disqualifications specified in section 13.

(7) The Central Government may at any time remove [the Director General or the Financial Commissioner] from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-third is of the total strength of the Corporation.

2.16. Staff

(1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post [the maximum monthly salary of which [exceeds such salary as may be prescribed by the Central Government]].

10[(2) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

2.17. Powers of the Standing Committee

(1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

Corporation's power to promote measures for health, etc., of insured persons. The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

2.18. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.

No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any

irregularity in his [appointment] or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

2.19. Regional Board, Local Committees, Regional and Local Medical Benefit Councils.

The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations

2.20. Contributions

(1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

[(2) The contributions shall be paid at such rates as may be prescribed by the Central Government:

Provided that the rates so prescribed shall not be more than the rates which were in force immediately before the commencement of the Employees' State Insurance (Amendment) Act, 1989 (29 of 1989).

[(3) The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under this Act.]

(4) The contributions payable in respect of each 3 [wage period] shall ordinarily fall due on the last day of the 3 [wage period], and where an employee is employed for part of the [wage period], or is employed under two or more employers during the same 3 [wage period] the contributions shall fall due on such days as may be specified in the regulations.

(a) If any contribution payable under this Act is not paid by the principal employer on the date on which such contribution has become due, he shall be liable to pay simple interest at the rate of twelve percent per annum or at such higher rate as may be specified in the regulations till the date of its actual payment:

2.21 Method of payment of contribution

Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for — (a) the manner and time of payment of contributions;

(b) the payment of contributions by means of adhesive or other stamp affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at and under which, such stamps are to be affixed or impressed;

[(bb) the date by which evidence of contributions having been paid is to be received by the Corporation;]

(c) the entry in or upon books or cards of particular of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate; and

(d) the issue, sale custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced

Benefits.

(1) Subject to the provisions of this Act, the insured persons, 2 [their dependants or the persons hereinafter mentioned, as the case may be,] shall be entitled to the following benefits, namely: —

(a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner [or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf] (hereinafter referred to as sickness benefit;)

[(b) periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);]

Medical Benefit.

(1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any [period] for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit [or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations:]

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations:

Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment of contribution and such other conditions as may be prescribed by the Central Government, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement:

2.22 Summary

The ESI Act, 1948 provides social security and health insurance to employees in India. It ensures workers receive medical, financial, and social protection in cases such as sickness, maternity, disability, or employment-related injuries

2.23 Key words

Medical Benefit-Full medical care for insured persons and their dependents from day one.

Sickness Benefit- Cash compensation during certified sickness.

Maternity Benefit-Paid for pregnancy, confinement, or miscarriage.

Disablement Benefit-Temporary Disablement: For injury during work. **Permanent Disablement:** Life-long compensation based on disability level.

Dependants' Benefit-Pension to dependents if employee dies due to employment injury.

Funeral Expenses-Lump-sum amount to family of deceased insured person.

Rehabilitation Allowances- For vocational rehabilitation after major injuries.

2.24 Self Assessment Questions

1. Discuss in detail the medical and sickness benefits under the ESI Act.
2. Explain the procedure for claiming maternity benefits under the Act.
3. Describe the provisions relating to disablement benefits.
4. What are the responsibilities of employers under the ESI Act?
5. Analyse the importance of ESI in providing social security to industrial workers

2.24Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-3
THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS
ACT, 1952

Aims and Objectives:

- To explain the purpose and significance of the EPF Act in protecting employees' financial security.
- To describe the coverage of the Act and the criteria for applicability to establishments.
- To Summarize the contribution rates for employers and employees.
- To discuss the benefits provided under EPF, EPS, and EDLI.

Structure

- 3.1 Introduction
- 3.2. Definitions
- 3.3 Establishment to include all departments and branches
- 3.4 Power to apply Act to an establishment
- 3.5. Power to add to Schedule I
- 3.6. Employees' Provident Fund Schemes
- 3.7 Central Board
- 3.8 Executive Committee
- 3.9 State Board
- 3.10. Board of Trustees to body corporate
- 3.11. Appointment of officers
- 3.12 Acts and proceedings of the Central Board or its Executive Committee
- 3.14. Contributions and matters which may be provided for in Schemes.
- 3.15 Employees' Deposit linked Insurance Scheme.
- 3.16 Laying of schemes before Parliament.
- 3.17 Modification of scheme
- 3.18. Determination of moneys due from employers.—
- 3.19 Review of orders passed under section 7A.
- 3.20 Determination of escaped amount.
- 3.21 Tribunal.
- 3.22 Appeals to Tribunal.
- 3.23 Procedure of Tribunals.
- 3.24 Orders of Tribunal
- 3.25 Issue of certificate to the Recovery Officer.
- 3.26 Employer not to reduce wages, etc.
- 3.27 Inspectors
- 3.28 Offences by companies
- 3.29 Enhanced punishment in certain cases after previous conviction.
- 3.30. Certain offences to be cognizable
- 3.31 Cognizance and trial of offences.
- 3.32 Protection of action taken in good faith
- 3.33 Power to remove difficulties.

- 3.34 Summary
- 3.35 Key words
- 3.36 Self Assessment Questions
- 3.37 Reference Books

3.1 Introduction

An Act to provide for the institution of provident funds pension fund] and deposit-linked insurance fund] for employees in factories and other establishments.

1. Short title, extent and application

[(1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.]

(2) It extends to the whole of India

[(3) Subject to the provisions contained in section 16, it applies—

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which [twenty] or more persons are employed, and

(b) to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than 6 [twenty] as may be specified in the notification.

[(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.]

[(5) An establishment to which this Act applies shall continue to be governed by this Act Notwithstanding that the number of persons employed therein at any time falls below twenty.

3.2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry, or in relation to an establishment having departments or branches in more than one State, the Central Government; and

(ii) in relation to any other establishment, the State Government;

[(aa) “authorised officer” means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;

(b) “basic wages” means all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case] in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

(c) “contribution” means a contribution payable in respect of a member under a Scheme or the contribution payable in respect of an employee to whom the Insurance Scheme applies];

(d) “controlled industry” means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

[(e) “employer” means

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

(f) “employee” means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of [an establishment], and who gets his wages directly or indirectly from the employer and includes any person

(i) employed by or through a contractor in or in connection with the work of the establishment;

b) “Recovery Officer” means any officer of the Central Government, State Government or the Board of Trustees constituted under section 5A, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act;

(l) “Scheme” means the Employees’ Provident Fund Scheme framed under section 5.

[(ll) “Superannuation”, in relation to an employee, who is the member of the Pension Scheme means the attainment, by the said employee, of the age of fifty-eight years;

[(m) “Tribunal” means the Industrial Tribunal referred to in section 7 D

3.3 . Establishment to include all departments and branches

For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.

3.4 Power to apply Act to an establishment

which has a common provident fund with another establishment.—Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in Official Gazette, direct that the provisions of this Act shall also apply to such other establishment.]

3.5. Power to add to Schedule I.

(1) The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

3.6. Employees’ Provident Fund Schemes

[(1)] The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees’ Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the [establishments] or class of [establishments] to which the said Scheme shall apply [and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme]

3.7. Central Board

(1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act referred to as the Central Board) consisting of the following persons as members] namely:—

(a) a Chairman and a Vice-Chairman] to be appointed by the Central Government;

[(aa) the Central Provident Fund Commissioner, ex officio;

(b) not more than five persons appointed by the Central Government from amongst its officials;

(c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, appointed by the Central Government;

(d) ten persons representing employers of the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; and

(e) ten persons representing employees in the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf.

3.8 . Executive Committee

(1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.

(2) The Executive Committee shall consist of the following persons as members, namely:—

(a) a Chairman appointed by the Central Government from amongst the members of the Central Board;

(b) two persons appointed by the Central Government from amongst the persons referred to in clause (b) of sub-section (1) of section 5A;

(c) three persons appointed by the Central Government from amongst the persons referred to in clause (c) of sub-section (1) of section 5A;

(d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause (d) of sub-section (1) of section 5A;

(e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause (e) of sub-section (1) of section 5A;

(f) the Central Provident Fund Commissioner, ex officio.

(3) The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme.

3.9 State Board

(1) The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees (hereinafter in this Act referred to as the State Board) in such manner as may be provided for in the Scheme.

(2) A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.

(3) The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.

3.10. Board of Trustees to body corporate

Every Board of Trustees constituted under section 5A or section 5B shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

3.11. Appointment of officers

(1) The Central Government shall appoint a Central Provident Fund Commissioner who shall be the chief executive officer of the Central Board and shall be subject to the general control and superintendence of that Board.

(2) The Central Government may also appoint a Financial Adviser and Chief Accounts Officers] to assist the Central Provident Fund Commissioner in the discharge of his duties.

3.12 Acts and proceedings of the Central Board or its Executive Committee or the State Board not to be in validated on certain grounds.—No act done or proceeding taken by the Central Board or the Executive Committee constituted under section 5AA or the State Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Board or the Executive Committee or the State Board, as the case may be.

3.13. Delegation

The Central Board may delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme the Pension Scheme and the Insurance Scheme

3.14. Contributions and matters which may be provided for in Schemes.

The contribution which shall be paid by the employer to the Fund shall be ten per cent of the basic wages, dearness allowance and retaining allowance (if any)] for the time being payable to each of the employees whether employed by him directly or by or through a contractor)], and the employees' contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten percent .of his basic wages, dearness allowance and retaining allowance (if any), subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section]:

[Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words [ten per cent.], at both the places where they occur, the words 10[twelve per cent.]shall be substituted:] official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent. of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;

(b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;

(c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;

(d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits they were entitled to under the ceased scheme, from the Pension Fund.

3.15 Employees' Deposit linked Insurance Scheme.

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

3.16 . Laying of schemes before Parliament.

Every scheme framed under section 5, section 6A and section 6C shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme, or both Houses agree that the scheme should not be framed, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.]

3.17. Modification of scheme

(1) The Central Government may, by notification in the Official Gazette, add to amend or vary, either prospectively or retrospectively, the Scheme, the Family Pension Scheme or the Insurance Scheme, as the case may be].

[(2) Every notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of

thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification

3.18. Determination of moneys due from employers.—

[(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,—

(a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provision of this Act, the Scheme or the [Pension] Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary];

(2) The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses;

3.19. Review of orders passed under section 7A.

(1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order: Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.

(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(4) Where the officer is of opinion that the application for review should be granted, he shall grant the same:

Provided that,—

(a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.

(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

3.20 Determination of escaped amount.

Where an order determining the amount due from an employer under section 7A or section 7B has been passed and if the officer who passed the order—

(a) has reason to believe that by reason of the omission or failure on the part of the employer to make any document or report available, or to disclose, fully and truly, all material facts necessary for determining the correct amount due from the employer, any amount so due from such employer for any period has escaped his notice;

(b) has, in consequence of information in his possession, reason to believe that any amount to be determined under section 7A or section 7B has escaped from his determination for any period notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the employer, he may, within a period of five years from the date of communication of the order passed under section 7A or section 7B, re-open the case and pass appropriate orders re-determining the amount due from the employer in accordance with the provisions of this Act:

Provided that no order re-determining the amount due from the employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case

3.21. Tribunal.

The Industrial Tribunal constituted by the Central Government under sub-section (1) of section 7A of the Industrial Disputes Act, 1947 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.]

3.22 Appeals to Tribunal.

(1) Any person aggrieved by a notification issued by the Central

Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B except an order rejecting an application for review referred to

in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

3.23 Procedure of Tribunals.

(1) A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

(2) A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 7A and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the all purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers.—(1) A person preferring an appeal to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or any other authority under this Act may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before a Tribunal.

3.24 Orders of Tribunal

(1) A Tribunal may after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.

(2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal:

Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

3.25 Issue of certificate to the Recovery Officer.

(1) Where any amount is in arrear under section 8, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the

Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below:—

- (a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, the employer;
- (b) arrest of the employer and his detention in prison;
- (c) appointing a receiver for the management of the movable or immovable properties of the establishment or, as the case may be, the employer:

Provided that the attachment and sale of any property under this section shall first be effected against the proportion of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

(2) The authorised officer may issue a certificate under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken in priority to all other debts.]

3.26 Employer not to reduce wages, etc.

No employer in relation to 10[an establishment] to which any 11[Scheme or the Insurance Scheme] applies shall, by reason only of his liability for the payment of any contribution to 12[the Fund or the Insurance Fund] or any charges under this Act or the 11[Scheme or the Insurance Scheme], reduce, whether directly or indirectly, the wages of any employee to whom the Scheme or the Insurance Scheme] applies or the total quantum of benefits in the nature of old age pension, gratuity [Provident Fund or Life Insurance] to which the employee is entitled under the terms of his employment, express or implied.]

3.27. Inspectors

(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act the Scheme the Pension Scheme or the Insurance Scheme], and may define their jurisdiction.

[(1A) An employer who contravenes, or makes default in complying with, the provisions of section 6 more clause (a) of sub-section (3) of section 17 in so far as it relates to the payment of inspection charges, or paragraph 38 of the Scheme in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to three years] but—

(a) which shall not be less than 7 [one year and a fine of ten thousand rupees] in case of default in payment of the employees' contribution which has been deducted by the employer from the employees' wages;

[(b) which shall not be less than six months and a fine of five thousand rupees, in any other case;] Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term 10.]

3.28 Offences by companies

(1) If the person committing an offence under this Act 4 the Scheme or the Pension Scheme or the Insurance Scheme]] is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act The Scheme or the [Pension] Scheme or the Insurance Scheme]] has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

3.29 Enhanced punishment in certain cases after previous conviction.

Whoever, having been convicted by a Court of an offence punishable under this Act, the Scheme or the Pension Scheme or the Insurance Scheme], commits the same offence shall be subject for every such subsequent offence to imprisonment for a term which may extend to [five years, but which shall not be less than two years, and shall also be liable to a fine of twenty-five thousand rupees].

3.30. Certain offences to be cognizable

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898.) an offence relating to default in payment of contribution by the employer punishable under this Act shall be cognizable.

3.31 Cognizance and trial of offences.

1) No court shall take cognizance of any offence punishable under this Act, the Scheme or the Pension Scheme or the Insurance Scheme] except on a report in writing of the facts constituting such offence made with the previous sanction of the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf, by an Inspector appointed under section

Act not to apply to certain establishments.—

[(1) This Act shall not apply—

(a) to any establishment registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State relating to co-operative societies, employing less than fifty persons and working without the aid of power; or

[(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits

[(2) If the Central Government is of opinion that having regard to the financial position of any class of Establishment or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt [whether prospectively or retrospectively] that class of [establishments] from the operation of this Act for such period as may be specified in the notification such transfer.

3.32 Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government, a State Government, the Presiding Officer of a Tribunal, any authority referred to in section 7A, an Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act, the Scheme, the Pension Scheme or the Insurance Scheme.

Authorities and inspector to be public servant.—The authorities referred to in section 7A and every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Delegation of powers.—The appropriate Government may direct that any power or authority or jurisdiction exercisable by it under this Act 6, the Scheme the Pension Scheme or the Insurance Scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

Power of Central Government to give directions.—The Central Government may, from time to time, give such directions to the Central Board as it may think fit for the efficient administration of this Act and when any such direction is given, the Central Board shall comply with such direction.

Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(b) the form and the manner in which, and the time within which, an appeal shall be filed before a Tribunal and the fees payable for filing such appeal;

(c) the manner of certifying the copy of the certificate, to be forwarded to the Recovery Officer under sub-section (2) of section 8C; and

(d) any other matter, which has to be, or may be, prescribed by rules under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

3.33 Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1988 (33 of 1988), the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date on which the said amendment Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

3.34 Summary

The EPF & MP Act, 1952 provides social security to employees by ensuring post-retirement financial stability, savings, and insurance through three main schemes administered by the Employees' Provident Fund Organisation (EPFO).

3.35 Key words

Employees' Deposit linked Insurance Scheme- The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

State Board-The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees (hereinafter in this Act referred to as the State Board) in such manner as may be provided for in the Scheme

Executive Committee-The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions

Central Board- The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act referred to as the Central Board) consisting of the following persons as members

3.36 Self Assessment Questions

1. Discuss the three major schemes under the EPF Act in detail.
2. Explain the process of PF withdrawal and the conditions for final settlement.
3. Describe the powers and functions of EPFO.
4. Analyse the role of EPF in ensuring financial security for employees.
5. Explain the penalties and offences under the EPF Act for employer non-compliance.

3.37 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-4

EMPLOYMENT EXCHANGE (COMPLUSORY NOTIFICATION OF VACANCIES) ACT 1959

Aims and Objectives:

- To Explain the purpose of the Act in relation to labour market information and employment promotion.
- To Recall the year of enactment and objectives of the Act.
- To List the types of vacancies that must be notified to the Employment Exchange.
- To Identify the establishments covered under the Act.

Structure

- 4.1 Introduction
- 4.2. Definitions
- 4.3. Act not to apply in relation to certain vacancies
- 4.4. Notification of vacancies to employment exchanges.
- 4.5. Employers to furnish information and returns in prescribed form
- 4.6. Right of access to records or documents
- 4.7. Penalties
- 4.8. Cognizance of offences
- 4.9. Protection of action taken in good faith
- 4.10. Power to make rules
- 4.11 Summary
- 4.12 Key words
- 4.13 Self Assessment Questions
- 4.14 Reference Books

4.1 Introduction

An Act to provide for the compulsory notification of vacancies to employment exchanges.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.

(2) It extends to the whole of India

(3) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf for such State and different dates may be appointed for different States or for different areas of a State.

4.2. Definitions

In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(1) in relation to—

(a) any establishment of any railway, major port, mine or oil-field, or

(b) any establishment owned, controlled or managed by—

(i) the Central Government or a department of the Central Government,

(ii) a company in which not less than fifty-one per cent. of the share capital is held by the Central Government or partly by the Central Government and partly by one or more State Governments,

(iii) a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government, the Central Government;

(2) in relation to any other establishment, the Government of the State in which that other establishment is situate;

(b) “employee” means any person who is employed in an establishment to do any work for remuneration;

(c) “employer” means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(d) “employment exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting—

(i) persons who seek to engage employees,

(ii) persons who seek employment, and

(iii) vacancies to which persons seeking employment may be appointed;

(e) “establishment” means—

(a) any office, or

(b) any place where any industry, trade, business or occupation is carried on;

(f) “establishment in public sector” means an establishment owned, controlled or managed by—

(1) the Government or a department of the Government;

(2) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(3) a corporation (including a co-operative society) established by or under a Central, Provincial or State Act, which is owned, controlled or managed by the Government;

(4) a local authority;

(g) “establishment in private sector” means an establishment which is not an establishment in public sector and where ordinarily twenty-five or more persons are employed to work for remuneration;

(h) “prescribed” means prescribed by rules made under this Act;

(i) “unskilled office work” means work done in an establishment by any of the following categories of employees, namely:—

(1) dafti;

(2) jemadar, orderly and peon;

(3) dusting man or farash;

(4) bundle or record lifter;

(5) process server;

(6) watchman;

(7) sweeper;

(8) any other employee doing any routine or unskilled work which the Central Government may, by notification in the Official Gazette, declare to be unskilled office work.

4.3. Act not to apply in relation to certain vacancies

(1) This Act shall not apply in relation to vacancies,—

(a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment as agricultural or farm machinery operatives;

(b) in any employment in domestic service;

(c) in any employment the total duration of which is less than three months;

(d) in any employment to do unskilled office work;

(e) in any employment connected with the staff of Parliament.

(2) Unless the Central Government otherwise directs by notification in the Official Gazette in this behalf, this Act shall not also apply in relation to—

(a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or on the result of any examination conducted or interview held by, or on the recommendation of, any independent agency, such as the Union or a State Public Service Commission and the like;

(b) vacancies in an employment which carries a remuneration of less than sixty rupees in a month.

4.4. Notification of vacancies to employment exchanges.

(1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

(3) The manner in which the vacancies referred to in sub-section (1) or sub-section (2) shall be notified to the employment exchanges and the particulars of employments in which such vacancies have occurred or are about to occur shall be such as may be prescribed.

(4) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the employment exchange to fill any vacancy merely because that vacancy has been notified under any of those sub-sections.

4.5. Employers to furnish information and returns in prescribed form

(1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment, to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

(3) The form in which, and the intervals of time at which, such information or return shall be furnished and the particulars which they shall contain shall be such as may be prescribed.

4.6. Right of access to records or documents

Such officer of Government as may be prescribed in this behalf, or any person authorised by him in writing, shall have access to any relevant record or document in the possession of any employer required to furnish any information or returns under section 5 and may enter at any reasonable time any premises where he believes such record or document to be and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required under that section.

4.7. Penalties

(1) If any employer fails to notify to the employment exchanges prescribed for the purpose any vacancy in contravention of sub-section (1) or sub-section (2) of section 4, he shall

be punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with fine which may extend to one thousand rupees.

(2) If any person—

(a) required to furnish any information or return—

(i) refuses or neglects to furnish such information or return, or

(ii) furnishes or causes to be furnished any information or return which he knows to be false,
or

(iii) refuses to answer, or gives a false answer to, any question necessary for obtaining any information required to be furnished under section 5; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6, he shall be punishable for the first offence with fine which may extend to two hundred and fifty rupees and for every subsequent offence with fine which may extend to five hundred rupees.

4.8. Cognizance of offences

No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, such officer of Government as may be prescribed in this behalf or any person authorised by that officer in writing.

4.9. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

4.10. Power to make rules

(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the employment exchange or exchanges to which, the form and manner in which, and the time within which vacancies shall be notified, and the particulars of employments in which such vacancies have occurred or are about to occur;

(b) the form and manner in which, and the intervals at which, information and returns required under section 5 shall be furnished, and the particulars which they shall contain;

(c) the officers by whom and the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised;

(d) any other matter which is to be, or may be, prescribed under this Act.

[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

4.11 Summary

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 is an Indian law that requires employers to notify employment exchanges about all vacancies before filling them. Its main purpose is to provide information on job vacancies to employment exchanges so they can help match job seekers with employers and assist in planning employment programs at the national level

4.12 Key words

Employment exchange means any office or place established and maintained by the Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting

Employer means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

Cognizance of offences

No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, such officer of Government as may be prescribed in this behalf or any person authorised by that officer in writing

4.13 Self Assessment Questions

1. Discuss the scope and applicability of the Employment Exchanges Act, 1959.
2. Explain the duties of employers under this Act.
3. Describe the types of vacancies that must be notified and those that are exempt.
4. How does the Act help in national manpower planning and employment generation?
5. Critically evaluate the relevance of the Act in today's employment environment.

4.14 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-5

MATERNITY ACT 1961

Aims and Objectives:

- To define key terms such as maternity benefit, miscarriage, medical bonus, establishment, and commissioning mother.
- To Describe the eligibility criteria for receiving maternity benefits.
- To List the types of leaves available (maternity leave, adoption leave, commissioning mother leave).
- To Identify the applicability of the Act to different establishments

Structure

- 5.1 Introduction
- 5.2. Application of Act
- 5.3. Definitions
- 5.4. Employment of, or work by, women prohibited during certain periods
- 5.5. Right to payment of maternity benefit
- 5.6. Notice of claim for maternity benefit and payment thereof
- 5.7. Payment of maternity benefit in case of death of a woman
- 5.8. Payment of medical bonus
- 5.9. Leave for miscarriage
- 5.9A. Leave with wages for tubectomy operation
- 5.10. Nursing breaks
- 5.11. Crèche facility
- 5.12. Dismissal during absence of pregnancy
- 5.13. No deduction of wages in certain cases
- 5.14. Appointment of Inspectors
- 5.15. Powers and duties of Inspectors
- 5.16. Inspectors to be public servants
- 5.17. Power of Inspector to direct payments to be made
- 5.18. Forfeiture of maternity benefit
- 5.19. Abstract of Act and rules thereunder to be exhibited
- 5.20. Registers
- 5.21. Penalty for contravention of Act by employer
- 5.22. Penalty for obstructing Inspector
- 5.23. Cognizance of offences
- 5.24. Protection of action taken in good faith
- 5.25. Power of Central Government to give directions
- 5.26. Power to exempt establishments
- 5.27. Effect of laws and agreements inconsistent with this Act
- 5.28 Summary

5.29 Key words

5.30 Self Assessment Questions

5.31 Reference Books

5.1 Introduction

An Act to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for maternity benefit and certain other benefits.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows

1. Short title, extent and commencement.—(1) This Act may be called the Maternity Benefit Act, 1961.

(2) It extends to the whole of India

(3) It shall come into force on such date as may be notified in this behalf in the Official Gazette,

[(a) in relation to mines and to any other establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, by the Central Government; and]

(b) in relation to other establishments in a State, by the State Government.

5.2. Application of Act

[(1) It applies, in the first instance,

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:

Provided that the State Government may, with the approval of the Central Government, after giving not less than two months' notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

5.3. Definitions

In this Act, unless the context otherwise requires,

(a) “appropriate Government” means, in relation to an establishment being a mine, or an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances,] the Central Government and in relation to any other establishment, the State Government;

(b) “child” includes a still-born child;

[(ba) “commissioning mother” means a biological mother who uses her egg to create an embryo implanted in any other woman;

(c) “delivery” means the birth of a child;

(d) “employer” means—

(i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

[(e) “establishment” means

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

[(iva) a shop or establishment; or

(v) an establishment to which the provisions of this Act have been declared under sub-section (1) of section 2 to be applicable;

(f) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(g) “Inspector” means an Inspector appointed under section 14;

(h) “maternity benefit” means the payment referred to in sub-section (1) of section 5;

[(ha) “medical termination of pregnancy” means the termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971 (34 of 1971);

(i) “mine” means a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952);

(j) “miscarriage” means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860);

(k) “plantation” means a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);

(l) “prescribed” means prescribed by rules made under this Act;

(m) “State Government”, in relation to a Union territory, means the Administrator thereof;

(n) “wages” means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

(2) incentive bonus; and

(3) the money value of the concessional supply of food grains and other articles, but does not include

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of service;

(o) “woman” means a woman employed, whether directly or through any agency, for wages in any establishment.

5.4. Employment of, or work by, women prohibited during certain periods

(1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery miscarriage or medical termination of pregnancy.

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy].

(3) Without prejudice to the provisions of section 6, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period specified in sub-section

(4) any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 6.

5.5. Right to payment of maternity benefit

[(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than [eighty days] in the twelve months immediately preceding the date of her expected delivery:

Provided that the qualifying period of [eighty days] aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.

[(3) The maximum period for which any woman shall be entitled to maternity benefit shall be [twenty-six weeks of which not more than eight weeks] shall precede the date of her expected delivery:

Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

[Provided further that] where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided also that] where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the Child.

[(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

5.6. Notice of claim for maternity benefit and payment thereof

(1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in such form as may be prescribed, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Act if she is otherwise entitled to such benefit or amount and in any such case an Inspector may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

5.7. Payment of maternity benefit in case of death of a woman

If a woman entitled to maternity benefit or any other amount under this Act, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 5, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 6 and in case there is no such nominee, to her legal representative.

5.8. Payment of medical bonus

(1) Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of one thousand rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

(2) The Central Government may before every three years, by notification in the Official Gazette, increase the amount of medical bonus subject to the maximum of twenty thousand rupees.

5.9. Leave for miscarriage, etc

In case of miscarriage or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.

5.9A. Leave with wages for tubectomy operation

In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.]

Leave for illness arising out of pregnancy, delivery, premature birth of child , miscarriage, mmedical termination of pregnancy or tubectomy operation

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child , miscarriage, medical termination of pregnancy or tubectomy operation] shall, on production of such proof as may be prescribed, be entitled, in addition to the period of absence allowed to her under section 6, or, as the case may be, under section 9, to leave with wages at the rate of maternity benefit for a maximum period of one month.

5.10. Nursing breaks

Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months.

5.11. Crèche facility

(1) Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities:

Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her.

(2) Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.]

5.12. Dismissal during absence of pregnancy

(1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

[(b) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final.]

(c) Nothing contained in this sub-section shall affect the provisions contained in sub-section

5.13. No deduction of wages in certain cases

No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made by reason only of—

(a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3) of section 4; or

(b) breaks for nursing the child allowed to her under the provisions of section 11.

5.14. Appointment of Inspectors

The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

5.15. Powers and duties of Inspectors

An Inspector may, subject to such restrictions or conditions as may be prescribed, exercise all or any of the following powers, namely:—

(a) enter at all reasonable times with such assistants, if any, being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place where woman are employed or work is given to them in an establishment, for the purposes of examining any registers, records and notices required to be kept or exhibited by or under this Act and required their production for inspection;

(b) examine any person whom he finds in any premises or place and who, he has reasonable cause to believe, is employed in the establishment: Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself;

(c) require the employer to give information regarding the names and addresses of women employed, payments made to them, and applications or notices received from them under this Act; and

(d) take copies of any registered and records or notices or any portions thereof.

5.16. Inspectors to be public servants

Every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

5.17. Power of Inspector to direct payments to be made

[(1) Any woman claiming that—

(a) maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld;

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Act, may make a complaint to the Inspector.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that—

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.

(3) Any person aggrieved by the decision of the Inspector under sub-section (2) may, within thirty days from the date on which such decision is communicated to such persons, appeal to the prescribed authority.

(4) The decision of the prescribed authority where an appeal has been preferred to it under subsection (3) or of the Inspector where no such appeal has been preferred, shall be final.

[(5) Any amount payable under this section shall be recoverable by the Collector on a certificate issued for that amount by the Inspector as an arrear of land revenue.

5.18. Forfeiture of maternity benefit

If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of section 6 for any period during such authorised absence, she shall forfeit her claim to the maternity benefit for such period.

5.19. Abstract of Act and rules thereunder to be exhibited

An abstract of the provisions of this Act and the rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

5.20. Registers

Every employer shall prepare and maintain such registers, records and musterrolls and in such manner as may be prescribed

5.21. Penalty for contravention of Act by employer

(1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

Provided that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

(2) If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both:

Provided that where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.

5.22. Penalty for obstructing Inspector

Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees], or with both.

5.23. Cognizance of offences

(1) Any aggrieved woman, an office-bearer of a trade union registered under the Trade Unions Act, 1926 (16 of 1926) of which such woman is a member or a voluntary organisation registered under the Societies Registration Act, 1860 (21 of 1860) or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court of competent jurisdiction and no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act].

5.24. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

5.25. Power of Central Government to give directions

The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of the provisions of this Act and the State Government shall comply with such directions.

5.26. Power to exempt establishments

If the appropriate Government is satisfied that having regard to an establishment or a class of establishments providing for the grant of benefits which are not less favourable than those provided in this Act, it is necessary so to do, it may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions, if any, as may be specified in the notification, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder.

5.27. Effect of laws and agreements inconsistent with this Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

5.28 Summary

The Maternity Benefit Act, 1961 is an Indian labour law that provides paid maternity leave and various benefits to women employees before and after childbirth. Its objective is to protect the health, dignity, and employment rights of pregnant women, ensuring that they receive leave, financial benefits, and job security.

5.29 Key words

Maternity Benefit

Financial compensation paid to a woman during her maternity leave so that she can take rest without losing income.

Eligibility

A woman must have worked for **at least 80 days** in the 12 months immediately preceding her expected delivery date to receive benefits.

Miscarriage Leave (6 Weeks)

If a woman suffers a miscarriage or medical termination, she is entitled to **6 weeks leave** with full maternity benefit.

Adoption Leave (12 Weeks)

An adoptive mother of a child below 3 months is entitled to **12 weeks leave** from the date she receives the child.

Commissioning Mother

A woman who uses a surrogate to have a child; she is eligible for **12 weeks maternity leave** under the Act.

Nursing Breaks

After returning to work, a mother is allowed **two breaks per day** to nurse or feed her child until the child is **15 months old**.

Crèche Facility

A mandatory childcare facility for establishments with **50 or more employees**; allows working mothers to keep their infants nearby.

Prohibition of Hazardous Work

Pregnant women cannot be asked to do any **dangerous, heavy, or harmful work** that may affect their health or the baby.

5.30 Self Assessment Questions

1. Explain the major provisions of the Maternity Benefit Act, 1961.
2. Discuss the rights and protections provided to pregnant women under the Act.
3. Describe the amendments introduced in the Maternity Benefit Amendment Act, 2017.
4. Explain the rules related to crèche facilities and nursing breaks.

5.31 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-6

PAYMENT OF GRATUITY ACT 1952

Aims and Objectives:

- To Identify the eligibility conditions for payment of gratuity
- To Explain the objective of providing gratuity as a social security benefit.
- To Apply the calculation formula to compute gratuity for given salary and service data
- To Analyze differences between eligible and non-eligible cases based on continuous service.

Structure

- 6.1 Introduction
- 6.2 Definitions.
- 6.3 Section: 2A Continuous service.
- 6.4 Section: 3 Controlling authority
- 6.5 Section: 4 Payment of gratuity.
- 6.6 Section: 4A Compulsory insurance
- 6.7 Section: 5 Power to exempt
- 6.8 Section: 6 Nomination.
- 6.9 Section: 7 Determination of the amount of gratuity
- 6.10 Section: 7A Inspectors
- 6.11 Section: 7B Powers of Inspectors.
- 6.12 Section: 8 Recovery of gratuity.
- 6.13 Section: 9 Penalties.
- 6.14 Section: 10 Exemption of employer from liability in certain cases.
- 6.15 Section: 11 Cognizance of offences.
- 6.16 Section: 12 Protection of action taken in good faith.
- 6.17 Section: 13 Protection of gratuity.
- 6.18 Section: 14 Act to override other enactments, etc.
- 6.19 Section: 15 Power to make rules.
- 6.20 Summary
- 6.21 Key words
- 6.22 Self Assessment questions
- 6.23 Reference books

6.1 Introduction

An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Twenty-third Year of Republic of India as follows :

Section: 1 Short title, extent, application and commencement.

(1) This Act may be called the Payment of Grataity Act, 1972.

(2) It extends to the whole of India:

Provided that in so far as it relates to plantations or ports, it shall not extend to the State of Jammu and Kashmir.

(3) It shall apply to -

(a) every factory, mine, oilfield, plantation, port and railway company;

(b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;

(c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, or, any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.

(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.]

(4) It shall come into force on such date as the Central Government may, by notification, appoint Payment of Gratuity Act, 1972Section: 2

6.2 Definitions.

In this Act, unless the context otherwise requires, -

(a) "appropriate Government" means, -

(i) in relation to an establishment

(a) belonging to, or under the control of, the Central Government,

(b) having branches in more than one State,

(c) of a factory belonging to, or under the control of, the Central Government,

(d) of a major port, mine, oilfield or railway company, the Central Government,

(ii) in any other case, the State Government;

(b) "completed year of service" means continuous service for one year;

[2] [(c) "continuous service" means continuous service as defined in section 2A;]

(d) "controlling authority" means an authority appointed by the appropriate Government under section 3 ;

(e) "employee" means any person (other than an apprentice) employed on wages, [3] [***] in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, [4] [and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who

holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity]

(f) "employer" means, in relation to any establishment, factory, mine, oilfield, plantation, port, railway company or shop -

(i) belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned,

(ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,

(iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;

(g) "factory" has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(h) "family", in relation to an employee, shall be deemed to consist of -

(i) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents [6] [and the dependent parents of his wife and the widow] and children of his predeceased son, if any,

(ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any:

(i) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(j) "mine" has the meaning assigned to it in clause (J) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

(k) "notification" means a notification published in the Official Gazette;

(l) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948);

(m) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951) ;

(n) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(o) "prescribed" means prescribed by rules made under this Act;

(p) "railway company" has the meaning assigned to it in clause (5) of section 3 of the Indian Railways Act, 1890 (9 of 1890);

(q) "retirement" means termination of the service of an employee otherwise than on superannuation;

[8] [(r) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service at the age on the attainment of which the employee shall vacate the employment;]

(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

6.3 Section: 2A Continuous service.

For the purposes of this Act, -

(1) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order [***] treating the absence as break in service has been passed in accordance with the standing order, rules or regulations governing the employees of the establishment), lay off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act.

(2) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer -

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than -

(i) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than -

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case;

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment;

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

(3) where an employee employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventyfive per cent of the number of days on which the establishment was in operation during such period

6.4 Section: 3 Controlling authority

The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

6.5 Section: 4 Payment of gratuity.

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, -

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.]

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account.:

Provided further that in the case of [an employee who is employed in a seasonal establishment and who is so employed throughout the year], the employer shall pay the gratuity at the rate of seven days wages for each season.

(3) The amount of gratuity payable to an employee shall not exceed three lakhs and fifty thousand] rupees.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1), -

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.

(b) the gratuity payable to an employee may be wholly or partially forfeited]

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

6.6 Section: 4A Compulsory insurance

(1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed, for his liability for payment towards the gratuity under this Act, from the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956) or any other prescribed insurer:

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(2) The appropriate Government may, subject to such conditions as may be prescribed, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed from the provisions of sub-section (1).

(3) For the purpose of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed get his establishment registered with the controlling authority in the prescribed manner and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).

(4) The appropriate Government may, by notification, make rules to give effect to the provisions of this section and such rules may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the controlling authority of the amount of the gratuity payable to an employee from the Life Insurance Corporation of India or any other insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund.

(5) Where an employer fails to make any payment by way of premium to the insurance referred to in sub-section (1) or by way of 'contribution to all approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.

(6) Whoever contravenes the provisions of sub-section (5) shall be\ punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.

6.7 Section: 5 Power to exempt

(1) The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act if, in the opinion of the appropriate Government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.

(2) The appropriate. Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.

(3) A notification issued under sub-section (1) or sub-section (2) may be issued retrospectively a date not earlier than the date of commencement of this Act, but no such notification shall be issued so as to prejudicially affect the interests of any person.

6.8 Section: 6 Nomination.

(1) Each employee, who has completed one year of service, shall make, within such time, in such form and in such manner, as may be prescribed, nomination for the Purpose of the second proviso to sub-section (1) of section 4.

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.

(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family, shall be void.

(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family,

such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, afresh nomination in favour of one or more members of his family.

(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so.

(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.

(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody

6.9 Section: 7 Determination of the amount of gratuity.

(1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount gratuity so determined.

(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify: Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.]

(4) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.

(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.]

(c)] The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.]

(d) The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(e) As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit -

(i) to the applicant where he is the employee; or

(ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or] heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely :

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents,

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

(6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, 1860 (45 of 1860).

(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under subsection (4), or deposits with the appellate authority such amount.]

(8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority

6.10 Section: 7A Inspectors

(1) The appropriate Government may, by notification, appoint as many Inspectors, as it deems fit, for the purposes of this Act.

(2) The appropriate Government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same area, also provide, by such order, for the distribution or allocation of work to be performed by them under this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

6.11 Section: 7B Powers of Inspectors.

(1) Subject to any rules made by the appropriate Government in this behalf, an Inspector may, for the purpose of ascertaining whether any of the provisions of this Act or the conditions, if any, of any exemption granted there under, have been complied with, exercise all or any of the following powers, namely:

(a) require an employer to furnish such information as he may consider necessary

(b) enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in any factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made there under, or otherwise kept or exhibited in relation to the employment of any person or the payment of gratuity to the employees, and require the production thereof for inspection;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer or any person whom he finds in such premises or place and who, he has reasonable cause to believe, is an employee employed therein;

(d) make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit, such register, record, notice or other document as he may consider relevant in respect of that offence;

(e) exercise such other powers as may be prescribed.

(2) Any person required to produce any register, record, notice or other document or to give any information by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code 1860 (45 of 1860).

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code.]

6.12 Section: 8 Recovery of gratuity.

If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon at such rate as the Central Government may, by notification, specify,] from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto :

Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate:

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act.

6.13 Section: 9 Penalties.

(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.

(2) An employer who contravenes, or makes default in complying with, any of the provisions of this Act or any rule or order made there under shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both:

Provided that where the offence relates to non-payment of any gratuity payable under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than [36] [Six months but which may extend to two years] unless the court trying the offence, for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice.

6.14 Section: 10 Exemption of employer from liability in certain cases.

Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court -

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

6.15 Section: 11 Cognizance of offences.

(1) No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government:

Provided that where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time, the appropriate Government shall authorise the controlling authority to make a complaint against the employer, whereupon the controlling authority shall, within fifteen days from the date of such authorisation, make such complaint to a Magistrate having jurisdiction to try the offence.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

6.16 Section: 12 Protection of action taken in good faith.

No suitor other legal proceeding shall lie against the controlling authority or any other person in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made there under.

6.17 Section: 13 Protection of gratuity.

No gratuity payable under this Act and no gratuity payable to an employee employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop exempted under section shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

6.18 Section: 14 Act to override other enactments, etc.

The provisions of this Act or any rule made there under shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.

6.19 Section: 15 Power to make rules.

(1) The appropriate Government may, by notification make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session ii-immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

6.20 Summary

The Payment of Gratuity Act, 1972 is a social security law that ensures financial benefits to employees as a reward for long and continuous service. It mandates employers to pay gratuity to eligible employees on termination of employment.

6.21 Key words

Gratuity

A lump-sum monetary benefit paid by the employer to an employee for long and continuous service.

Continuous Service-Uninterrupted service, including leave, sickness, accident, strike, lockout, or layoff

Superannuation- Formal retirement on reaching the age fixed by the employer or law

Disablement- Physical or mental disability preventing the employee from working.

6.22 Self Assessment questions

1. Discuss the objectives and scope of the Payment of Gratuity Act, 1972.
2. Explain in detail the concept of “continuous service” with examples.
3. Describe the procedure for claiming gratuity and the forms involved.
4. Explain the rules relating to nomination under the Act.

6.23 Reference books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-7

CINE WORKERS WELFARE FUND ACT 1981

Aims and Objectives:

- To Explain the objectives of the Act in safeguarding the welfare of cine industry workers.
- To Describe eligibility criteria for cine workers to avail benefits.
- To Discuss the structure of the Cine Workers Welfare Fund Board and its functions.
- To Interpret employer obligations for registering workers and contributing to the Fund

Structure

- 7.1 Introduction
- 7.2. Definition.
- 7.3. Cine-workers Welfare Fund.
- 7.4. Application of Fund.
- 7.5. Advisory Committees
- 7.6. Central Advisory Committee
- 7.7 Central Advisory Committee.
- 7.8. Appointment of Welfare Commissioners, etc., and their powers.
- 7.9. Annual report of activities financed under the Act
- 7.10. Power to call for information.
- 7.11. Power to make rules.
- 7.12 Summary
- 7.13 Key words
- 7.14 Self Assessment Questions
- 7.15 Reference books

7.1 Introduction

An Act to provide for the financing of activities to promote the welfare of certain cine-workers.

Be it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Cine-workers Welfare Fund Act, 1981.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

7.2. Definition.—In this Act, unless the context otherwise requires,—

(a) “cinematograph film” has the same meaning as in the Cinematograph Act, 1952 (37 of 1952);

(b) “cine-worker” means an individual—

(i) who has been employed, directly or through any contractor or in any other manner, in or in connection with the production of not less than five feature films to work as an artiste (including actor, musician or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise; and

(ii) whose remuneration with respect to such employment in or in connection with the production of each of any five feature films, not being less than the monthly remuneration or lump sum remuneration stipulated prior to the commencement of the Cine-workers Welfare Fund (Amendment) Act, 2001 (56 of 2001), does not exceed such sum, whether monthly or by way of lump sum or instalments, as may be specified by the Central Government by notification in the Official Gazette;]

(c) “feature film” means a full length cinematograph film produced wholly or partly in India with a format and a story woven around a number of characters where the plot is revealed mainly through dialogues and not wholly through narration, animation or cartoon depiction and does not include an advertisement film;

(d) “Fund” means the Cine-workers Welfare Fund formed under section 3;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “producer”, in relation to a feature film, means the person by whom arrangements necessary for the making of such film (including the raising of finance and engaging cine-workers for such filmmaking) are undertaken.

7.3. Cine-workers Welfare Fund.

There shall be formed a Fund, to be called the Cine-workers Welfare Fund, and there shall be credited thereto—

(a) such amounts as the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from out of the proceeds of the duty of excise credited under section 5 of the Cine-workers Welfare Cess Act, 1981 (30 of 1981), after deducting therefrom the cost of collection as determined by the Central Government under this Act;

(b) any grants made to the Fund by the Central Government;

(c) any money received as donations for the purposes of this Act;

(d) any income from investment of the amounts in the Fund.

7.4. Application of Fund.

(1) The Fund shall be applied by the Central Government to meet the

expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of cine-workers; and, in particular,—

- (a) to defray the cost of such welfare measures or facilities for the benefit of cine-workers as may be decided by the Central Government;
- (b) to provide assistance in the form of grants or loans to indigent cine-workers;
- (c) to sanction any money in aid of any scheme for the welfare of the cine-workers , including family welfare, family planning, education and services] which is approved by the Central Government;
- (d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8;
- (e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(2) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

7.5. Advisory Committees

(1) The Central Government may constitute as many Advisory Committees as it thinks fit to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing the Government, the cine-workers and the producers.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of every Advisory Committee.

7.6. Central Advisory Committee

(1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

2) The Central Advisory Committee shall consist of 1 [such number of members as may be appointed] by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include at least three members representing the Government, the cine-workers and the producers.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of the

7.7 Central Advisory Committee.

1. Power to co-opt, etc.—(1) An Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) An Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

7.8. Appointment of Welfare Commissioners, etc., and their powers.

(1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Cine- workers Welfare Cess Act, 1981 (30 of 1981).

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Cine-workers Welfare Cess Act, 1981 (30 of 1981).

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(4) Any Welfare Commissioner may,—

(a) with such assistance, if any, as he may think fit, enter, at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act and the Cine-workers Welfare Cess Act, 1981 (30 of 1981);

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

7.9. Annual report of activities financed under the Act.

The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of the activities financed under this Act during the financial year, together with a statement of accounts.

7.10. Power to call for information.

The Central Government may require a producer to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

7.11. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the Fund may be applied for the measures and facilities specified in subsection (1) of section 4;

(b) the conditions governing the grant of any loan under clause (b) of sub-section (1) of section 4;

(c) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;

(d) the recruitment, conditions of service and the duties of all persons appointed under section 8;

(e) the powers that may be exercised by a Welfare Commissioner, a Welfare Administrator and an Inspector appointed under section 8;

(f) the furnishing to the Central Government by a producer of such statistical and other information as may be required to be furnished under section 10;

(g) the form in which and the period within which the statistical and other information are to be furnished under clause (f);

(h) any other matter which has to be, or may be, prescribed by rules under this Act.

(3) In making any rule under clause (f) or clause (g) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to two thousand rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

7.12 Summary

The Cine Workers Welfare Fund Act, 1981 was enacted to provide welfare measures for cine workers engaged in producing feature films. The Act creates a Welfare Fund by collecting a cess from cinema films and using it for workers' benefits. The **Cine Workers Welfare Fund Act, 1981** established a **Welfare Fund** for the welfare of cine workers engaged in feature film production. The fund is financed through the **Cine Workers Welfare Cess** levied on feature films. The Central Government uses this fund to provide welfare services—health, housing, insurance, education, and financial assistance. The Act defines who a “cine worker” is, sets up **Advisory Committees**, and prescribes the **management, audit, and disbursement** procedures of the fund to ensure workers' social security.

7.13 Key words

Cine Worker

A person employed in the production of a **feature film**, such as an actor, musician, editor, director, technician, cameraman, or other crew member.

Feature Film

A film produced for exhibition in cinemas. The Act mainly covers workers involved in such films.

Welfare Fund

A central fund created under the Act to finance welfare measures for cine workers.

Cine Workers Welfare Cess

A tax (cess) levied on every feature film produced, which contributes to the Welfare Fund.

7.14 Self Assessment questions

1. Explain the objectives and major provisions of the Cine Workers Welfare Fund Act, 1981.
2. Discuss how the Welfare Fund is financed and the role of the Central Government in its administration.
3. Evaluate the importance of welfare measures for cine workers in India and how this Act addresses their socio-economic needs.

7.15 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-8

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996

Aims and Objectives:

- To Recall the key provisions, definitions, and objectives of the BOCW Act, 1996.
- To Explain the purpose of registration, welfare measures, and social security schemes under the Act.
- To Demonstrate how to register workers or apply welfare provisions in a construction setup.
- To Examine the roles of employers, welfare boards, and state authorities in implementing the Act.

STRUCTURE

- 8.1 Introduction
- 8.2. Definitions.
- 8.3. Central Advisory Committee.
- 8.4. State Advisory Committee
- 8.5. Expert Committees
- 8.6. Appointment of registering officers
- 8.7. Registration of establishments
- 8.8. Revocation of registration in certain cases
- 8.9. Appeal
- 8.10. Effect of non-registration
- 8.11. Beneficiaries of the Fund
- 8.12. Registration of building workers as beneficiaries
- 8.13. Identity cards
- 8.14. Cessation as a beneficiary
- 8.15. Register of beneficiaries
- 8.16. Contribution of building workers
- 8.17. Effect of non-payment of contribution
- 8.18. Constitution of State Welfare Boards
- 8.19. Secretary and other officers of Boards
- 8.20. Meetings of Board
- 8.21. Vacancies, etc., not to invalidate proceedings of the Boards
- 8.22. Functions of the Boards
- 8.23. Grants and loans by the Central Government
- 8.24. Building and Other Construction Workers' Welfare Fund and its application
- 8.25 Budget

- 8.26. Annual report
- 8.27. Accounts and audit
- 8.28. Fixing hours for normal working day
- 8.29. Wages for overtime work
- 8.30. Maintenance of registers and records
- 8.31. Prohibition of employment of certain persons in certain building or other construction work
- 8.32. Drinking water
- 8.33. Latrines and urinals
- 8.34. Accommodation
- 8.35. Creches
- 8.36. First-aid
- 8.37. Canteens
- 8.38. Safety Committee and safety officers
- 8.39. Notice of certain accidents
- 8.40. Power of appropriate Government to make rules for the safety and health of building workers
- 8.41 Summary
- 8.42 Key words
- 8.43 Self Assessment questions
- 8.44 Reference books

8.1 Introduction

An Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measure and for other matter connected therewith or incidental thereto.

1. Short title, extent, commencement and application.- (1) This Act may be called the Building and Other Construction Workers (Regulation of Employment. And Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.

8.2. Definitions.

(1) In this Act, unless the context otherwise requires,-

(a) "appropriate Government" means,-

(i) in relation to an establishment which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any such establishment, being a public sector undertaking, as the Central Government may by notification specify which employs building workers either directly or through a contractor, the Central Government

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) beneficiary means a building worker registered under section 12;

(c) Board means a Building and Other Construction Workers' Welfare Board constituted under sub-section (1) of section 18;

(d) building or other construction work" means the construction, alteration, repairs, maintenance or demolition- of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio; television, telephone, telegraph and overseas communication dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply;

(e) building worker means a person who is employed to do any skilled, semiskilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person-

(i) who is employed mainly in a managerial or administrative capacity; or.

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(f) "Chief Inspector" means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 42;

(g) "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment; and includes a sub-contractor;

(h) Director-General" means the Director-General of Inspection appointed under sub-section (1) of section 42;

(i) employer", in relation to an establishment, means the owner thereof, and includes,-

(i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

(j) establishment means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;

(k) "Fund" means the Building and Other Construction Workers' Welfare Fund of a Board constituted under sub-section (1) of section 24;

(l) notification means a notification published in the Official Gazette;

(m) prescribed means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(n) wages shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

8.3. Central Advisory Committee.

(1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The Central Advisory Committee shall consist of-

(a) a Chairperson to be appointed by the Central Government;

(b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States-members;

(c) the Director-General-member, ex officio;

(d) such number of other members, not exceeding thirteen but not less than nine, as the Central Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2), the term of office and other conditions of service of the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Advisory Committee shall be such as may be prescribed:

Provided that the members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

(4) It is hereby declared that the office of member of the Central Advisory Committee shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

8.4. State Advisory Committee

(1) The State Government shall constitute a committee to be called the State Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the State Advisory Committee) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The State Advisory Committee shall consist of-

- (a) a Chairperson to be appointed by the State Government;
- (b) two members of the State Legislature to be elected from the State Legislature-members;
- (c) a member to be nominated by the Central Government;
- (d) the Chief Inspector-member, ex officio;
- (e) such member of other members, not exceeding eleven, but not less than seven as the State Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the State Government, ought to be represented on the State Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (2), the term of office and other conditions of service of the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of State Advisory Committee shall be such as may be prescribed:

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

8.5. Expert Committees

(1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advising that Government for making rules under this Act.

(2) The members of the expert committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is an officer of Government or of any body corporate established by or under any law for the time being in force.

8.6. Appointment of registering officers

The appropriate Government may, by order notified in the Official Gazette,-

- (a) appoint such persons being Gazetted Officers of Government, as it thinks fit, to be the registering officers for the purposes of this Act; and
- (b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act.

8.7. Registration of establishments

(1) Every employer shall,-

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment, make an application to the registering officer for the registration of such establishment:

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particular and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

8.8. Revocation of registration in certain cases

If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that the provisions of this Act are not being complied with in relation to any work carried on by such establishment, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, he may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration.

8.9. Appeal

(1) Any person aggrieved by an order made under section 8 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, confirm, modify or reverse the order of revocation as expeditiously as possible.

8.10. Effect of non-registration

No employer of an establishment to which this Act applies, shall,-

(a) in the case of an establishment required to be registered under section 7, but which has not been registered under that section;

(b) in the case of an establishment the registration in respect of which has been revoked under section 8 and no appeal has been preferred against such order of revocation under section 9 within the period prescribed for the preferring of such appeal or where an appeal has been so preferred, such appeal has been dismissed, employ building workers in the establishment after the expiry of the period referred to in clause (a) or clause (b) of sub-section (1) of section 7, or after the revocation of registration under section 8 or after the expiry of the period for preferring an appeal under section 9 or after the dismissal of the appeal, as the case may be.

8.11. Beneficiaries of the Fund

Subject to the provisions of this Act, every building worker registered as a beneficiary under this Act shall be entitled to the benefits provided by the Board from its Fund under this Act.

8.12. Registration of building workers as beneficiaries

(1) Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed, to the officer authorised by the Board in this behalf.

(3) Every application under sub-section (2) shall be accompanied by such documents together With such fee not exceeding fifty rupees as may be prescribed.

(4) If the officer authorised by the Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the building worker as a beneficiary under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Secretary of the Board or any other officer specified by the Board in this behalf and the decision of the Secretary or such other officer on such appeal shall be final:

Provided that the Secretary or any other officer specified by the Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the building worker was prevented by sufficient cause from filing the appeal in time.

(6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.

8.13. Identity cards

(1) The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon and with enough space for entering the details of the building or other construction work done by him.

(2) Every employer shall enter in the identity card the details of the building or other construction work done by the beneficiary and authenticate the same and return it to the beneficiary.

(3) A beneficiary who has been issued an identity card under this Act shall produce the same whenever demanded by any officer of Government or the Board, any inspector or any other authority for inspection.

8.14. Cessation as a beneficiary

(1) A building worker who has been registered as a beneficiary under this Act shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be prescribed.

8.15. Register of beneficiaries

Every employer shall maintain a register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken by him and the same may be inspected without any prior notice by the Secretary of the Board or any other officer duly authorised by the Board in this behalf.

8.16. Contribution of building workers

(1) A building worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem, as may be specified by the State Government, by notification in the Official Gazette and different rates of contribution may be specified for different classes of building workers:

Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

(2) A beneficiary may authorise his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.

8.17. Effect of non-payment of contribution

When a beneficiary has not paid his contribution under sub-section (1) of section 16 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Provided that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, the registration of building worker shall stand restored.

8.18. Constitution of State Welfare Boards

(1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the (name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of a chairperson, a person to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman:

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Board, and the manner of filling of casual vacancies of the members of the Board, shall be such as may be prescribed.

8.19. Secretary and other officers of Boards.

(1) The Board shall appoint a Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The secretary of the Board shall be its chief executive officer.

(3) The terms and conditions of appointment and the salary allowances payable to the Secretary and the other officers and employees of the Board shall be such as may be prescribed.

8.20. Meetings of Board.

(1) The Board shall meet at such time and place and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed.

(2) The chairperson or, if for any reason he is unable to attend a meeting of the Board, any member nominated by the chairperson in this behalf and in the absence of such nomination, any other member elected by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and in the event of equality of votes, the chairperson, or in his absence, the person presiding, shall have a second or a casting vote.

8.21. Vacancies, etc., not to invalidate proceedings of the Boards

No act or proceedings of a Board shall be invalid merely by reason of-

- (a) any vacancy in, or any defect in the constitution of, the Board; or
- (b) any defect in the appointment of a person acting as a member of the Board; or
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

8.22. Functions of the Boards

(1) The Board may-

- (a) provide immediate assistance to a beneficiary in case of accident;
- (b) make payment of pension to the beneficiaries who have completed the age of sixty years;
- (c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;
- (d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as it may deem fit;
- (e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;
- (f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;
- (g) make payment of maternity benefit to the female beneficiaries; and
- (h) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment

(3) The Board may pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, so, however, that the amount payable as grants-in-aid to any local authority or employer shall not exceed-

- (a) the amount spent in providing welfare measures and facilities as determined by the State Government or any person specified by it in this behalf, or
- (b) such amount as may be prescribed, whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf,

8.23. Grants and loans by the Central Government

The Central Government may, after due appropriation made by Parliament by law in this behalf, make to a Board grants and loans of such sums of money as the Government may consider necessary,

8.24. Building and Other Construction Workers' Welfare Fund and its application

(1) There shall be constituted by a Board a fund to be called the Building and other Construction Workers' Welfare Fund and there shall be credited thereto-

- (a) any grants and loans made to the Board by the Central Government under section 23;3
- (b) all contributions made by the beneficiaries;

(c) all sums received by the Board from such other sources as may be decided by the Central Government,

(2) The Fund shall be applied for meeting-

(a) expenses of the Board in the discharge of its functions under section 22; and

(b) salaries, allowances and other remuneration of the members, officers and other employees for the Board;

(c) expenses on objects and for purposes authorised by this Act.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five percent of its total expenses during that financial year.

8.25 Budget

The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government and the Central Government,

8.26. Annual report

The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government and the Central Government.

8.27. Accounts and audit

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the officers of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the State Legislature.

8.28. Fixing hours for normal working day

(1) The appropriate Government may, by rules.-

- (a) fix the number of hours of work which shall constitute normal working day for a building worker, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment of work on a day of rest at a rate not less than the overtime rate specified in section 29.

(2) The provisions of sub-section (1) shall, in relation to the following classes of building workers, apply only to such extent, and subject to such conditions, as may be prescribed, namely:-

- (a) persons engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (b) persons engaged in a work in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;
- (c) persons engaged in any work which for technical reasons has to be completed before the day is over;
- (d) persons engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

8.29. Wages for overtime work

- (1) Where any building worker is required to work on any day in excess of the number of hours constituting a normal working day he shall be entitled to wages at the rate of twice his ordinary rate of wages.
- (2) For the purposes of this section, "ordinary rates of wages" means tile basic wages plus such allowances as tile worker is for the time being entitled to but does not include any bonus.

8.30. Maintenance of registers and records

- (1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, in day of rest in every period of seven days which shall be allowed to them, tile wages paid to them, the receipts given by them and such other particulars in such form as my be prescribed.
- (2) Every employer shall keep exhibited, in such manner as may be prescribed, in tile place where such workers may be employed, notices in the prescribed form containing the prescribed particulars.
- (3) The appropriate Government may, by rules, provide for tile issue of wage books or wage slips to building workers employed in an establishment and prescribe tile manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

8.31. Prohibition of employment of certain persons in certain building or other construction work

No person about whom the employer knows or has reason to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall bc required or allowed to work in any

such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

8.32. Drinking water

(1) The employer shall make in every place where building or other construction work is in progress, effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed there in, a sufficient supply of wholesome drinking water.

(2) All Such points shall be legible marked Drinking Water in a language understood by a majority of the person employed in such place and no such point shall be situated within six metres of any washing place, Urinal or latrine.

8.33. Latrines and urinals

In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place:

Provided that it shall not be necessary to provide separate urinals in my place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

8.34. Accommodation

(1) The employer shall provide, free of charges and within the work site or as near to it as may be possible temporary living accommodation to all building workers employed by him for such period as the building or other construction work is in progress.

(2) The temporary accommodation provided under sub-section (1) shall have separate cooking place bathing, washing and lavatory facilities

(3) As soon as may be, after the building or other construction work is over, the employer shall, at his own cost, cause removal or demolition of the temporary structures erected by him for the purpose of providing living accommodation cooking place or other facilities to the building workers as required under sub-section (1), and restore the ground in good level and clean condition.

(4) In case an employer is given, my land by a Municipal Board or, my other local authority for the purposes of providing temporary, accommodation for the building workers under this section, he shall as soon as may be, after the construction work is over, return the possession of such land in the same condition in which he received the same.

8.35. Creches

(1) In every place where in more them fifty female building workers are ordinarily employed, there shall be provided and maintained, a suitable room or rooms for the use of children under the, age of six years of such female workers.

(2) Such rooms shall-

(a) provide adequate accommodation:

(b) be adequately lighted and ventilated;

(c) be maintained in a clean and sanitary condition;

(d) be under the charge of women trained in the care of children and infants.

8.36. First-aid

Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

8.37. Canteens

The appropriate Government may, by rules require the employer-

(a) to provide and maintain in every place wherein not less than two hundred and fifty building workers are ordinarily employed, a canteen for the use of the workers;

(b) to provide such other welfare measures for the benefit of building workers as may be prescribed.

8.38. Safety Committee and safety officers

(1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed by the State Government:

Provided that the number of persons representing the workers, shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

8.39. Notice of certain accidents

(1) Where in any establishment an accident occurs which causes death or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed, the employer shall give notice thereof to such authority, in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1) the authority referred to in that sub-section may make such investigation or inquiry as it considers necessary.

(3) Where a notice given under sub-section (1) relates to an accident causing death of five or more persons, the authority shall make an inquiry into such accident within one month of the receipt of the notice.

8.40. Power of appropriate Government to make rules for the safety and health of building workers

(1) The appropriate Government may, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;
- (b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person child the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;
- (c) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;
- (d) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;
- (e) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;
- (f) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;
- (g) the precautions to be taken to prevent inhalation of dust, fumes. gases or vapours during any grinding, cleaning, spraying or manipulation of only material and steps to be taken to secure and maintain adequate ventilation of every working place or confined Spice;
- (h) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;
- (i) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working only of the operations and as if it were securely fenced:
- (j) the safe handling and use of plant, including tools and equipment operated by compressed air:
- (k) the precaution to be taken in case of fire;
- (l) the limits of weight to be lifted or moved by workers;
- (m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;
- (n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;
- (o) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

- (p) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;
- (q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;
- (r) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefor and the matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;
- (s) the information to be furnished to the Bureau of Indian Standard established under the Bureau of Indian Standards Act, 1986 (63 of 1986), regarding the use of any article or process covered under that Act in an building or other construction work;
- (t) the provision and maintenance of medical facilities for building workers;
- (u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

8.41 Summary

The BOCW Act, 1996 was enacted to regulate the employment and working conditions of building and construction workers and to provide for their safety, health, and welfare. It applies to construction sites where 10 or more workers are employed. The Act creates Welfare Boards, mandates registration of workers, and ensures safe working conditions, welfare measures, and social security for construction workers.

8.42 Key words

Building Worker

A person employed in any building or construction activity such as masonry, carpentry, plumbing, painting, road work, bridges, dams, etc.

Building or Other Construction Work

Includes construction, alteration, repair, demolition, and maintenance of buildings, roads, bridges, tunnels, dams, canals, pipelines, etc.

Establishment

Any place where **10 or more construction workers** are employed.

Registration of Establishments

Every employer must **register** their establishment to legally engage construction workers.

Registration of Workers

Workers aged **18–60 years** must register themselves with the **State Welfare Board** to avail welfare benefits.

Welfare Boards

State governments set up **Building and Other Construction Workers Welfare Boards** to implement welfare schemes.

8.43 Self Assessment questions

1. Discuss the objectives and major provisions of the BOCW Act, 1996.
2. Explain the importance of Welfare Boards and how they support construction workers.
3. Describe the safety and health provisions required under the Act.
4. Evaluate the challenges in implementing the BOCW Act and possible solutions.

8.44 Reference books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

Lesson-9

EQUAL REMUNERATION ACT 1976

Aims and Objectives:

- To Recall the purpose, scope, and key provisions of the Equal Remuneration Act, 1976.
- To Explain the principles of equal pay for equal work and the role of employers in implementing them.
- To Demonstrate how to ensure compliance with the Act in a workplace setting.
- To Examine workplace pay structures to identify gender-based wage disparities.

Structure

- 9.1 Introduction
- 9.2. Definitions
- 9.3. Act to have overriding effect
- 9.4. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature
- 9.5. No discrimination to be made while recruiting men and women workers
- 9.6. Advisory Committee
- 9.7. Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints
- 9.8. Duty of employers to maintain registers
- 9.9. Inspectors
- 9.10. Penalties
- 9.11. Offences by companies
- 9.12. Power of Central Government to give directions
- 9.13. Power to make declaration
- 9.14. Power to remove difficulties
- 9.15 Repeal and saving
- 9.16 Summary
- 9.17 Key words
- 9.18 Self Assessment questions
- 9.19 Reference books

9.1 Introduction

1. Short title, extend and commencement. -- (1) This Act may be called the Equal Remuneration Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date, not being later than three years from the passing of this Act, as the Central Government may, by notification, appoint and different dates may be appointed for different establishments or employments.

9.2. Definitions

In this Act, unless the context otherwise requires, --

(a) “appropriate Government” means –

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government, and

(ii) in relation to any other employment, the State Government;

(b) “commencement of this Act” means, in relation to an establishment or employment, the date on which this Act comes into force in respect of that establishment or employment;

(c) “employer” has the meaning assigned to it in clause (f) of Section 2 of the Payment of Gratuity Act, 1972 (39 of 1972);

(d) “man” and “woman” mean male and female human beings, respectively, of any age;

(e) “notification” means a notification published in the Official Gazette;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “remuneration” means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled;

(h) “same work or work of a similar nature” means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment;

(i) “worker” means a worker in any establishment or employment in respect of which this Act has come into force;

(j) words and expressions used in this Act and not defined but defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meaning respectively assigned to them in that Act.

9.3. Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.

9.4. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature

(1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.

(3) Where, in an establishment or employment, the rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are only two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers:

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.

9.5. No discrimination to be made while recruiting men and women workers

On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, [or in any condition of service subsequent to recruitment such as promotions, training or transfer], make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation for scheduled castes or scheduled tribes, ex-servicemen, retrenched employees of any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

9.6. Advisory Committee

(1) For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf.

(2) Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

(3) In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment, and such other relevant factors as the Committee may think fit.

(4) The Advisory Committee shall regulate its own procedure.

(5) The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.

9.7. Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints

(1) The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding—

(a) complaints with regard to the contravention of any provision of this Act;

(b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, and may, by the same or subsequent notification, define the local limits within which each, such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1) it may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary, direct, —

(i) in the case of a claim arising out of a non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid;

(ii) in the case of complaint, that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

(5) Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of Section 33-C of the Industrial Disputes Act, 1947 (14 of 1947), shall apply for the recovery of monies due from an employer arising out of decision of an authority appointed under this section.

9.8. Duty of employers to maintain registers

On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

9.9. Inspectors

(1) The appropriate Government may, by notification, appoint such persons as it think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.

(2) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

(3) An Inspector may, at any place within the local limits of his jurisdiction, --

(a) enter, at any reasonable time with such assistance as he thinks fit, any building, factory, premises or vessel:

(b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;

(c) take on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with:

(d) examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been a worker in the establishment;

(e) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

9.10. Penalties

(1) If after the commencement of this Act, any employer, being required by or under this act, so to do—

(a) omits or fails to maintain any register or other document in relation to workers employed by him, or (b) omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or (c) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or (d) omits or refuses to give any information, he shall be punishable 3 [with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both].

(2) If, after the commencement of this Act, any employer— (a) makes any recruitment in contravention of the provisions of his Act, or (b) makes any payment or remuneration at unequal rates to men and women worker, for the same work or work of a similar nature, or (c) makes any discrimination between men and women workers in contravention of the provisions of this Act, or (d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of Section 6. he shall be punishable 4 [with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with imprisonment for a term which shall be not less than three months but which may extend to one year or with both for the first offence, and with imprisonment which may extend to two years for the second and subsequent offences].

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine, which may extend to five thousand rupees.

9.11. Offences by companies

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of a person in relation to workers employed by him, or

(b) omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or

(c) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or

(d) omits or refuses to give any information, he shall be punishable 3 [with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both].

(2) If, after the commencement of this Act, any employer—

(a) makes any recruitment in contravention of the provisions of his Act, or

(b) makes any payment or remuneration at unequal rates to men and women worker, for the same work or work of a similar nature, or

(c) makes any discrimination between men and women workers in contravention of the provisions of this Act, or

(d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of Section 6. he shall be punishable 4 [with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with imprisonment for a term which shall be not less than three months but which may extend to one year or with both for the first offence, and with imprisonment which may extend to two years for the second and subsequent offences].

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine, which may extend to five thousand rupees.

9.12. Power of Central Government to give directions

The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

[15. Act not to apply in certain special cases. -- Nothing in this Act shall apply— (a) to cases affecting the terms and conditions of a woman's employment in complying with the requirements of any law giving special treatment to women, or

(b) to any special treatment accorded to women in connection with—

(i) the birth or expected birth of a child, or

(ii) the terms and conditions relating to retirement, marriage or death or to any provision made in connection with the retirement, marriage or death].

9.13. Power to make declaration

Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the differences in regard to the remuneration, or a particular species of remuneration, or men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be contravention of any provision of this Act.

9.14. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification, make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty: Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

9.15 Repeal and saving

(1) The Equal Remuneration Ordinance, 1975 (12 of 1975) hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance, so repealed (including any notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act were in force when such thing was done or action was taken.

9.16 Summary

The Equal Remuneration Act, 1976 was enacted to ensure equal pay for men and women and to prevent gender-based discrimination in employment.

It applies to all establishments and employers in India.

9.17 Key words

Equal Remuneration

Means **paying men and women equally** for performing the **same or similar work**.

Includes **basic wages, allowances, incentives, bonuses, and other benefits**.

Same Work or Work of a Similar Nature

Work that has **similar skill, effort, and responsibility**.

Differences in duties must not be **substantial** enough to justify different wages.

Employer's Duty

Employers must **pay equal remuneration** to men and women workers.

Employers cannot **reduce the existing wages** of any worker to follow the Act.

No Discrimination in Recruitment

Employers **cannot discriminate on the basis of gender** while:

Recruiting employees

Providing conditions of service such as promotions, training or transfers

Exception: When the nature of work is **unsuitable for women** (as specified by law).

Advisory Committee

The Government sets up **Advisory Committees** to:

Increase women's employment

Recommend industries or occupations where women can be employed

Ensure gender equality at workplace

Inspectors

Appointed by the Government to:

Examine records, Investigate complaints, Ensure compliance with the Act

Registers and Records

Employers must maintain **accurate registers**, including:

Details of employees

Wages paid

Gender of workers

Penalties

Non-compliance may lead to:

Fines

Imprisonment up to 1 month, or

Both, depending on the offence

9.18 Self Assessment questions

1. Explain the provisions related to “equal remuneration” under the Act.
2. Describe the role and functions of inspectors.
3. Discuss how the Act prevents gender discrimination in recruitment.
4. Explain the importance of Advisory Committees under the Ac

9.19 Reference books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-10

MINIMUM WAGES ACT 1948

Aims and Objectives:

- To **understand minimum wages** for workers to ensure they earn a living wage.
- To analyse workers from **exploitation** by employers in both organized and unorganized sectors.
- To discuss **social justice** and economic security.

Structure

- 10.1 Introduction
- 10.2. Interpretation
- 10.3. Fixing of minimum rates of wages
- 10.4 Procedure for fixing and revising minimum wages
- 10.5. Advisory Board
- 10.6. Central Advisory Board
- 10.7. Composition of committees,
- 10.8 Correction of errors
- 10.9. Wages in kind
- 10.10. Payment of minimum rates of wages
- 10.11. Fixing hours for a normal working day, etc
- 10.12 Overtime
- 10.13. Minimum time rate wages for piece work
- 10.14. Inspectors
- 10.15. Claims
- 10.16. Single application in respect of a number of employees.
- 10.17. Penalties for certain offences
- 10.18. Bar of suits
- 10.19. Contracting out
- 10.20 Summary
- 10.21 Key words
- 10.22 Self Assessment Questions
- 10.23 Reference Books

10.1 Introduction

An Act to provide for fixing minimum rates of wages in certain employments.

Whereas it is expedient to provide for fixing minimum rates of wages in certain employments;

It is hereby enacted as follows

1. Short title and extent.—(1) This Act may be called the Minimum Wages Act, 1948.
- (2) It extends to the whole of India

10.2. Interpretation

In this Act, unless there is anything repugnant in the subject or context,

[(a) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

(aa) “adult” means a person who has completed his eighteenth year of age;

(b) “appropriate Government” means,—

(i) in relation to any scheduled employment carried on by or under the authority of the [Central Government or a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by a Central Act], the Central Government, and (ii) in relation to any other scheduled employment, the State Government;

[(bb) “child” means a person who has not completed his fourteenth year of age;

(c) “competent authority” means the authority appointed by the appropriate Government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(d) “cost of living index number”, in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the Official Gazette to be the cost of living index number applicable to employees in such employment;

(e) “employer” means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—

(i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under 7 [clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)], as manager of the factory;

(ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “scheduled employment” means an employment specified in the Schedule, or any process or branch of work forming part of such employment;

(h) “wages” means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, [and includes house rent allowance], but does not include—

(i) the value of—

(a) any house-accommodation, supply of light, water, medical attendance, or

(b) any other amenity or any service excluded by general or special order of the appropriate Government;

(ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge;

(i) “employee” means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the [Union].

10.3. Fixing of minimum rates of wages.

[(1) The appropriate Government shall, in the manner hereinafter provided,—

[(a) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under section 27:

Provided that the appropriate Government may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

[Provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

(1A) Notwithstanding anything contained in sub-section (1), the appropriate Government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment, but if at any time, the appropriate Government comes to a finding after such inquiry as it may

make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment [as soon as may be after such finding

(2) The appropriate Government may fix,—

- (a) a minimum rate of wages for time work (hereinafter referred to as “a minimum time rate”);
- (b) a minimum rate of wages for piece work (hereinafter referred to as “a minimum piece rate”);
- (c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as “a guaranteed time rate”);
- (d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as “overtime rate”).

[(2A) Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 (14 of 1947) or before any like authority under any other law for the time being in force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so revised shall not apply to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.

(3) In fixing or revising minimum rates of wages under this section,—

(a) different minimum rates of wages may be fixed for—

- (i) different scheduled employments;
- (ii) different classes of work in the same scheduled employment;
- (iii) adults, adolescents, children and apprentices;
- (iv) different localities;

[(b) minimum rates of wages may be fixed by any one or more of the following wage-periods, namely:—

- (i) by the hour,
- (ii) by the day,
- (iii) by the month, or
- (iv) by such other larger wage-period as may be prescribed;

and where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated:

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (4 of 1936), minimum wages shall be fixed in accordance therewith . Minimum rate of wages.—(1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of—

- (i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the “cost of living allowance”); or
- (ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or
- (iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

10.4 Procedure for fixing and revising minimum wages.

(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either—

- (a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or
- (b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of subsection (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also.

10.5. Advisory Board

For the purpose of co-ordinating the work of [committees and sub-committees appointed under section 5] and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board

10.6. Central Advisory Board.

(1) For the purpose of advising the Central and State Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall

be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

10.7. Composition of committees,

Each of the committees, sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government.

10.8 Correction of errors

- 1) The appropriate Government may, at any time, by notification in the Official Gazette, correct clerical or arithmetical mistakes in any order fixing or revising minimum rates of wages under this Act, or errors arising therein from any accidental slip or omission.
- (2) Every such notification shall, as soon as may be after it is issued, be placed before the Advisory Board for information.

10.9. Wages in kind.

- (1) Minimum wages payable under this Act shall be paid in cash.
- (2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the Official Gazette, authorise the payment of minimum wages either wholly or partly in kind.
- (3) If the appropriate Government is of the opinion that provision should be made for the supply of essential commodities at concession rates, the appropriate Government may, by notification in the Official Gazette, authorise the provision of such supplies at concession rates.
- (4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

10.10. Payment of minimum rates of wages

- (1) Where in respect of any scheduled employment a notification under section 5 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.
- (2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (4 of 1936).

10.11. Fixing hours for a normal working day, etc.

[(1)] In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

- (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

[(2) The provisions of sub-section (1) shall, in relation to the following classes of employees, apply only to such extent and subject to such conditions as may be prescribed:—

- (a) employees engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (b) employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;
- (c) employees whose employment is essentially intermittent;
- (d) employees engaged in any work which for technical reasons has to be completed before the duty is over;
- (e) employees engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces.

(3) For the purposes of clause (c) of sub-section (2), employment of an employee is essentially intermittent when it is declared to be so by the appropriate Government on the ground that the daily hours of duty of the employee, or if there be no daily hours of duty as such for the employee, the hours of duty, normally include periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention.

10.12 Overtime

(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of 3 [section 59 of the Factories Act, 1948 (63 of 1948)] in any case where those provisions are applicable.

15. Wages of worker who works for less than normal working day.—If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day: Provided, however, that he shall not be entitled to receive wages for a full normal working day—

- (i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and
16. Wages for two or more classes of work.—Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

10.13 . Minimum time rate wages for piece work

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate.

18. Maintenance of registers and records.—(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

(3) The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

10.14. Inspectors

(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed—

(a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein;

(c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

[(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer; and]

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

[(4) Any person required to produce any document or thing or to give any information by an Inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

10.15. Claims

(1) The appropriate Government may, by notification in the Official Gazette, appoint [any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any] other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages [or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14,] to employees employed or paid in that area.

Where an employee has any claim of the nature referred to in sub-section (1)], the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages [or other amount] became payable:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period. days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14,] to employees employed or paid in that area. [Where an employee has any claim of the nature referred to in sub-section (1)], the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages [or other amount] became payable:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

[(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer, or give them an opportunity of being heard, and after such further inquiry, if any, as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct—

(i) in the case of a claim arising out of payment of less than the minimum rates of wages, the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess;

(ii) in any other case, the payment of the amount due to the employee, together with the payment of such compensation as the Authority may think fit, not exceeding ten rupees, and the Authority may direct payment of such compensation in cases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.]

(4) If the Authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the Authority under this section shall be final.

(7) Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898)

10.16. Single application in respect of a number of employees.

(1) 1 [Subject to such rules as may be prescribed, a single application] may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess 2 [or ten rupees per head, as the case may be.

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

10.17. Penalties for certain offences

Any employer who—

(a) pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act, or

(b) contravenes any rule or order made under section 13, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both: Provided that in imposing any fine for an offence under this section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20

10.18. Bar of suits

No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or

(b) has formed the subject of a direction under that section in favour of the plaintiff, or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(d) could have been recovered by an application under that section.

10.19. Contracting out

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

10.20 Summary

The Minimum Wages Act, 1948 is a labour law enacted to ensure that workers receive fair and adequate wages in certain scheduled industries. It empowers the government to fix and revise minimum wages to prevent exploitation of labour.

10.21 Key words**Minimum Wages**

Lowest wage that must be paid to workers in scheduled industries—legally enforceable.

Scheduled Employment

Industries listed in the **Schedule** of the Act. Minimum wages apply only to these.

Basic Wage

Standard wage rate fixed by the government excluding allowances.

Cost of Living Allowance (DA)

Allowance adjusted according to rise/fall in cost of living index.

Fair Wage

Wage above minimum wage but below living wage.

Living Wage

Wage enabling worker to maintain decent living including education, health, comfort.

Revision of Wages

Wages must be revised at least every **five years**.

Overtime

Work beyond normal working hours. Paid at **double the normal wage** (where prescribed).

Time Rate

Wage based on time worked (day/hour basis).

Piece Rate

Wage based on units produced.

10.22 Self Assessment Questions

1. Explain the powers and duties of the Central and State Governments under the Minimum Wages Act, 1948.
2. Describe the process of fixing and revising minimum wages.
3. Discuss the role of Inspectors under the Act.
4. What are the penalties for non-payment of minimum wages?
5. Explain the significance of minimum wages in preventing labour exploitation.

10.23 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-11

PAYMENT OF WAGES ACT 1936

Aims and Objectives:

- To Explain the rules regarding timely payment of wages, authorized deductions, and responsibilities of employers.
- To Demonstrate how to calculate wages and apply deductions in compliance with the Act.
- To Examine payroll practices to identify non-compliance or improper wage deductions.
- To Assess the effectiveness of wage payment systems in ensuring workers receive their rightful wages.

Structure

- 11. 1 Introduction
- 11.2. Definitions
- 11.3. Responsibility for payment of wages
- 11.4. Fixation of wage-periods
- 11.5. Time of payment of wages
- 11.6. Wages
- 11.7. Fines
- 11.8. Deductions for absence from duty
- 11.9. Deductions for damage or loss
- 11.10. Deductions for services rendered
- 11. 11 Deductions for recovery of advances
- 11.12 Deductions for recovery of loans
- 11.13. Deductions for payments to co-operative societies and insurance schemes
- 11.13A. Maintenance of registers and records.
- 11.14. Inspectors
- 11.14A. Facilities to be afforded to Inspectors
- 11.15. Liability for payment of court-fees
- 11.16. Appeal
- 11.17. Conditional attachment of property of employer or other person responsible for payment of wages
- 11.17A. Provisions of section 15A to apply to appeals preferred under section 17 with modification
- 11.18. Powers of authorities appointed under section 15.
- 11.19. Power to recover from employer in certain cases
- 11.20. Penalty for offences under the Act.
- 11.21. Procedure in trial of offences
- 11.22. Bar of Suits
- 11.22A. Protection of action taken in good faith
- 11.23. Contracting out
- 11.24. Delegation of powers
- 11.25. Display by notice of abstracts of the Act
- 11.25A. Payment of undisbursed wages in cases of death of employed person
- 11.26 Summary

11.27 key words

11.28 Self Assessment questions

11.29 Reference Books

11. 1 Introduction

An Act to regulate the payment of wages of certain classes to n[employed persons.

Whereas it is expedient to regulate the payment of wages to certain classes of employed persons

It is hereby enacted as follows:—

1. Short title, extent, commencement and application.—(1) This Act may be called the Payment of Wages Act, 1936.

[(2)It extends to the whole of India .

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any 6

[factory, to persons] employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration ,and to persons employed in an industrial or other establishment specified in sub-clauses (a) to (g) of clause (ii) of section 2.

(5) [Appropriate Government] may, after giving three months' notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of [this Act] or any of them to the payment of wages to any class of persons employed in 10[any establishment or class of establishments specified by [appropriate Government] under sub-clause (h) of clause (ii) of section 2]:

[Provided that in relation to any such establishment owned by the Central Government no such notification shall be issued except with the concurrence of that Government.]

(6) This Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed 14[twenty four thousand rupees] per month or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify.]

11.2. Definitions

In this Act, unless there is anything repugnant in the subject or context,—

[(i) “appropriate Government” means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government;]

[(ia)] “employed person” includes the legal representative of a deceased employed person;

[(ib)]“employer” includes the legal representative of a deceased employer;

[(ic)] “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948), and includes any place to which the provisions of that Act have been applied under sub-section (1) of section 85 thereof;]

(ii) [“industrial or other establishment” means] any—

[(a) tramway service, or motor transport service engaged in carrying passenger or goods or both by road for hire or reward;

(aa) air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;]

(b) dock, wharf or jetty;

[(c) inland vessel, mechanically propelled;]

(d) mine, quarry or oilfield;

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

[(g) establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operation connected with navigation, irrigation, development or maintenance of buildings, roads, bridges or mission and distribution of electricity or any other form of power is being carried on;]

[(h) any other establishment or class of establishment which [appropriate Government] may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by notification in the Official Gazette;]

[(ia) “mine” has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);]

[(iii) “plantation” has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);]

(iv) “prescribed” means prescribed by rules made under this Act;

[(v) “railway administration” has the meaning assigned to it in clause (32) of section 2 of the Railways Act, 1989(24 of 1989);]

[(vi) “wages” means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(a) any remuneration payable under any award or settlement between the parties or order of a

Court;

(b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

(c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

(d) any sum which by reason of the termination of employment of the person employed is

payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

(e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force, but does not include—

(1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;

(2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of [appropriate Government];

(3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(4) any travelling allowance or the value of any travelling concession;

(5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or

(6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).]

11.3. Responsibility for payment of wages.

(1) Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,—

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948);

(b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;

(c) upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;

(d) in the case of contractor, a person designated by such contractor who is directly under his charge; and

(e) in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act, the person so named, the person responsible to the

employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

(2) Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment.]

11.4. Fixation of wage-periods.

(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

11.5. Time of payment of wages.

(1) The wages of every person employed upon or in—

(a) any railway, factory or industrial or other establishment] upon or in which less than one thousand persons are employed, shall be paid before expiry of the seventh day,

(b) any other railway, factory or [industrial or other establishment], shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable: [Provided that in the case of persons employed on a dock, wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be, shall be paid before the expiry of the seventh day from the day of such completion.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages, earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated:

[Provided that where the employment of any person in an establishment is terminated due to the closure of the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his employment is so terminated.]

(3) [Appropriate Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) [or to persons employed as daily-rated workers in the Public Works Department of [appropriate Government]] from the operation of this section in respect of the wages of any such persons or class of such persons:

[Provided that in the case of persons employed as daily-rated workers as aforesaid, no such order shall be made except in consultation with the Central Government.]

(4) [Save as otherwise provided in sub-section (2), all payments] of wages shall be made on a working day.

11.6. Wages to be paid in current coin or currency notes or by cheque or crediting in bank account.—All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee:

Provided that the appropriate Government may, by notification in the Official Gazette, specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in his bank account.

11.7. Fines

(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of 1

[appropriate Government] or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of person employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to [three per cent.] of the wages payable to him in respect of that wageperiod.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by installments or after the expiry of [ninety days] from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority

11.8. Deductions for absence from duty.

(1) Deductions may be made under clause (b) of sub-section

(2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a large proportion than

the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by [appropriate Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause,

such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

11.9. Deductions for damage or loss

[(1) A deduction under clause (c) or clause (o) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.

(1A) A deduction shall not be made under clause (c) or clause (m) or clause (n) or clause(o) of sub-section (2) of section 7 until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.]

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11.10. Deductions for services rendered

A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the house-accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as [appropriate Government] may impose.

11. 11 Deductions for recovery of advances

Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:—

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

[(aa) recovery of an advance of money given after employment began shall be subject to such conditions as [appropriate Government] may impose;]

(b) recovery of advances of wages not already earned shall be subject to any rules made by [appropriate Government] regulating the extent to which such advances may be given and the installments by which they may be recovered.

11.12 Deductions for recovery of loans

Deductions for recovery of loans granted under clause (fff) of sub-section (2) of section 7 shall be subject to any rules made by appropriate Government] regulating the extent to which such loans may be granted and the rate of interest payable thereon.]

11.13. Deductions for payments to co-operative societies and insurance schemes

Deductions under clause (j) [and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as [appropriate Government] may impose.

11.13A. Maintenance of registers and records.

(1) Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every register and record required to be maintained under this section shall, for the purposes of this Act, be preserved for a period of three years after the date of the last entry made therein.]

11.14. Inspectors

(1) An Inspector of Factories appointed under 5 [sub-section (1) of section 8 of the Factories Act, 1948 (63 of 1948)], shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) [Appropriate Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) [Appropriate Government] may, by notification in the Official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial or other establishments] in respect of which they shall exercise their functions.

[(4) An Inspector may,—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises of any railway, factory or 1 [industrial or other establishment] at any reasonable time for the purpose of carrying out the object of this Act;

(c) supervise the payment of wages to persons employed upon any railway or in any factory or [industrial or other establishment];

(d) require by a written order the production at such place, as may be prescribed, of any register or record maintained in pursuance of this Act and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;

(e) seize or take copies of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

(f) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(4A) The provisions of the [Code of Criminal Procedure, 1973 (2 of 1974)] shall, so far as may be, apply to any search or seizure under this sub-section as they apply to any search or seizure made under the authority of a warrant issued under 3 [section 94] of the said Code.]

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code

11.14A. Facilities to be afforded to Inspectors.

Every employer shall afford an Inspector all reasonable facilities for making any entry, inspection, supervision, examination or inquiry under this Act.]

15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.—5

[(1) The appropriate Government may, by notification in the Official Gazette, appoint—

(a) any Commissioner for Workmen's Compensation; or

(b) any officer of the Central Government exercising functions as,—

(i) Regional Labour Commissioner; or

(ii) Assistant Labour Commissioner with at least two years' experience; or

(c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or

(d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate, as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the appropriate Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.]

11.15. Liability for payment of court-fees

(1) In any proceedings under section 15, the applicant shall not be liable to pay any court-fees (other than fees payable for service of process) in respect of 16. Single application in respect of claims from unpaid group.—(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if [deductions have been made from

their wages in contravention of this Act for the same cause and during the same wage period or periods or if] their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case [every person on whose behalf such application is presented may be awarded maximum compensation to the extent specified in sub-section (3) of section 15].

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under subsection (2) of this section, and the provisions of that sub-section shall apply accordingly.

11.16. Appeal.

(1) An appeal against an order dismissing either wholly or in part an application made under sub-section (2) of section 15, or against a direction made under sub-section (3) or sub-section (4) of that section] may be preferred, within thirty days of the date on which 4 [the order or direction] was made, in a Presidency-town 5*** before the Court of Small Causes and elsewhere before the District Court—

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees [or such direction has the effect of imposing on the employer or the other person a financial liability exceeding one thousand rupees], or

[(b) by an employed person or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act, or any other person permitted by the authority to make an application under sub-section (2) of section 15, if the total amount of wages claimed to have been withheld from the employed person exceeds twenty rupees or from the unpaid group to which the employed person belongs or belonged exceeds fifty rupees, or] (c) by any person directed to pay a penalty under 1 [sub-section (4)] of section 15.

11.17. Conditional attachment of property of employer or other person responsible for payment of wages.

(1) Where at any time after an application has been made under sub-section (2) of section 15 the authority, or where at any time after an appeal has been filed under section 17 by an employed person or 2 [any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act or any other person permitted by the authority to make an application under sub-section (2) of section 15] the Court referred to in that section, is satisfied that the employer or other person responsible for the payment of wages under section 3 is likely to evade payment of any amount that may be directed to be paid under section 15 or section 17, the authority or the court, as the case may be, except in cases where the authority or court is of opinion that the ends of justice would be defeated by the delay, after giving the employer or other person an opportunity of being heard, may direct the attachment of so much of the property of the employer or other person

responsible for the payment of wages as is, in the opinion of the authority or court, sufficient to satisfy the amount which may be payable under the direction

11.17B. Provisions of section 15A to apply to appeals preferred under section 17 with modification

When an appeal is preferred under section 17 by a person making an application under section 15, the provisions of section 15A shall mutatis mutandis apply, with the modification that such person, not being an Inspector, shall pay court-fees of an amount of five rupees, but that such amount shall be refunded to him in the event of his success in the appeal."

11.18. Powers of authorities appointed under section 15.

Every authority appointed under sub-section

(1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court of all the purposes of section 195 and of 1

[Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)].

11.19. Power to recover from employer in certain cases

Omitted by the Payment of Wages (Amendment) Act, 1964 (53 of 1964), s. 17 (w.e.f. 1-2-1965).

11.20. Penalty for offences under the Act.

(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following section, namely, [section 5 except sub-section (4) thereof, section 7, section 8 except sub-section (8) thereof, section 9, section 10 except sub-section (2) thereof, and sections 11 to 13], both inclusive, shall be punishable [with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees].

(2) Whoever contravenes the provisions of section 4, [sub-section (4) of section 5, section 6, sub-section (8) of section 8, sub-section (2) of section 10] or section 25 shall be punishable [with fine which may extend to three thousand seven hundred fifty rupees].

[(2A) Whoever being required to nominate or designate a person under section 3 fails to do so, such person shall be punishable with fine which may extend to three thousand rupees.]

[(3) Whoever being required under this Act to maintain any records or registers or to furnish any information or return—

(a) fails to maintain such register or record; or

(b) wilfully refuses or without lawful excuse neglects to furnish such information or return; or

11.21. Procedure in trial of offences.

(1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20 unless an application in respect of the facts constituting the offence has been presented under section 15 has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section

(1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall abide Bombay Act LXII of 1953, s. 8]

11.22. Bar of Suits

No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or

(d) could have been recovered by an application under section 15.

11.22A. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.]

11.23. Contracting out

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void\ in so far as it purports to deprive him of such right.

11.24. Delegation of powers

The appropriate Government may, by notification in the Official

Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be also exercisable—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

11.25. Display by notice of abstracts of the Act

The person responsible for the payment of wages to persons [employed in a factory or an industrial or other establishment] shall cause to be [displayed in such factory or industrial or other establishment] a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed [in the factory or industrial or other establishment] as may be prescribed.

11.25A. Payment of undisbursed wages in cases of death of employed person

(1) Subject to the other provisions of the Act, all amounts payable to an employed person as wages shall, if such amounts could not or cannot be paid on account of his death before payment or on account of his whereabouts not being known,—

(a) be paid to the person nominated by him in this behalf in accordance with the rules made under this Act; or

(b) where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed.

(2) Where, in accordance with the provisions of sub-section (1), all amounts payable to an employed person as wages—

(a) are paid by the employer to the person nominated by the employed person, or

(b) are deposited by the employer with the prescribed authority, the employer shall be discharged of his liability to pay those wages.

11.26 Summary

The Act ensures timely payment of wages and prevents unauthorized deductions. It applies to employees earning within the prescribed wage limit in certain establishments. Wages must be paid on time (7th/10th day) and the wage period cannot exceed one month. Only legally permitted deductions can be made, and disputes can be taken to the Claims Authority.

11.27 Key words

Wages -Ensures workers receive wages **on time** and **without illegal deductions**.

Wage Period-Wage period must **not exceed one month**.

Mode of Payment-**Wages to be paid in** current coin, currency notes, cheque, or bank transfer.

Fine- For acts previously **approved by Government** Not imposed on workers < **15 years**, Not more than **3% of wages** Opportunity must be given to the worker to explain

Penalties- Employer can be penalised for: Late payment Illegal deductions Failure to maintain record

11.28 Self Assessment Questions

- 1.Explain the provisions related to time and mode of wage payment.
- 2.Distinguish between authorised and unauthorised deductions.
- 3.Describe the procedure and conditions for imposing fines under the Act.
- 4.Write a note on the Claims Authority and Compensation.
- 5.Discuss the object and scope of the Payment of Wages Act, 1936

11.30 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
 2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
 3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
 4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
 5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.
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LESSON-12

PAYMENT OF BONUS ACT 1965

Aims and Objectives:

- To Explain the principles of bonus calculation, eligibility criteria, and the responsibilities of employers.
- **To** Demonstrate how to calculate and distribute bonuses to eligible employees according to the Act.
- To Examine payroll and financial records to ensure correct bonus computation and compliance.
- To Assess the effectiveness of bonus policies in motivating employees and maintaining fairness.

Structure

- 12.1 Introduction
- 12.2. Definitions.
- 12.3 Establishments to include departments, undertakings and branches
- 12.4. Computation of gross profits
- 12.5. Computation of available surplus
- 12.6. Sums deductible from gross profits
- 12.7. Calculation of direct tax payable by the employer
- 12.8. Eligibility for bonus
- 12.9. Disqualification for bonus
- 12.10. Payment of minimum bonus
- 12.11. Payment of maximum bonus
- 12.12. Calculation of bonus with respect to certain employees
- 12.13. Proportionate reduction in bonus in certain cases.
- 12.14. Computation of number of working days
- 12.15. Set on and set off of allocable surplus
- 12.16. Special provisions with respect to certain establishments
- 12.17. Adjustment of customary
- 12.18. Deduction of certain amounts from bonus payable under the Act.
- 12.19. Time-limit for payment of bonus
- 12.20 Summary
- 12.21 Key words
- 12.22 Self Assessment Questions
- 12.23 Reference books

12.1 Introduction

An Act to provide for the payment of bonus to persons employed in certain establishments and for matters connected therewith.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. Short title, extent and application.—(1) This Act may be called the Payment of Bonus Act, 1965.

(2) It extends to the whole of India 3

(3) Save as otherwise provided in this Act, it shall apply to—

(a) every factory; and

(b) every other establishment in which twenty or more persons are employed on any day during an accounting year:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act with effect from such accounting year as may be specified in the notification, to any establishment or class of establishments [including an establishment being a factory within the meaning of sub-clause (ii) of clause (m) of section 2 of the Factories Act, 1948 (63 of 1948)] employing such number of persons less than twenty as may be specified in the notification; so, however, that the number of persons so specified shall in no case be less than ten.

(4) Save as otherwise provided in this Act, the provisions of this Act shall, in relation to a factory or other establishment to which this Act applies, have effect in respect of the accounting year commencing on any day in the year 1964 and in respect of every subsequent accounting year:

[Provided that in relation to the State of Jammu and Kashmir*, the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year shall be construed as reference to the accounting year commencing on any day in the year 1968 and every subsequent accounting year:]

[Provided further that when the provisions of this Act have been made applicable to any establishment or class of establishments by the issue of a notification under the proviso to sub-section (3), the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year or, as the case may be, the reference to the accounting year commencing on any day in the year 1968 and every subsequent accounting year, shall, in relation to such establishment or class of establishments, be construed as a reference to the accounting year specified in such notification and every subsequent accounting year.]

(5) An establishment to which this Act applies 7 shall continue to be governed by this Act notwithstanding that the number of person employed therein falls below twenty [or, as the case may be, the number specified in the notification issued under the proviso to sub-section (3)].

12.2. Definitions

In this Act, unless the context otherwise requires,—

(1) “accounting year” means—

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced;

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;

(iii) in any other case—

(a) the year commencing on the 1st day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced: Provided that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit;

(2) “agricultural income” shall have the same meaning as in the Income-tax Act;

(3) “agricultural income-tax law” means any law for the time being in force relating to the Levy of tax on agricultural income;

(4) “allocable surplus” means—

(a) in relation to an employer, being a company 1 [(other than a banking company)] which has not made the arrangements prescribed under the Income-tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of section 194 of that Act, sixty-seven per cent. of the available surplus in an accounting year;

(b) in any other case, sixty per cent. of such available surplus;

(5) “appropriate Government” means—

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;

(6) “available surplus” means the available surplus computed under section 5;

(7) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), or by any other authority constituted under any corresponding law relating to investigation and settlement of industrial

disputes in force in a State and includes an arbitration award made under section 10A of that Act or under that law;

(8) “banking company” means a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949), and includes the State Bank of India, any subsidiary bank as

defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), 3 [any\ corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), 1 [any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980),] any co-operative bank as defined in clause (vii) of section 2 of the Reserve bank of India Act, 1934 (2 of 1934),] and any other banking institution which may be notified in this behalf by the Central Government;

(9) “company” means any company as defined in section 3 of the Companies

Act, 1956 (1 of 1956), and includes a foreign company within the meaning of section 591 of that Act;

(10) “co-operative society” means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law for the time being in force in any State relating to co-operating societies;

(11) “corporation” means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society;

(12) “direct tax” means—

(a) any tax chargeable under—

(i) the Income-tax Act;

(ii) the Super Profits Tax Act, 1963 (14 of 1963);

(iii) the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(iv) the agricultural income-tax law; and

(b) any other tax which, having regard to its nature or incidence, may be declared by the

Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this Act;

(13) “employee” means any person (other than an apprentice) employed on a salary or wage not exceeding [twenty-one thousand rupees] per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied;

(14) “employer” includes—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

(15) “establishment in private sector” means any establishment other than an establishment in public sector;

(16) “establishment in public sector” means an establishment owned, controlled or managed by— (a) a Government company as defined in section 617 of the Companies

Act, 1956 (1 of 1956); (b) a corporation in which not less than forty per cent. of its capital is held (whether singly or taken together) by—

(i) the Government; or

(ii) the Reserve Bank of India; or

(iii) a corporation owned by the Government or the Reserve Bank of India;

(17) “factory” shall have the same meaning as in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(18) “gross profits” means the gross profits calculated under section 4;

(19) “Income-tax Act” means the Income-tax Act, 1961 (43 of 1961);

(20) “prescribed” means prescribed by rules made under this Act;

(21) “salary or wage” means all remuneration (other than remuneration in respect of overtime work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), but does not include—

(i) any other allowance which the employee is for the time being entitled to;

(ii) the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any travelling concession;

(iv) any bonus (including incentive, production and attendance bonus);

(v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;

(vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any ex gratia payment made to him;

(vii) any commission payable to the employee

12.3 Establishments to include departments, undertakings and branches

Where an establishment consists of different department or undertakings or has branches, whether situated in the same place or in different places, all such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Act:

Provided that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then, such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus, under this Act for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

12.4. Computation of gross profits

The gross profits derived by an employer from an establishment in respect of any accounting year shall—

- (a) in the case of a banking company, be calculated in the manner specified in the First Schedule;
- (b) in any other case, be calculated in the manner specified in the Second Schedule.]

12.5. Computation of available surplus

The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6: [Provided that the available surplus in respect of the accounting year commencing on any day in the year 1968 and in respect of every subsequent accounting year shall be the aggregate of—

- (a) the gross profits for that accounting year after deducting therefrom the sums referred to in section 6; and
- (b) an amount equal to the difference between—
 - (i) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for the immediately preceding accounting year; and
 - (ii) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Act for that year.]

12.6. Sums deductible from gross profits

The following sums shall be deducted from the gross profits as prior charges, namely:—

- (a) any amount by way of depreciation admissible in accordance with the provisions of sub-section (1) of section 32 of the Income-tax Act, or in accordance with the provisions of the agricultural income-tax law, as the case may be:

Provided that where an employer has been paying bonus to his employees under a settlement or an award or agreement made before the 29th May, 1965, and subsisting on that date after deducting from the gross profits notional normal depreciation, then, the amount of depreciation to be deducted under this clause shall, at the option of such employer (such option to be exercised once and within one year from the date) continue to be such notional normal depreciation;

(b) any amount by way of [development rebate or investment allowance or development allowance] which the employer is entitled to deduct from his income under the income-tax Act;

(c) subject to the provisions of section 7, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year;

(d) such further sums as are specified in respect of the employer in the 3 [Third Schedule].

12.7. Calculation of direct tax payable by the employer

[Any direct tax payable by the employer] for any accounting year shall, subject to the following provisions, be calculated at the rates applicable to the income of the employer for that year, namely:—

(a) in calculating such tax no account shall be taken of—

(i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;

(ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under sub-section (2) of section 32 of the Income-tax Act;

(iii) any exemption conferred on the employer under section 84 of the Income-tax Act or of any deduction to which he is entitled under sub-section (1) of section 101 of that Act, as in force immediately before the commencement of the Finance Act, 1965 (10 of 1965);

(b) where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of its income is exempt from tax under the

12.8. Eligibility for bonus

Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

12.9. Disqualification for bonus

Notwithstanding anything contained in this Act, an employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for—

(a) fraud; or

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment.

12.10. Payment of minimum bonus

Subject to the other provisions of this Act, every employer

shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent. of the salary or wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

Provided that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employees as if for the words “one hundred rupees”, the words “sixty rupees” were substituted.

12.11. Payment of maximum bonus

(1) Where in respect of any accounting year referred to in

section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent. of such salary or wage.

(2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that section.

12.12. Calculation of bonus with respect to certain employees

Where the salary or wage of an employee exceeds [seven thousand rupees or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher] per mensem, the bonus payable to such employee under section 10 or, as the case may be, under section 11, shall be calculated as if his salary or wage were [seven thousand rupees or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher] per mensem.

12.13. Proportionate reduction in bonus in certain cases.

Where an employee has not worked for all the working days in an accounting year, the minimum bonus of one hundred rupees or, as the case may be, of sixty rupees, if such bonus is higher than 8.33 per cent. of his salary or wage for the days he has worked in that accounting year, shall be proportionately reduced.]

12.14. Computation of number of working days

For the purposes of section 13, an employee shall be deemed to have worked in an establishment in any accounting year also on the days on which—

(a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment;

- (b) he has been on leave with salary or wage;
- (c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (d) the employee has been on maternity leave with salary or wage, during the accounting year.

12.15. Set on and set off of allocable surplus

- (1) Where for any accounting year, the allocable

surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

- (2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount of sufficient amount carried forward and set

on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.

- (3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

- (4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.

12.16. Special provisions with respect to certain establishments

- (1) Where an establishments newly set up, whether before or after the commencement of this Act, the employees of such establishment shall be entitled to be paid bonus under this Act in accordance with the provisions of sub-sections (1A), (1B) and (1C)

12.17. Adjustment of customary or interim bonus against bonus payable under the Act.— Where in any accounting year—

- (a) an employer has paid any puja bonus or other customary bonus to an employee; or
- (b) an employer has paid a part of the bonus payable under this Act to an employee before the date on which such bonus becomes payable, then, the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this

Act in respect of that accounting year and the employee shall be entitled to receive only the balance.

12.18. Deduction of certain amounts from bonus payable under the Act.

Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

12.19. Time-limit for payment of bonus

[All amounts] payable to an employee by way of bonus under this Act shall be paid in cash by his employer—

(a) where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute;

(b) in any other case, within a period of eight months from the close of the accounting year:

12.20 Summary

The Act mandates payment of annual bonus to employees based on profits or productivity.

It applies to establishments with **10 or more employees**.

Employees earning up to the notified wage limit are eligible.

Minimum bonus is **8.33%** and maximum is **20%** of wages.

Bonus may be paid from allocable surplus or through set-on and set-off provisions.

12.21 Key words

Eligibility-Employees earning up to the prescribed wage ceiling (revised periodically) must be paid bonus.

Minimum Bonus (8.33%)-Payable even if there is **no profit** in the year.

Maximum Bonus (20%)-Payable when the company has sufficient **allocable surplus**.

Allocable Surplus- Part of company profits available for distribution as bonus.

Set-On & Set-Off- Mechanism to **carry forward excess or deficit** bonus for up to 4 years to stabilize bonus payments.

12.22 Self Assessment Questions

1. Describe the objectives and scope of the Payment of Bonus Act, 1965.

2. Explain how bonus is calculated using allocable surplus.
3. Write a short note on the set-on and set-off system.
4. Distinguish between minimum bonus and maximum bonus provisions

12.23 Reference books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.

LESSON-13

UNORGANIZED WORKERS SOCIAL SECURITY ACT 2008

Aims and Objectives:

- To provide **social security and welfare** to unorganized workers.
- To cover workers who are **not part of formal employment**, such as street vendors, construction laborers, home-based workers, and agricultural laborers.
- To promote **health, financial security, and social protection** for vulnerable worker

Structure

- 13.1 Introduction
- 13.2. Definitions.
- 13.3. Framing of scheme
- 13.4. Funding of Central Government Schemes
- 13.5. National Social Security Board
- 13.6. State Social Security Board
- 13.7. Funding of State Government Schemes.
- 13.8. Record keeping by District Administration
- 13.9. Workers facilitation centres.
- 13.10. Eligibility for registration and social security benefits
- 13.11. Power of Central Government to give directions
- 13.12. Vacancies, etc., not to invalidate proceedings
- 13.13 Power to make rules by Central Government
- 13.14. Saving of certain laws
- 13.15. Power to remove difficulties
- 13.16 summary
- 13.17 Key words
- 13.18 Self Assessment questions
- 13.19 Reference Books

13.1 Introduction

An Act to provide for the social security and welfare of unorganised workers and for other matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Unorganised Workers' Social Security Act, 2008.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

13.2. Definitions.

In this Act, unless the context otherwise requires,—

- (a) “employer” means a person or an association of persons, who has engaged or employed an unorganised worker either directly or otherwise for remuneration;
- (b) “home-based worker” means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;
- (c) “identity card” means a card, document or certificate issued to an unorganised worker by the District Administration under sub-section (3) of section 10;
- (d) “National Board” means the National Social Security Board for unorganised workers constituted under sub-section (1) of section 5;
- (e) “notification” means a notification published in the Official Gazette;
- (f) “organised sector” means an enterprise which is not an unorganised sector;
- (g) “prescribed” means prescribed by rules made under this Act by the Central Government or the State Government, as the case may be;
- (h) “registered worker” means an unorganised worker registered under sub-section (3) of section 10;
- (i) “Schedule” means the Schedule annexed to the Act;
- (j) “State Board” means the (name of the State) State Social Security Board for unorganized workers constituted under sub-section (1) of section 6;
- (k) “self-employed worker” means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;
- (l) “unorganised sector” means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;
- (m) “unorganised worker” means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to this Act; and
- (n) “wage worker” means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers

employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.

13.3. Framing of scheme

(1) The Central Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

- (a) life and disability cover;
- (b) health and maternity benefits;
- (c) old age protection; and
- (d) any other benefit as may be determined by the Central Government.

(2) The schemes included in the Schedule 1 to this Act shall be deemed to be the welfare schemes under sub-section (1).

(3) The Central Government may, by notification, amend the Schedules annexed to this Act.

(4) The State Government may formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

- (a) provident fund;
- (b) employment injury benefit;
- (c) housing;
- (d) educational schemes for children;
- (e) skill upgradation of workers;
- (f) funeral assistance; and
- (g) old age homes.

13.4. Funding of Central Government Schemes

(1) Any scheme notified by the Central Government may be—

- (i) wholly funded by the Central Government; or
- (ii) partly funded by the Central Government and partly funded by the State Government; or
- (iii) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government.

(2) Every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to,—

- (i) scope of the scheme;
- (ii) beneficiaries of the scheme;

- (iii) resources of the scheme;
- (iv) agency or agencies that will implement the scheme;
- (v) redressal of grievances; and
- (vi) any other relevant matter.

13.5. National Social Security Board

(1) The Central Government shall, by notification, constitute a National Board to be known as the National Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The National Board shall consist of the following members, namely:—

- (a) Union Minister for Labour and Employment-Chairperson, ex officio;
- (b) the Director General (Labour Welfare)-Member-Secretary, ex officio; and
- (c) thirty-four members to be nominated by the Central Government, out of whom—
 - (i) seven representing unorganised sector workers;
 - (ii) seven representing employers of unorganised sector;
 - (iii) seven representing eminent persons from civil society;
 - (iv) two representing members from Lok Sabha and one from Rajya Sabha;
 - (v) five representing Central Government Ministries and Departments concerned; and
 - (vi) five representing State Governments.

(3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(5) The term of the National Board shall be three years.

(6) The National Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(7) The members may receive such allowances as may be prescribed for attending the meetings of the National Board.

(8) The National Board shall perform the following functions, namely:—

- (a) recommend to the Central Government suitable schemes for different sections of unorganized workers;
- (b) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it;
- (c) monitor such social welfare schemes for unorganised workers as are administered by the Central Government;
- (d) review the progress of registration and issue of identity cards to the unorganised workers;
- (e) review the record keeping functions performed at the State level;
- (f) review the expenditure from the funds under various schemes; and
- (g) undertake such other functions as are assigned to it by the Central Government from time to time.

13.6. State Social Security Board

(1) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) State Social Security Board to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The State Board shall consist of the following members, namely:—

- (a) Minister of Labour and Employment of the concerned State—Chairperson, ex officio;
- (b) the Principal Secretary or Secretary (Labour) —Member—Secretary, ex officio; and
- (c) twenty-eight members to be nominated by the State Government, out of whom—
 - (i) seven representing the unorganised workers;
 - (ii) seven representing employers of unorganised workers;
 - (iii) two representing members of Legislative Assembly of the concerned State;
 - (iv) five representing eminent persons from civil society; and
 - (v) seven representing State Government Departments concerned.

(3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(5) The term of the State Board shall be three years.

(6) The State Board shall meet atleast once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(7) The members may receive such allowances as may be prescribed for attending the meetings of the State Board.

(8) The State Board shall perform the following functions, namely:—

(a) recommend the State Government in formulating suitable schemes for different sections of the unorganised sector workers;

(b) advise the State Government on such matters arising out of the administration of this Act as may be referred to it;

(c) monitor such social welfare schemes for unorganised workers as are administered by the State Government;

(d) review the record keeping functions performed at the District level;

(e) review the progress of registration and issue of cards to unorganised sector workers;

(f) review the expenditure from the funds under various schemes; and

(g) undertake such other functions as are assigned to it by the State Government from time to time.

13.7. Funding of State Government Schemes.

(1) Any scheme notified by th the State Government may be—

(i) wholly funded by the State Government; or

(ii) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government.

(2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it.

(3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

13.8. Record keeping by District Administration

The record keeping functions for the purpose of this Act shall be performed by the District Administration:

Provided that the State Government may direct that the record keeping function shall be performed by—

(a) the District Panchayat in rural areas; and

(b) the Urban Local Bodies in urban areas.

13.9. Workers facilitation centres.

The State Government may set up such Workers' facilitation

centres as may be considered necessary from time to time to perform the following functions, namely:—

- (a) disseminate information on available social security schemes for the unorganised workers;
- (b) facilitate the filling, processing and forwarding of application forms for registration of unorganised workers;
- (c) assist unorganised worker to obtain registration from the District Administration;
- (d) facilitate the enrollment of the registered unorganised workers in social security schemes.

13.10. Eligibility for registration and social security benefits

(1) Every unorganised worker shall be eligible for registration subject to the fulfilment of the following conditions, namely:—

- (a) he or she shall have completed fourteen years of age; and
- (b) a self-declaration by him or her confirming that he or she is an unorganised worker.

(2) Every eligible unorganised worker shall make an application in the prescribed form to the District Administration for registration.

(3) Every unorganised worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.

(4) If a scheme requires a registered unorganised worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.

(5) Where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, shall make the contribution regularly in terms of the scheme.

13.11. Power of Central Government to give directions

The Central Government may give directions to—

- (i) the National Board; or
- (ii) the Government of a State or the State Board of that State, in respect of matters relating to the implementation of the provisions of this Act.

13.12. Vacancies, etc., not to invalidate proceedings

No proceedings of the National Board or any State Board shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the National Board or, as the case may be, the State Board.

13.13 Power to make rules by Central Government

(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 4;

(b) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the National Board under sub-section (4) of section 5;

(c) the rules of procedure relating to the transaction of the business at the meeting of the National Board under sub-section (6) of section 5;

(d) the allowances for attending the meetings of the National Board under sub-section (7) of section 5;

(e) the form for making an application for registration under sub-section (2) of section 10; and

(f) any other matter which is required to be, or may be, prescribed.

14. Power to make rules by State Government.—(1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the State Board under sub-section (4) of section 6;

(b) the rules of procedure relating to the transaction of business at the meetings of the State Board under sub-section (6) of section 6;

(c) the allowances for attending the meetings of the State Board under sub-section (7) of section 6;

(d) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 7;

(e) the form in which the application for registration shall be made under sub-section (2) of section 10; and

(f) any other matter which is required to be, or may be, prescribed 15. Laying of rules.—(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be

after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

13.14. Saving of certain laws

Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the unorganized workers than those provided for them by or under this Act.

13.15. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before eachHouse of Parliament

13.16 Summary

The Act provides **social security** to workers in the **unorganised sector** through welfare schemes such as life insurance, health insurance, old age protection, maternity benefits, and disability benefits. It mandates the **Central and State Governments** to frame and implement social security schemes. The Act creates **National and State Social Security Boards** to recommend and monitor these schemes. It covers unorganised workers like **farm labourers, self-employed workers, domestic workers, construction workers**, etc.

13.17 Key words

Unorganised Worker

A worker in the **informal sector**—self-employed or wage worker—not covered by formal employment laws.

Social Security Schemes

Government schemes giving benefits such as **health insurance (RSBY/PM-JAY), life insurance, pension (PM-SYM), maternity benefits**, etc.

National Social Security Board

Central body to **recommend, review, and monitor** social security schemes for unorganised workers.

State Social Security Board

Ensures **state-level implementation** and monitoring of schemes.

Registration of Workers

Workers must register with the district administration to become **eligible** for government schemes.

13.18 Self Assessment Questions

1. Explain the objectives and scope of the Unorganised Workers' Social Security Act, 2008.
2. Describe the functions of the National and State Social Security Boards.
3. Discuss the importance of social security for unorganised sector workers.
4. Write a note on various social security schemes introduced under the Act.

13.19 Reference Books

1. Chadha, P. N. (Ed.). (1959). *Encyclopaedia of Labour Laws and Industrial Legislation* (Vols. on various Acts). Federal Law Dep
2. Mishra, Srikanta. (1995). *Labour Laws and Industrial Relations: New Horizons*. Deep & Deep Publications. [Google Books](#)
3. Malhotra, O. P. (2004). *The Law of Industrial Disputes* (6th ed., Vols. 1–2). LexisNexis India. [JGU Library](#)
4. Misra, S. N. (2024). *Labour & Industrial Laws* (29th ed.). Central Law Publications
5. Srivastava, S. C. (2026). *Industrial Relations and Labour Laws* (9th ed.). Vikas Publishing.