

Social Security Legislation

THE SOCIAL SECURITY CONCERNS

In the wake of international competitiveness and the need for flexibility in labour markets, it becomes increasingly essential to accommodate social security concerns in reform movements. Extension of the social security benefits to cover majority who had been excluded, is perhaps the greatest challenge facing the developing countries today. In fact Ghai (2002) points out to a certain correlation between the degree of economic progress in a country and the development of its national security system wherein those countries with a higher per capita income and larger proportion of working population in the formal sector had more social security due to state subsidized schemes. Though the schemes had varying degrees of effectiveness depending on countries and systems are social security are hence, very complex in these countries. In the developing world, majority of the population is bereft of even basic social security. For instance in India, social security covers only 6 per cent of the workforce that belongs to the organized sector. The remaining 94 per cent that is in the unorganized sector and those who are self employed has very limited social security. The social security system in India is indeed dualistic in nature where only a very small proportion of the workforce which is in the organized sector are in a relatively privileged position to have access to protective social security benefits whereas the remaining majority remains unprotected due to not being able to organize themselves (Datta, 2001). In the organized sector the main social security programmes include Workmen's Compensation Act, 1923 for accidents in the place of work, Employees' State Insurance Act, 1948 for health benefits, Maternity Benefit Act, 1961 for expectant women workers and retirement benefits like Payment of Gratuity Act, 1972 and Employees' Provident Fund Act, 1952. But in spite of a wide coverage the schemes lack appropriate planning, inappropriate coverage, the applicability depends on wage ceilings, number of employees in an establishment, type of establishment, etc. The five year plans of government do not deal with the social security

issues (Anant et al, 2006). On the other hand on the unorganized sector whatever minimum level of social security exists, they have not been implemented appropriately⁷.

Sharma and Mamgain (2001) opine that Indian Labour Market cannot be called rigid since they attribute the decline in employment in manufacturing to the structural and technological characteristics of the industrial growth. Although they say that stringent job security measures in the organized manufacturing may be one of the reasons but according to them it cannot be the sole reason for the decline. Hence irrespective of the impact of 'rigid' labour legislation to employment, they opine that a degree of protection to labour would lead to inflexibility of labour adjustment that is required for restructuring of the enterprises to adjust to competitiveness. This leads to slow and tardy process of adjustment of the firms. Hence, several issues regarding social security comes into picture that need attention. The concept of social security also hence, needs to be widened to encompass the changing patterns of employment keeping in mind the various types and groups of workers and social security programmes made accordingly. Ginneken (1998) emphasizes on the need to improve the existing systems. Guhan (1998) points out that the existing formal security system not only has structural problems but also has administrative problems hence the reform agenda cannot be confined only to 'piecemeal improvements to individual enactments' but should also include 'radical restructuring of the entire framework along with legal and administrative reforms'.

From the table below, we can see that Singapore ranks first in terms of regular employment protection whereas India ranks 69th in terms of regular employment protection. So any measures to enhance the growth of employment and productivity in the country must take into consideration the social security issues of the workers. The SNCL report also advocates for a well defined social security package that would benefit workers in both organized as well as unorganized sectors (Sethuraman, 2002).

⁷ Ministry of labour had backed a draft bill for social security of workers in the unorganized sector in March 2003. Workers had to register in designated worker facilitation centres in order to qualify for health benefits, old age pension and accident benefits. But due to change in government in the following year when the implementation began, full implementation of the bill was no more possible (Anant et al, 2006).

Table 4: Regular Employment Protection Index of Select Countries

Country	Regular employment protection index	Rank
Singapore	0.11	1
Bangladesh	0.38	39
India	0.51	69
Pakistan	0.57	72

Source: Edited from Economic and Social Survey of Asia and the Pacific, 2006 (Table: III.7)

CONCLUSION

In the context of above discussions, there are many things needed to be looked upon. The first is that of the whole question of whether improving the status of the organized sector manufacturing by reforming the labour laws would practically make a difference to the growth of employment considering that labour in the organized sector forms only 6 per cent of the total labour force the rest being in the unorganized sector. Secondly, whole debate on whether rigidity of the labour laws is hindering growth of the manufacturing sector and hence employment generation in this sector seems vague if large scale flouting or violations of labour laws are taken into consideration. Again, even though steps involving greater flexibility in labour laws making it easier to implement greater flexibility in the labour market are taken leading to creation of greater employment opportunities, one need to know whether this would lead to long term generation of employment creation or would it result in just a short term planning. And above all any step should take into account the interests of both the employers and the workers with greater emphasis on social protection of workers. Because labour in the new industries would face different types of insecurities like job security in the wake of contractual

work, lack of minimum wages legislation, housing and health facilities and most importantly old age benefits. Emphasis should first and foremost be laid on decent work practices along with proper implementation of minimum wages in both formal and informal sectors which call for commitment from the employer's side as well. For instance, if a small level trader in the informal sector hires a handful of workers we do not know whether the trader himself is capable enough to provide minimum wages to its handful of employees. Another instance cited by Datta (2001) where he points out the fact that in Mumbai since the *Mathadis*⁸ did not have an employer and because their work did not fall under any 'Scheduled Employment', they were bereft of the benefits of the Minimum Wages Act. Another important issue is the enforcement of labour laws which is of particular concern. So any alternative framing of labour laws need to reconsider and assess these aspects before moving forward with the conception of 'rigid labour laws and its hindrance to employment growth'.

⁸ Mathadis are workers who carry load on their head, back, neck, or shoulders.

Why Do We Need Social Security

Social Security protects not just the subscriber but also his/her entire family by giving benefit packages in **FINANCIAL** security and health care. Social Security schemes are designed to guarantee at least long-term sustenance to families when the earning member retires, dies or suffers a disability. Thus the main strength of the Social Security system is that it acts as a **facilitator** - it helps people to plan their own future through insurance and assistance. The success of Social Security schemes however requires the active support and involvement of employees and employers.

As a worker/employee, you are a source of Social Security protection for yourself and your family. As an employer you are responsible for providing adequate social security coverage to all your workers.

Background information on Social Security

India has always had a Joint Family system that took care of the social security needs of all the members provided it had access/ownership of material assets like land. In keeping with its cultural traditions, family members and relatives have always discharged a sense of shared responsibility towards one another. To the extent that the family has resources to draw upon, this is often the best relief for the special needs and care required by the aged and those in poor health.

However with increasing migration, urbanization and demographic changes there has been a decrease in large family units. This is where the formal system of social security gains importance. However, information and awareness are the vital factors in widening the coverage of Social Security schemes. Social Security Benefits in India are Need-based i.e. the component of social assistance is more important in the publicly-managed schemes- In the Indian context, Social Security is a comprehensive approach designed to prevent deprivation, assure the individual of a basic minimum income for himself and his dependents and to protect the individual from any uncertainties. The State bears the primary responsibility for developing appropriate system for providing protection and assistance to its workforce. Social Security is increasingly viewed as an integral part of the development process. It helps to create a more positive attitude to the challenge of globalization and the consequent structural and technological changes.

Workforce In India

The dimensions and complexities of the problem in India can be better appreciated by taking into consideration the extent of the labour force in the organized and unorganized sectors. The NSSO survey of 2004-05 has brought out the vast dichotomy between these two sectors into sharp focus. While as per the 1991 census, the total workforce was about 314 million and the organized sector accounted for only 27 million out of this workforce, according to the survey conducted by the National Sample Survey Organization (NSSO) in 2004-05, the total number of workforce was 459 million of which About 433 million (about 94%) of the total workforce is engaged in unorganized sector and 26 million on organized sector. The organized sector is already covered through social security legislations like the Employees' Provident **FUNDS** and Miscellaneous Provisions Act, 1952 and the Employees State Insurance Act, 1948. The Government has also enacted Unorganised Workers' Social Security Act to create a framework for providing social security to unorganized workers. Thus, it can be concluded from these findings that there has been a negative growth in the organized sector in comparison the growth in the unorganized sector.

Organized and Unorganized Sectors

The organized sector includes primarily those establishments which are covered by the Factories Act, 1948, the Shops and Commercial Establishments Acts of State Governments, the Industrial Employment Standing Orders

Act, 1946 etc. This sector already has a structure through which social security benefits are extended to workers covered under these legislations.

The unorganized sector on the other hand, is characterized by the lack of labour law coverage, seasonal and temporary nature of occupations, high labour mobility, dispersed functioning of operations, casualization of labour, lack of organizational support, low bargaining power, etc. all of which make it vulnerable to socio-economic hardships. The nature of work in the unorganized sector varies between regions and also between the rural areas and the urban areas, which may include the remote rural areas as well as sometimes the most inhospitable urban concentrations. In the rural areas it comprises of landless agricultural labourers, small and marginal farmers, share croppers, persons engaged in animal husbandry, fishing, horticulture, bee-keeping, toddy tapping, forest workers, rural artisans, etc. where as in the urban areas, it comprises mainly of manual labourers in construction, carpentry, **TRADE**, transport, communication etc. and also includes street vendors, hawkers, head load workers, cobblers, tin smiths, garment makers, etc.

✓ Synopsis Of Social Security Laws

The principal social security laws enacted in India are the following:

1. The Employees' State Insurance Act, 1948 (ESI Act) which covers factories and establishments with 10 or more employees and provides for comprehensive medical care to the employees and their families as well as cash benefits during sickness and maternity, and monthly payments in case of death or disablement.
2. The Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (EPF & MP Act) which applies to specific scheduled factories and establishments employing 20 or more employees and ensures terminal benefits to provident **FUND**, superannuation pension, and family pension in case of death during service. Separate laws exist for similar benefits for the workers in the coal mines and tea plantations.
3. The Employees' Compensation Act, 1923 (WC Act), which requires payment of compensation to the workman or his family in cases of employment related injuries resulting in death or disability.
4. The Maternity Benefit Act, 1961 (M.B. Act), which provides for 12 weeks wages during maternity as well as paid leave in certain other related contingencies.
5. The Payment of Gratuity Act, 1972 (P.G. Act), which provides 15 days wages for each year of service to employees who have worked for five years or more in establishments having a minimum of 10 workers.

Separate Provident **FUND** legislation exists for workers employed in Coal Mines and Tea Plantations in the State of Assam and for seamen.

6. The Bombay Labour Welfare Funds Act.

New Initiatives –

The various Central Acts on Social Security have been examined in the light of the recommendations of the 2nd National Commission on Labour. Relevant amendments have been carried out in ESIC Act whereas comprehensive review of the EPF and MP Act is under way. The consultation process is on with reference to the amendment suggestions received in case of the Maternity Benefit Act and the Workmen's Compensation Act.

Innovative measures are proposed in the running of the Social Security Schemes of EPFO and ESIC. This includes flexible benefit schemes tailored to the specific requirements of different segments of the population.

Summary Of Present Initiatives In Working Of EPFO & ESIC

The profiles of the Employees' Provident Fund Organization and the Employees' State Insurance Corporation are being changed towards greater accessibility and client satisfaction.

The EPFO extends to the entire country covering over 393824 establishments. At present, over 11.80 crore EPF Members and their families get benefits under the social security schemes administered by the EPFO. The total corpus of the EPF Scheme 1952, EDLI Scheme, 1976 and Employees Pension Scheme 1995 together amounts to about Rs. 5,36,993 crores as on 31-3-2014. Over the years, the volume of service rendered to subscribers as well as **INVESTMENTS** made, etc. by EPFO have grown manifold. With a view to provide better services to subscribers and employers, the organization has launched the Project RE-INVENTING EPF, INDIA since June, 2001. The prime objectives of this Project are to provide the subscribers better and efficient services, to help the employers by reducing the cost of compliance and to benefit the organization to register geometric growth in all fields. An important part of this Project is the allotment of the UNIQUE IDENTIFICATION NUMBER-the SOCIAL SECURITY NUMBER to the EPF subscribers, issuing of BUSINESS NUMBERS to the employers and Business Process Re-engineering.

The strategy for implementation has been evolved and the allotment of the Social Security Number has begun with the entire activity being carried out in smaller phases for effective data collection. The criteria considered for the allotment of SSN include the centralized control of Uniqueness, ensuring the least manual intervention during allotment and near 100% Uniqueness accuracy levels. The Social Security Number in a nutshell is a big effort towards solving the problem of providing social protection to migrant labour and to make the data base of EPFO adaptable to the present trend of high job mobility among workers.

Social security is essential for the well being of people and society. It is the basic human right and its fulfillment will contribute to achieving various developmental goals of nation. Social Security measures have far reaching benefits in the form of improving and bringing sense of pride and self respect amongst the citizens. Such measures also help in providing the minimal level of providing protection against health and life hazards in work situations. It can progressively pay standard to social security, welfare measures involving provisions of better Health Care, Maternity Care, and Old Age Pension etc.

Social Security of the formal sector workers is provided through the instrumentality of Employees' Provident Fund Organisation and Employees' State Insurance Corporation.

Employees' Provident Fund Organization (EPFO)

The EPFO extends to the entire country, except in the State of Jammu and Kashmir covering over 7.98 lac establishments as on 31st March 2014. Further, over 11.80 crore EPF members and their families get benefits under Social Security Schemes administered by EPFO as on 31st March 2014. The total **INVESTMENT** corpus as on 31st March, 2014 amounts to ₹ 7,30,393/- crores (₹ 5,36,993/- crore, Unexempted **FUNDS** and ₹ 1,93,400/- crore – exempted **FUNDS**). Over the years, the volume of service rendered to subscribers as well as investments made etc. by EPFO have grown many folds. EPFO has focused its effort on automation of the work processes to achieve better efficiency and improved service delivery to its members. The work done in this direction by EPFO is given below:-

- v All 120 offices of EPFO have been computerized.
- v With effect from the **FINANCIAL** Year 2012-2013 a facility for electronic submission of statutory EPF return (ECR- Electronic Challan cum Return) has been introduced. This is a mandatory mode of filing of the return with the remittance and facilitated the employers to file a single return each month (instead of 4 every month and two annual returns) online from anywhere.
- v Employers can also remit their EPF dues electronically if they have a corporate internet bank account with the State Bank of India.

- v Employers not having a corporate internet bank account with SBI shall have to pay EPF dues through cheque/DD
 - v Once the above returns are received electronically and payment is confirmed member accounts are being updated on monthly basis. Thus the members do not have to wait to know their balances in the Account till the end of the **FINANCIAL** year.
 - v Establishments can also view and print the annual PF account slips of its employees.
 - v Facility has been provided to the individual employees to register and view his/her EPF account details online as member passbook. The passbook has month wise details of credits and withdrawals as compared to erstwhile F-23 having one line annual summary.
 - v For facilitating the employers to comply with statutory provisions of EPF and file necessary returns, an E-Return Tool has been made available.
 - v The members can also get their PF balances on their mobile phones through a link "Know Your P. F Balance" on www.epfindia.gov.in
 - v Members can also track their claims and payment status online through "Know Your Claim Status Link" as well as receive SMS for the same.
 - v EPF amounts are being remitted electronically through NEFT to beneficiaries bank accounts. This results in faster credit of the amount in their accounts after the claim is authorised.
 - v The facility to file Transfer Claims online has been provided through launch of Online Transfer Claim Portal 'OTCP'. This has facilitated faster transfer of amounts of member across their employment under different establishment. This facility for the first time facilitated the filing of claim with digital signature of the employer.
 - v For the exempted establishments, the monthly return in Appendix A has been made online. Thus the employment, contribution and the **INVESTMENT** details of the exempted establishments are available through the said return in digital format.
 - v For the EPF members, going to countries with which India has entered into Social Security Agreement, centralized software for generation of Certificate of Coverage benefiting such member to continue their PF remittances on India.
 - v The organization has also launched internal software for compliance and legal case tracking and all the legal cases across India can be monitored on-line through its dashboard.
- A proposal for comprehensive amendment of EPF & MP ACT, 1952 is under examination in Ministry of Labour and Employment under consultation with EPFO for improving scale of benefits to the beneficiaries. During 2013-14, special emphasis was laid on issue of Annual Accounts Slip. 13.57 crore Annual Accounts were updated during the year against the corresponding figure of 12.91 crore during 2012-13. The Annual Accounts for and upto the year 2013-14 are likely to be liquidated by 30th September, 2014. During 2013-14, 123.34 lakhs claims were settled, this being 10.70 percent more than the corresponding figure last year. More than 43.63 lakhs pensioners are being paid monthly pensions by EPFO.

Employees' State Insurance Corporation (ESIC)

The Employees' State Insurance Scheme provides need based social security benefits to insured workers in the organized sector. As in the case of the EPFO, the ESIC has also taken up the daunting task of tailoring different benefit schemes for the needs of different groups. The Employees State Insurance Act, 1948 applies to the factories and establishment viz. Road Motor Transport undertaking, Hotel, Restaurants, Cinemas, Newspaper establishment, Shop, Educational and Medical Institution wherein 10 or more person are employed. However, in 8 States threshold limit for coverage of establishment is still 20. Employees drawing wages up to Rs. 15000/- a

month are covered under the Act whereas for permanently disabled employees wage ceiling is Rs. 25000/- per month. At present scheme is covering about 1.86 crores Insured Persons at 810 Centers in 30 States/UTs. The total number of beneficiaries availing medical care is about 7.21 crores including family members of IPs.

The Employees' State Insurance Scheme provides comprehensive medical care in the form of medical attendance, treatment, drugs and injections, specialist consultation and hospitalization to Insured Persons, their family and also to their dependants. The ESI Scheme provides following benefits to the Insured Persons:-

- i) **Medical Benefit:** The Scheme provides for full and comprehensive medical treatment to the IPs and their families including hospitalization, referral treatment and supply of artificial limbs, dentures etc. This benefit is available to the IPs from the date they enter insurable employment and is continued thereafter subject to fulfillment of condition of contribution for 78 days in a contribution period of 6 months.
- ii) **Sickness Benefit:** Under the Scheme the IP is entitled to sickness Benefit for 91 days in a year to the extent of 70% of his wages. This is extended up to 2 years in the case of chronic illness and rate of payment of benefit is about 80% of his wages. For this benefit the IPs is required to have contributed to the Scheme at least for 78 days in a 6 monthly contribution period.
- iii) **Maternity Benefit:** The Scheme provides for payment of maternity benefit equal to full wages for 12 weeks plus additional one month in the case of illness arising out of pregnancy, delivery etc. The insured woman is required to have contributed for 70 days in proceeding two contribution periods for entitlement to maternity benefit.
- iv) **Disablement Benefit:** In the case of disablement due to employment injury including occupational diseases the IP is entitled to payment of periodical benefit at about 90% of his wages during the period the IP abstains from work for treatment. There is no contributory condition for this benefit. After the treatment is over, if there is any residuary permanent disablement, a Medical Board decides the daily rate of compensation as a percentage of the full rate.
- v) **Dependant Benefit:** In the case of death due to employment injury the family is entitled to payment of dependant benefit at the rate about 90% of his wages. There is no contributory condition for this benefit.
- vi) **Funeral Expenses:** In the case of the death of the IP a sum of Rs. 10,000/- is paid for meeting the funeral expenses.
- vii) **Rajiv Gandhi Shramik Kalyan Yojana (Unemployment Allowance Scheme):** The Rajiv Gandhi Shramik Kalyan Yojana was introduced w.e.f. 01.04.2005, Under the Scheme, employees covered under the Scheme who lose their employment due to closure of factories/ establishments, retrenchment or permanent invalidity are entitled to Unemployment Allowance equal to 50% of their wage for up to one year.

An Insured Person, his family and his dependants are entitled to medical benefits from the day of entry into insurable employment. The range of medical services provided covers promotive, preventive, curative and rehabilitative services which includes outpatient care/ inpatient care, specialized medical care and super specialty medical care as per requirement of the patient. Medical facilities under AYUSH i.e. Ayurveda, Yoga, Unani, Siddha and Homeopathy are also provided.

Medical services are provided through a large infrastructure comprising Hospitals, Dispensaries, annexes, Specialist centers, Model Dispensaries- cum- Diagnostic Centers (MDDC), IMP clinics and arrangements with other health institutions. The out-patients service is provided through ESI dispensaries, IMP Clinics and Employer Utilization Dispensaries. (EUD) In-patient services are provided through ESIC/ESIS Hospitals and through empanelment with tie up private hospitals. There are 1384 service dispensaries under ESI scheme all over the country and 1224 IMPs. In patient services are provided through a chain of 151 ESI hospitals spread across the country which includes 36 directly run ESIC hospitals & 115 State ESI hospitals with total bed strength of around

19000 excluding beds reserved in State Govts. Hospitals and Annexes. The provision for Super special services is mainly through tie-up arrangements with private hospitals numbering more than 1000 across India.

Expenditure on medical care is shared between ESI Corporation and the State Government in the ratio of 7:1 within the prescribed ceiling which is revised from time to time. In order to improve the standard of medical care in the States, the amount reimbursable to the State Governments for running the medical care scheme has been increased from Rs.1200/- to Rs. 1500/- Per IP family unit per annum w.e.f. 01.04.2012. The ESIC has formulated action plans for improving medical services under the ESI Scheme with focus on modernization of hospitals by upgrading their emergency and diagnostic facilities, development of departments as per disease profiles, waste management, provision of intensive care services, revamping of grievance handling services, continuing education programme, computerization and up-gradation of laboratories etc. The ESIC has also taken new initiatives to promote and popularize AYUSH systems of treatment in ESIC Hospitals and Dispensaries in a phased manner. ESIC IT Project Panchdeep, one of the largest e-governance projects is under implementation at present. All ESI Institutions are being networked under this project for enabling IPs and their family members to avail ESI benefits anywhere anytime. Two smart cards christened as "Pehchan Cards", one for insured person and other for the family are being issued. Also, the ESI Act, 1948 has been amended w.e.f. 01.06.2010 for enhancing the Social Security coverage, streamlining the procedure for assessment of dues and for better services to the beneficiaries. The present ESIC **Contribution Rates** are Employees- 1.75% of wages Employers- 4.75% of wages.

Extension Of Coverage

Currently, social security policy makers and administrators are engaged in a wide-ranging debate to redress the problems in providing social security in the country. This debate has thrown up various arguments on the efficacy of publicly managed social security schemes as opposed to privately managed schemes. There is no standard model that can be adopted on this issue. In the Indian context the privately managed schemes can at best be considered as supplementary schemes after the mandatory schemes managed publicly. It is only the publicly managed scheme, which will extend to all the sectors of the workforce. The challenge of closing the coverage gap in social security provisions has to be developed at two levels. The first level involves the re-engineering of the institutional arrangements to increase efficiency. The second level is to create an appropriate legislative and administrative framework for significant increase in the social security coverage especially in the unorganized sector.

In India currently only about 35 million out of a workforce of 400 million have access to formal social security in the form of old-age income protection. This includes private sector workers, civil servants, military personnel and employees of State Public Sector Undertakings. Out of these 35 million, 26 million workers are members of the Employees' Provident FUND Organization. As such the current publicly managed system in India is more or less entirely anchored by the Employees' Provident FUND Organisation. It may be noted that in the last 50 years, the Employees' Provident Fund Organisation has been in existence, there has been no instance of any scam or a situation where the Fund has been exposed to speculation and risk. Another important contribution of EPF is now proposed to extend to the critical life benefit of providing shelter. The Shramik Awas Yojana aims at providing a cost effective Housing Scheme specific for EPF numbers. This involves cooperation between organizations such as HUDCO, Housing Agencies, State Governments, Employers and EPF Members with the EPFO playing the role of facilitator. The investments are directed into the prescribed securities and portfolios as per the pattern laid down by the Finance Ministry.

EPFO Programs At A Glance

Program name	Program	Financing	Coverage
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		Type		
Employees Provident Fund (EPF)		Mandatory	Employer: 1.67-3.67%	Firms with + 20 employees
			Employee: 10-12%	
			Government: None	
Employees Pension Scheme (EPS)		Mandatory	Employer: 8.33%	Firms with + 20 employees
			Employee: None	
			Government: 1.16%	
Employees Deposit Linked Insurance Scheme (EDLI)		Mandatory	Employer: 0.5%	Firms with + 20 employees
			Employees: None	
			Government: None	

A few examples of other retirement programs giving social security

(Information on extent of coverage of the labour force under these programs is not available)

Program name	Program Type	Financing	Coverage
Civil Service Pension Scheme	Mandatory	State or Central Government	Civil servants at state and central government level
Government Provident FUND	Mandatory	Employee contributions	Civil servants at state and central government level

Special Provident FUNDS	Mandatory	Employer and employee contributions	Applies to Workers in particular sectors: Coal, Mines, Tea Plantation, Jammu and Kashmir Seamen, etc.
Public Provident Fund	Voluntary	Contributions	All individuals are eligible to apply
VRS plans	Voluntary	Contributions	Employees as decided by respective establishments
Personal Pension	Voluntary	Purchase of annuity type products	All individuals
State level social assistance	Government sponsored social assistance	State Government	Varies by State and type of Scheme
National Old Age Pension Scheme	Government sponsored social assistance	Central Government	Poor persons above age 65

4

THE BOMBAY LABOUR WELFARE
FUND ACT, 1953

WHAT'S THIS ACT?

- To constitute a Fund
- Financing & promoting labor welfare
- Conducting activities etc for the laborers
- State Act - and not a Central Act

HISTORY/ PURPOSE OF THE ACT

- Labor legislation- to protect and safeguard interests of the workers,
- To prevent exploitation of labor and provide them with welfare programmes
- To provide welfare services to the families of the workmen

Important concepts

- Board
- Contribution
- Employee
- Employer
- Establishment
- Factory
- Fund

Continued.....

- Independent member
- Inspector
- Prescribed
- Unpaid accumulation
- Wages
- Welfare commissioner.

WHAT ARE WELFARE ACTIVITIES?

- May also hold Community & social education programmes e.g. Reading rooms, libraries
- Games & sports
- Tours, Holidaying...
- Entertainment & recreation- clubs, cultural activities

CONTINUED....

- Subsidiary occupations- self help groups for women
- Other objects to improve standard of living of labor

CONTENTS OF THE ACT

- Came into force on 17th June, 1953
- Preamble of Act gives what is tried to be achieved by the Act & the aims & objects thereof
- Consists of 25 sections
- S.2- Definitions of various terms in Act
- Creation of labor welfare fund, board for management & supervision
- Mode of recovery & penalties/ prosecution

APPLICATION OF THE ACT

A) TERRITORIAL LIMITS:

- Corporations
- Municipalities
- Municipal Boroughs
- Any other areas- as per govt notifications

APPLICATION OF THE ACT

B) ESTABLISHMENTS / PERSONS:

- Factory
- Tramway or motor transport service
- As per Bombay Shops and Establishments Act, 1948- employing 10 or more persons in a period of 12 months

OBJECTIVE OF THE ACT

- An Act to provide for the constitution of a Fund for the financing of activities to promote welfare of labour in the State of Maharashtra for conducting such activities and for certain other purposes.

SOURCES OF FINANCE FOR THE FUND

- All fines realised from the employees;
- Unpaid accumulations transferred to the fund
- Any penal interest paid
- Any contribution paid
- Any voluntary donations
- Any fund transferred
- Any sum borrowed
- Any loan, grant-in-aid or subsidy paid by the State Govt.

AREAS OF USAGE OF THE FUND

- To defray the cost of carrying out measures which may be specified by the State govt. to promote the welfare of labor and of their dependents
- To defray expenditure on the following:
 - c) Community and social education centers including reading rooms and libraries;
 - d) Community necessities;
 - e) Games and sports;

Contd...

- d) Excursions, tours, and holidays homes;
- e) Entertainment and other forms of recreation;
- f) Home industries and subsidiary occupations for women and unemployed persons;
- g) Corporate activities of a social nature;
- h) Cost of administering the Act;
- i) Such other objects as would in the opinion of the State Govt. improve the standard of the living & ameliorate the social conditions of labour;

- For granting to any employer, any local authority or any other body in aid of any activity for welfare of labour

SCOPE

- The Establishments
 - . Factories, etc
- The parties
 - . Employers and employees
 - . Apprentices

- Welfare Funds

- . Unpaid Accumulations
- . Fines
- . Voluntary Donations
- . Loans,etc

- The Board

ADMINISTRATION

1. Representative of employees and employers on the board
2. Independent members
3. Women representatives

APPOINTMENT

Appointment and powers of welfare commissioner

2. Appointed by board
3. Principle executive officer of the board
4. Duty to ensure that provision of this act are carried out

Appointment of inspectors

To inspect records in connection with the sums payable into the fund

Appointment of clerical and other staff by board

10. To supervise the activities financed from the fund
11. Regulations are made regarding the method of recruitment pay and allowances and other conditons of service of the members of its staff

Administration

- Welfare fund
- Board
- Disqualifications and removals
- contribution- it has three parties:
 - - employees.
 - - employer.
 - - state government.

Beneficiaries

- Tripartite.
- Benefits.

4

THE MAHARASHTRA LABOUR WELFARE FUND ACT

CONTENTS

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
- 2A. [Deleted.]
3. Welfare fund.
4. Board.
- 4A. [Deleted.]
5. Disqualifications and removal.
6. Resignation of office by member and filling up of casual vacancies.
- 6AA. Power to appoint Committees.
- 6A. Unpaid accumulations and claims thereto.
- 6BB. Contributions.
- 6B. Interest on unpaid accumulations or fines after notice of demand.
7. Vesting and application of Fund.
8. Power of Board to borrow.
9. Investment of Fund.
10. Directions by State Government to Board.
11. Appointment and powers of Welfare Commissioner.
12. Appointment of Inspectors.
13. Absorption of the existing staff under Commissioner of Labour.
14. Appointment of clerical and other staff by Board.
15. Power of State Government to remove any person on staff of Board.
16. Power of State Government or authorised officer to call for records, etc.
17. Mode of recovery of sums payable to Board, etc.
- 17A. Penalty for obstructing inspection in discharge of Inspector's duties or for failure to produce documents, etc.
- 17B. Provisions relating to jurisdiction.
18. Supersession of Board.
19. Rules.
20. Members of Board, Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants.
21. Protection to person acting in good faith.
22. Exemptions.
23. Amendment of section 8 of Act IV of 1936.

BOMBAY ACT No. XL OF 1953

[THE MAHARASHTRA LABOUR WELFARE FUND ACT.]

[17th June 1953]

Amended by Bom. 16 of 1956.

Adapted and modified by the Bombay Labour Welfare Board (Reconstitution) Order, 1959[†]

Adapted and modified by the Bombay Labour Welfare Board (Reorganisation) Order, 1960.

Amended by Mah. 36 of 1961*

" " " 22 of 1966.

" " " 16 of 1971.

" " " 2 of 1978 (1-7-1977)\$

" " " 4 of 1984. (20-2-1984)\$

" " " 10 of 1987 (1-5-1987)\$

" " " 24 of 2003 (7-1-2002)\$

" " " 24 of 2012 (22-8-2012)

An Act to provide for the constitution of a Fund for the financing of activities to promote welfare of labour in the State of ²[Maharashtra] ³[for conducting such activities and for certain other purposes].

WHEREAS it is expedient to constitute a Fund for the financing of activities to promote 'welfare' of labour in the State of ²[Maharashtra] ³[for conducting such activities and for certain other purposes] ; It is hereby enacted as follows :—

1. (1) This Act may be called ⁴[the Maharashtra Labour Welfare Fund Act]

Short title,
extent and
commence-
ment.

⁵[(2) It extends to the whole of the State of Maharashtra.]

(3) It shall come into force in such area and on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

2. In this Act, unless the context otherwise requires—

Definitions.

(1) " Board " means ⁶[the Maharashtra Labour Welfare Board] constituted under section 4 ;

⁷[(1A) " contribution " means the sum of money payable to the Board in accordance with the provisions of section 6BB ;]

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1953, Part V, pages 327-328.

[†] This Order was published in Government of India, Ministry of Home Affairs, Notification No. S/2/59-SR(R) 9, dated 4th December 1959. It came into force on 15th December 1959.

* This Act was extended throughout the State of Maharashtra (*vide* Mah. 36 of 1961, s.2.)

\$ This indicates the date of commencement of Act.

² This word was substituted for the word " Bombay " by Mah. 36 of 1961. s.3(a).

³ These words were substituted for the words " and for conducting such activities ", *ibid.*

⁴ The short title was amended for "Bombay Labour Welfare Fund Act, 1953" by Mah. 24 of 2012, s. 2, Schedule, entry 48, w.e.f. 1-5-1960.

⁵ Sub-section (2) was substituted by Mah. 36 of 1961, s.4.

⁶ These words were substituted for the words " any Labour Welfare Boards ", *ibid.*, s.5(a).

⁷ Sub-clause (1A) was inserted by Mah. 16 of 1971, s. 2(1).

¹[(2) "Employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual, clerical, supervisory or technical in an establishment directly by the employer or through contractor or any other agency, but does not include any person—

(i) who is employed mainly in a managerial capacity,

(ii) who, being employed in a supervisory capacity, draws wages exceeding three thousand and five hundred rupees per mensem, or exercises powers or carries out, 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, or

(iii) who is employed as an apprentice under the Apprentice Act, 1961 ;] 52 of 1961.

(3) "Employer" means any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes—

(i) in a factory, any person named under section 7(i)(f) of the Factories Act, 1948 as the manager ; LXIII of 1948.

(ii) in any establishment, any person responsible to the owner for the supervision and control of the employees or for the payment of wages ;

(4) "Establishment" means —

(i) a factory ;

(ii) a tramway or ²[motor omnibus service or a motor transport undertaking to which the Motor Transport Workers Act, 1961, applies ; and

³[(iii) any establishment within the meaning of the Bombay Shops and Establishments Act, 1948, which employs, or on any working day during the preceding twelve months, employed ⁴[five] or more persons ⁵[including the establishments which have been granted exemption partly or wholly under the proviso to section 4 of that Act] : XXVII of 1961. Bom. LX-XIX of 1948.

Provided that, any such establishment shall continue to be an establishment for the purposes of this Act, notwithstanding a reduction in the number of persons to less than ⁴[five] at any subsequent time :

Provided further that, where for a continuous period of not less than three months, the number of persons employed therein has been less than ⁴[five] such establishments shall cease to be an establishment for the purposes of this Act with effect from the beginning of the month following the expiry of the said period of three months, but the employer shall within one month from the date of such cessation, intimate by registered post the fact thereof to such authority as the State Government may specify in this behalf] ;

⁶[*Explanation.*—For the removal of doubt, it is hereby declared that where an establishment has different branches or departments, all such branches or departments, whether situated in the same premises or different premises, shall be treated as parts of the same establishment ;]

1 Clause (2) was substituted and shall be deemed to have been substituted w.e.f. 31-12-2000, by Mah. 24 of 2003, s.2(a).

2 These words were substituted for the words " motor omnibus service ; and." by Mah. 4 of 1984, s.2(b)(i).

3 This portion was substituted for the portion beginning with " (iii) any establishment " and ending with " or any State Government " by Mah. 16 of 1971, s.2(3).

4 This word was substituted for the word " ten " by Mah. 4 of 1984 s.2(ii).

5 These words were added by Mah. 24 of 2003, s. 2(b)

6 This *Explanation* was added, *ibid*, s. 2 (iii).

LXIII
of
1948.

¹[(5) "Factory" means a factory as defined in section 2 (m) of the Factories Act, 1948, and includes any place wherein five or more persons are employed or working, and—

(i) where in any manufacturing process is being carried on with the aid of power or is ordinarily so carried on ;

(ii) which is deemed to be a factory under section 85 of the said Act ;]

(6) "Fund" means the ²[Labour Welfare Fund] constituted under section 3 ;

(7) "Independent member" means a member of the Board who is not connected with the management of any establishment or who is not an employee, and includes an officer of Government nominated as a member ;

(8) "Inspector" means an Inspector appointed under section 12 ;

* * * * *

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

(10) "Unpaid accumulation" means all payments due to the employees but not made to them within a period of three years from the date on which they became due whether before or after the commencement of this Act including the wages, and gratuity legally payable ⁴ but not including the amount of contribution if any, paid by an employer to a provident fund established under the Employees' Provident Funds Act, 1952] ;

XIX of
1952.

4 of
1936.
21 of
1965.

⁵[(11) "wages" means wages as defined in section 2 (vi) of the Payment of Wages Act, 1936, and includes bonus payable under the Payment of Bonus Act, 1965] ;

(12) "Welfare Commissioner" means the Welfare Commissioner appointed under section 11.

2A. [Construction of certain references in the Act] Deleted by Mah. 36 of 1961 s.6.

3. ⁶[(1) The State Government shall constitute a fund called the Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid ⁷[at such intervals as may be prescribed] to the Board, which shall keep a separate account therefor until claims thereto have been decided in the manner provided in section 6A, and the other sums specified in sub-section (2) shall be paid into the Fund. Welfare Fund.

(2) The Fund shall consist of—

(a) all fines realised from the employees ;

(b) ⁸[unpaid accumulations transferred to the Fund under section 6A] ;

⁹[(bb) any penal interest paid under section 6B ;]

¹⁰[(bbb) any contribution paid under section 6BB ;]

¹ This clause was substituted for original clause (5), by Mah. 4 of 1984, s.2(c).

² These words were substituted for the words " any of the Labour Welfare Funds, " *ibid.* s 5(d).

³ Clauses ((8a) and (8b) were deleted *ibid.*, s 5(e).

⁴ This portion was inserted *ibid.*, s.5(f).

⁵ Clause (11) was substituted by Mah. 16 of 1971, s.2(4).

⁶ Sub-section (1) was substituted by Mah. 36 of 1961, s 7(a).

⁷ These words were inserted by Mah. 22 of 1966, s. 2(a).

⁸ This portion was substituted for the words " all unpaid accumulations " by Mah. 36 of 1961.

⁹ Clause (bb) was inserted by Mah. 22 of 1966, s 2(b).

¹⁰ Clause (bbb) was inserted by Mah. 16 of 1971, s. 3(a).

- (c) any voluntary donations ;
 (d) any fund transferred under-section (5) of section 7 ;^{1*}
 (e) any sum borrowed under section 8 ;
²(f) any loan, grant-in-aid or subsidy paid by the State Government.]

(3) The sums specified in sub-section (2) ³[shall be paid, or collected by such agencies, at such intervals] and in such manner and the accounts of the Fund shall be maintained and audited in such manner as may be prescribed.

Board.

4. (1) ⁴[The State Government shall, by notification in the *Official Gazette* constitute the Board for the whole of the State of Maharashtra for the purpose of administering the Fund, and to carry on such other functions assigned to the Board by or under this Act.] The Board shall consist of the ⁵[following members, not exceeding twenty-six in number], namely :—

(a) such number as may be prescribed of representatives of employers and employees to be nominated by the State Government :

Provided that both employers and employees shall have equal representation on the Board ;

(b) such number of independent members as may be prescribed, nominated by the State Government ;^{6**}

(c) such number of independent members as may be prescribed, nominated by the State Government to represent women ;

⁷[(d) the Principal Secretary or Secretary (Finance) or his nominee shall be the *ex-officio* member ; and

(e) the Principal Secretary or Secretary (Labour) or his nominee shall be the *ex-officio* member.]

(2) The members of the Board shall elect one of its independent members as the *Chairman* of the Board.

(3) Save as otherwise expressly provided by this Act, the term of office of the members of the Board shall be three years commencing on the date on which the names are notified in the *Official Gazette*.

(4) The allowances if any, payable to the members of the Board * * * shall be such as may be prescribed.

(5) ⁹[The Board shall be a body corporate by the name of the Maharashtra Labour Welfare Board having perpetual succession and a common seal, with power to acquire property both moveable and immovable, and shall by the said name sue and be sued.

¹⁰(6) Notwithstanding anything contained in this section, until the Board for the State of Maharashtra is duly constituted in accordance with the provisions of sub-section (1), the existing Board functioning and operating immediately before the commencement of the Bombay Labour Welfare Fund (Extension and Amendment) Act, 1961, in any area of the State shall continue to function and operate in that area and shall be the Board for the purpose

¹ The word " and " was deleted by Man. 16 of 1971, s. 3(b).

² Clause (f) was added, *ibid.*, s. 3(c).

³ These words were substituted for the words "shall be collected by such agencies" by Mah. 2 of 1966, s.2(c).

⁴ This portion was substituted for the portion beginning with "The State Government of Bombay, and ending with "and the Karnataka area respectively" by Mah. 36 of 1961, s. 8(a).

⁵ These words were substituted for the words "following members" by Mah. 16 of 1971, s. 4(1).

⁶ The word "and" was deleted by Mah. 24 of 2003, s. 3(a).

⁷ Clauses (d) and (e) were added, *ibid.*, s. 3(b).

⁸ The words " and the conditions of appointment of the representatives of the employers and employees" were deleted by Mah. 16 of 1971, s. 4(2).

⁹ These words were substituted for the portion beginning with the words "The Board shall be known" and ending with the words "a body corporate" by Mah. 36 of 1961, s. 8(b).

¹⁰ Sub-section (6) was substituted for the original sub-sections (6) and (7) *ibid.*, s. 8(c).

of this Act for that area ; and on the constitution of the Board for the whole of the State of Maharashtra under sub-section (1)—

(a) such existing Board shall stand dissolved, and the members, thereof shall vacate office ;

(b) all properties, funds and dues which are vested in or realisable by the existing Board shall vest in, and be realisable by the Board so constituted ;

(c) all rights and liabilities which were enforceable by or against the existing Board, shall be enforceable by or against the Board so constituted and wherein any proceedings in any court or tribunal the existing Board is a party thereto, the Board so constituted shall be deemed to be substituted as a party to those proceedings ; and

(d) the Welfare Commissioner and the other officers and servants of the existing Board shall continue to be the Welfare Commissioner and officers and servants of the Board so constituted; but the terms and conditions of service of the Welfare Commissioner and other officers and servants shall not, until duly altered by a competent authority, be less favourable under the Board so constituted than those admissible to them while in the service of the existing Board.]

4A. [Powers of the Board in respect of the Karnatak area to be exercised by the Government of Mysor for certain period.] Deleted by Mah. 36 of 1961, s.9.

5. (1) No person shall be chosen as, or continue to be a member of the Board who—

(a) is a salaried official of the Board ; or

(b) is or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors ; or

(c) is found to be a lunatic or becomes of unsound mind ; or

(d) is or has been convicted of any offence involving moral turpitude.

(2) The State Government may remove from office any member who—

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1) ; or

(b) is absent without leave of the Board for more than three consecutive meetings of the Board.

6. (1) A member may resign his office by giving notice thereof in writing to the State Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(2) A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the authority concerned and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.

(3) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in constitution of the Board.

Disqualifications and removal.

Resignation of office by member and filling up of casual vacancies.

Power to
appoint
Committees.

¹[6AA. For the purpose of advising the Board in the discharge of its functions and also for carrying into effect and any of the matters specified in sub-section (2) of section 7, the Board may constitute one or more Committees, of which at least one on each Committee shall be a member of the Board.]

Unpaid
accumulations
and claims
thereto.

²[6A. (1) All unpaid accumulations shall be deemed to be abandoned property.

(2) Any unpaid accumulations paid to the Board in accordance with the provision of section 3 shall on such payment, discharge an employer of the liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board, and the liability to make payment to the employee to the extent aforesaid shall subject to the succeeding provisions of this section be deemed to be transferred to the Board.

(3) As soon as possible after the payment of any unpaid accumulations is made to the Board, the Board shall by notice (containing such particulars as may be prescribed)—

(a) exhibited on the notice—board of the factory or establishment in which the unpaid accumulation was earned and

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(c) also published in any two newspapers circulating and in the language commonly understood in the area in which the factory or establishment in which the unpaid accumulation was earned is situate, or in such other manner as may be prescribed, regard being had to the amount of the claim,

invite claims by employees for any payment due to them. The notice shall be inserted in the manner aforesaid in June and December of every year, for a period of three years from the date of the payment of the unpaid accumulation to the Board.

(4) If any question arises whether the notice referred to in sub-section (3) was given as required by that sub-section, a certificate of the Board that it was so given, shall be conclusive.

(5) If a claim is received whether in answer to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim to the Authority appointed under section 15 of the Payment of Wages Act, 1936, having jurisdiction in the area in which the factory or establishment is situated, and the Authority shall proceed to adjudicate upon, and decide, such claim. In hearing such claim, the

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1936.

¹ Section 6AA was inserted by Mah. 22 of 1966, s.3.

² Section 6A was inserted by Mah. 36 of 1961, s. 10. Section 14 of Mah. 36 of 1961 reads as under,—

"14. The amendments made in the principal Act by sections 3(b), 7 and 10 of this Act shall, in relation to unpaid accumulations (including those already paid to the Board before the commencement of this Act), be deemed always to have been made in the principal Act :

Provided that, nothing in section 10 shall apply to any unpaid accumulations not already paid to the Board and—

(a) in respect of which separate accounts have not been maintained, so that any unpaid claims of employees are not traceable, or

(b) which through maintained as part of a separate account, are proved to have been spent before the 7th day of July 1961".

³ Clause (b) was deleted by Mah. 22 of 1966, s. 4.

Authority shall have the powers conferred by, and follow the procedure (in so far as it is applicable) followed in giving effect to the provisions of that Act.

(6) If the Authority aforesaid is satisfied that any such claim is valid so that the right to receive payment is established, it shall decide that the unpaid accumulation in relation to which the claim is made shall cease to be deemed to be abandoned property, and shall order the Board to pay the whole of the dues claimed, or such part thereof as the Authority decides are properly due, to the employee; and the Board shall make payment accordingly :

Provided that, the Board shall not be liable to pay any sum in excess of that paid under sub-section (1) of section 3 to the Board as unpaid accumulations, in respect of the claim.

(7) If a claim for payment is refused, the employee shall have a right of appeal in Greater Bombay to the Court of Small Causes, and elsewhere to the District Court and the Board shall comply with any order made in appeal. An appeal shall lie, within sixty days of the decision of the Authority.

(8) The decision of the Authority, subject to appeal aforesaid, and the decision in appeal of the Court of Small Causes, or as the case may be, the District Court, shall be final and conclusive as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any.

(9) If no claim is made within the time specified in sub-section (5), or a claim has been duly refused as aforesaid by the Authority, or an appeal by the Court, then the unpaid accumulations in respect of such claim shall accrue to, and vest in, the State as *bona vacantia*, and shall thereafter, without further assurance be deemed to be transferred to, form part of, the Fund].

¹6BB. (1) The contribution payable under this Act in respect of an employee Contributions. in an establishment shall comprise contribution payable by the employer (hereinafter referred to as 'the employer's contribution'), contribution payable by such employee (hereinafter referred to as 'the employee's contribution') and the contribution payable by the State Government, and shall be paid to the Board and form part of the Fund.

²(2) The amount of contribution payable every six months in respect of every employee and an employee for each such employee shall be at the following rates, namely :—

(a) (i) in respect of an employee drawing wages upto and inclusive of ³[three thousand rupees per mensem, six rupees]; and

(ii) in respect of an employee drawing wages exceeding ⁴[three thousand rupees per mensem, twelve rupees],

only if the name of such employee stands on the register of an establishment on the 30th June and 31st December, respectively :

⁵[Provided that, the State Government may, on receipt of a proposal from the Board, by notification in the *Official Gazette*, increase once in every three years, the rate of employees' contribution so, however that, such increase shall not exceed 30 per cent. of the rates of contribution.]

¹ Section 6BB was inserted by Man. 16 of 1971, s. 5.

² Sub-sections (2) and (3) were substituted by Mah. 10 of 1987, s. 3.

³ These words were substituted for the words "one thousand rupees per mensem, one rupee" and shall be deemed to have been substituted w.e.f. 31-12-2000 by Mah. 24 of 2003, s. 4(a) (i) (A).

⁴ These words were substituted for the words "one thousand rupees per mensem, two rupees" and shall be deemed to have been substituted w.e.f. 31-12-2000, *ibid.*, s. 4(a) (i) (B).

⁵ This proviso was added, *ibid.*, s. 4(a) (ii).

¹[(b) in respect of an employer for each employee referred to in sub-clause (i) and (ii) of clause (a), thrice the amount of contribution payable by an employee.]

(3) Every employer shall pay to the Board both the employer's contribution and the employee's contribution in accordance with the provisions of sub-section (2) before the 15th day of July and 15th day of January, as the case may be.]

(4) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and any rules, the employer shall in the case of any such employee be entitled to recover from the employee that employee's contribution by deduction from his wages, and not otherwise; and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 :

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1936.

Provided that, no such deduction shall be made in excess of the amount of the contribution payable by such employee, nor shall it be made from any wages other than the wages for the months of June and December :

Provided further that, if through inadvertance or otherwise, no deduction has been made from the wages of an employee for the months aforesaid, such deduction may be made from the wages of such employee for any subsequent month or months with the permission in writing of the Inspector appointed under this Act.

(5) Notwithstanding any contract to the contrary, no employer shall deduct the employer's contribution from any wages payable to an employee or otherwise recover it from the employee.

(6) Any sum duly deducted by an employer from the wages of an employee under this section shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(7) An employer shall pay the employer's and the employee's contribution to the Board by cheque, money-order or in cash, and he shall bear the expenses of remitting to the Board such contributions.

(8) The Welfare Commissioner shall submit to the State Government as soon as possible after the end of July and January every year in the prescribed form a statement showing the total amount of ²[the employer's contribution and the employees' contribution in respect of employees in each establishment]. On

¹ This clause was substituted for clause (b) and existing provisos and shall be deemed to have been substituted w.e.f. 31-12-2000 by Mah. 24 of 2003, s. 4(a) (iii).

² These words were substituted for the words "the employer's contribution in respect of his establishment" by Mah. 4 of 1984, s. 2(3) (a).

receipt of the statement from the Welfare Commissioner, the State Government shall pay to the Board a contribution of ¹[an amount equal to half the employee's contribution for the period from the 31st December 2000 to the 31st March 2003 ; and an amount equal to twice the employee's contribution with effect from the 1st April 2003, in respect of every employee referred to in sub-clause (i) and (ii) of clause (a) of sub-section (2).]

²[6B. (1) If an employer does not pay to the Board any amount of unpaid accumulations, or fines realised from the employees ³[for the amount of the employer's and employee's contributions under section 6BB] within the time he is required by or under the provisions of this Act to pay it, the Welfare Commissioner may cause to be served a notice on such employer to pay the amount within the period specified therein which shall not be less than thirty days from the date of service of such notice.

Interest on unpaid accumulations or fines after notice of demand.

(2) If the employer fails, without sufficient cause to pay any such amount within the period specified in the notice, he shall, in addition to that amount, pay to the Board simple interest—

⁴[(a) in the case of failure to pay any amount of unpaid accumulations or fines realised from the employees,—

(i) for the first three months, at ⁵[one and a half per cent.] of the said amount for each completed months, after the last date by which he should have paid it according to the notice ; and

(ii) thereafter, at ⁶[two per cent.] of that amount for each completed months, during the time he continue to make default in the payment of that amount] ;

(b) in the case of a failure to pay any amount of the employer's and employees' contributions under section 6BB,—

(i) for the first three months, at ⁷[one and a half per cent.] of the said amount for each completed month, after the last date by which he should have paid it in accordance with the provisions of sub-section (3) of section 6BB ; and

(ii) thereafter, at ⁸[two per cent.] of that amount for each completed month, during the time he continues to make default in the payment of that amount :]

Provided that, the Welfare Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.

7. (1) The Fund shall vest in and be held and applied by the Board as Trustees subject to the provisions and for the purposes of this Act. The moneys therein shall be utilized by the Board to defray the cost of carrying out measures which may be specified by the State Government from time to time to promote the welfare of labour and of their dependents.

Vesting and application of Fund.

(2) Without prejudice to the generality of sub-section (1) the moneys in the Fund may be the utilized by the Board to defray expenditure on the following :—

(a) community and social education centres including reading rooms and libraries ;

(b) community necessities ;

¹ This portion was substituted and shall be deemed to have been substituted w.e.f. 31-12-2000 by Mah. 24 of 2003, s. 4(b).

² Section 6B was inserted by Mah. 22 of 1966 s.5.

³ These words, figure and letters were inserted by Mah. 16 of 1971, s. 6.

⁴ These clauses were substituted by Mah. 4 of 1984. s.4.

⁵ These words were substituted for the words "one per cent." by Mah. 24 of 2003, s.5(a)(i).

⁶ These words were substituted for the words "one and half per cent.", *ibid.*, s.5(a)(ii).

⁷ These words were substituted for the words "one per cent.", *ibid.*, s.5(b)(i).

⁸ These words were substituted for the words "one and a half per cent.", *ibid.* s.5 (b)(ii)

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- (c) games and sports ;
- (d) excursions, tours and holiday homes ;
- (e) entertainment and other forms of recreations ;
- (f) home industries and subsidiary occupations of women and unemployed persons ;
- (g) corporate activities of a social nature ;
- (h) cost of administering the Act ¹[including the salaries, allowances, pension, provident fund and gratuity and any other fringe benefits of the staff] appointed for the purposes of the Act ; and
- (i) such other object as would in the opinion of the State Government improve the standard of living and ameliorate the social conditions of labour :

Provided that the Fund shall not be utilized in financing any measure which the employer is required under any law for the time being in force to carry out :

Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this Act notwithstanding anything contained in the Payment of Wages Act, 1936, or any other law for the time being in force. 4 of 1936.

(3) The Board may, with the approval of the State Government, make a grant of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the State Government.

(4) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the State Government and the decision given by the State Government shall be final.

(5) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

Power of Board to borrow. 8. The Board may from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be specified in this behalf borrow any sum required for the purpose of this Act.

Investment of Fund. 9. Where the Fund or any portion thereof cannot be applied at any early date for fulfilling the objects of the Act, the Board shall invest the same in any of the securities specified in clauses (a) to (d) and (f) of section 20 of the Indian Trusts Act, 1882. 11 of 1882.

¹ These words were substituted for the words " including the salaries and allowances of the staff " by Mah. 4 of 1984, s.5.

10. The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

Directions by State Government to Board.

11. (1) (i) The Welfare Commissioner shall be appointed by the Board with the previous approval of the State Government ;

Appointment and powers of Welfare Commissioner.

(ii) the Welfare Commissioner shall be the principal executive officer of the Board ;

(iii) it shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and the rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of the Act and rules made thereunder as he deems fit including any order implementing the decisions taken by the Board under Act or rules made thereunder.

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12. (1) The State Government may appoint Inspectors to inspect records in connection with the sums payable into Fund. ³[Inspectors appointed, whether by a local authority or the State Government under the Bombay Shops and Establishments Act, 1948, in relation to any area, shall be deemed to be also Inspectors for the purposes of this Act, in respect of establishments to which this Act applies, and the local limits within which such Inspector shall exercise his functions under this Act shall be the area for which he is appointed under the said Act.]

Appointment of Inspectors.

(2) Any Inspector may—

(a) with such assistance, if any, as he thinks fit, enter at any reasonable time any premises for carrying out the purposes of this Act ;

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

13. (1) The Board shall take over and employ such of the existing staff under the control of the Commissioner of Labour, Bombay, as the State Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the rules made thereunder :

Absorption of the existing staff under Commissioner of Labour.

Provided that—

(a) during the period of such employment all matters relating to pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may be from time to time be made by the State Government.

(b) every such member have a right of appeal to the State Government, against any order of reduction, dismissal or removal from service, fine or any other punishment :

Provided further that person so taken over may elect within the prescribed period that he desires to be governed by the rules made under this Act in respect of conditions of service of the staff appointed by the Board under this Act and on his electing to do so the provisions of the first proviso shall cease to apply to him.

¹ Sub-section (2) was deleted by Mah. 36 of 1961, s.11.

² This portion was added by Mah. 16 of 1971, s.7.

¹(2) On the commencement of this Act in any area to which it is extended by the Bombay Labour Welfare Fund (Extension and Amendment) Act, 1961, the Board shall take over and employ such of the existing staff under the control of the Commissioner of Labour, Bombay, as the State Government may direct and every such person so taken over and employed shall be subject to the like terms and conditions and to the same provisions as in sub-section (1), and to the other provisions of this Act and the rules made thereunder.] Mah. XXXVI of 1961.

Appointment of clerical and other staff by Board. 14. ²(1) The Board shall have power to appoint the necessary clerical and executive staff to carry out and supervise the activities financed from the Fund:

Provided that the expenses of the staff thus appointed and other administrative expenses shall not exceed a prescribed percentage of the annual income of the Fund :

²(2) The Board shall, with the approval of the State Government make regulations regarding the method of recruitment, pay and allowances, and other conditions of service of the member of its staff (other than the Welfare Commissioner and the Inspectors) :

Provided that, until the regulations are so made, the conditions of service, of such staff shall be governed by the rules made by the State Government in this behalf.]

Power of State Government to remove any person on staff of Board. 15. The State Government shall have the power to remove any person whom it may deem unsuitable, from the service of the Board and to make an appointment in respect of whom more than one-third of the members of the Board have not agreed.

Power of State Government or authorised officer to call for Records, etc. 16. The State Government or any officer authorised by the State Government may call for the records of the Board inspect the same and may supervise the working of the Board.

Mode of recovery of sums payable to Board] etc. 17. Any sum payable, ³[to the Board or] into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Boards as an arrear of land revenue.

Penalty for obstructing inspection in discharge of Inspector's duties or for failure to produce documents, etc. ⁵[17A. Any person who wilfully obstruct an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply to him on demand true copies of any such documents shall, on conviction, be punished—

(a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both ; and

(b) for a second or subsequent offences, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both :

¹. Sub-section (2) was added by Mah. 36 of 1961, s.12.

² Section 14 was renumbered as sub-section (1) and sub-section (2) was added by Mah. 16 of 1971, s.8.

³ These words were deemed always to have been inserted by Mah. 22 of 1966, s. 6(a).

⁴ These words were deemed always to have been substituted for the words " sums payable into Fund." *ibid.*, s.6(b).

⁵ Section 17A and 17B were inserted, *ibid.*, s.7.

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, in any case where the offender is sentenced to a fine only, the amount of fine shall not be less than fifty rupees.

17B. (1) No Court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence punishable under section 17A.

Provisions relating to jurisdiction.

(2) No prosecution for such offence shall be instituted, except by an Inspector with the previous sanction of the Welfare Commissioner.

(3) No Court shall take cognizance of such offence, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

18. (1) If the State Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or has abused its power, the State Government may by notification in the *Official Gazette* supersede and reconstitute the Board [in the manner prescribed for constitution of the Board] :

Supersession of Board.

Provided that, before issuing the notification under this sub-section, the State Government will give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be exercised or performed by the Board or by such officer or officers, as the State Government may appoint for this purpose.

19. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

Rules.

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

³(a) the intervals at which or the period within which any of the sums referred to in section 3 shall be paid to the Board or into the Fund, the manner of making such payment and the agency for, and manner of, collection of any such sum;

(b) the manner in which the accounts of the Fund shall be maintained and audited under sub-section (3) of section 3 ;

(c) the procedure for making grants from the Fund under section 7 ;

(d) the procedure for defraying the expenditure incurred in administering the Fund ;

(e) the number of representatives of employers and employees, independent members and representatives of women on the Board, and the allowances, if any, payable to them, under section 4 ;

(f) the manner in which the Board shall conduct their business ;

(g) the duties and powers of the Inspectors and the conditions of service of the Welfare Commissioner and Inspectors * * * appointed under this Act ;

¹ These words were substituted for the words " Presidency Magistrate or a Magistrate of the first class ", by Mah. 10 of 1987, s.4.

² These words were substituted for the words " in the prescribed manner " by Mah. 16 of 1971, s.9.

³ Clause (a) was deemed always to have been substituted for the original by Mah. 22 of 1966, s. 8(a).

⁴ The words " and other staff " were deleted by Mah. 16 of 1971 s. 10(1).

¹[(ga) the delegation of the powers and functions of the Board to the Welfare Commissioner and the conditions and limitations subject to which the powers may be exercised or functions discharged ;]

(h) the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative members ;

²[(i) the registers and records to be maintained and returns to be sent to the Board under this Act ;]

(j) the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditures of the fund and statement of accounts ;

(k) any other matter which under this Act is or may be prescribed.

³(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the *Official Gazette* of such decision, 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 or omitted to be done under that rule.]

Members of Board Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants.

20. The members of the Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Protection to persons acting in good faith.

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

Exemptions.

22. The State ⁴[Government may, after consulting the Board,] by notification in the *Official Gazette* exempt any class of establishment from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

Amendment of section 8 of Act IV of 1936.

23. In section 8 of the Payment of Wages Act, 1936, to sub-section (8) the following shall be added, before the *Explanation*, namely :—

IV of 1936.

“but in the case of any factory or establishment to which the Bombay Labour Welfare Fund Act, 1953, applies all such realisations shall be paid into the Fund constituted under the Act.”

Bom. XL of 1953.

¹ This clause was inserted by Bom. 16 of 1956, s.2.

² Clause (i) was substituted by Mah. 16 of 1971, s. 10(2).

³ Sub-section (3) was substituted for the original by Mah. 22 of 1966, s.8(b).

⁴ These words were substituted for the words “Government may” by Mah. 24 of 2003, s.6.

①

WORKMEN'S COMPENSATION ACT

Provisions - Total-36 **1923**

9) Disabament Partial & Total.

~~10~~ Liability of Employer to Pay Compensation

Provisions of Compensation for Personal Inj. arising out of & In the course of Emp.

1) Power, duties, Functions of Commissioner.

20

21



OBJECTIVE

The Workmen's Compensation Act, 1923, aims to provide workmen and/or their dependents some relief in case of accidents arising out of and in the course of employment and causing either death or disablement of workmen.



SCOPE & COVEREGE

- The Act extends to the whole of India.
- The workmen whose occupation is **hazardous** should be included within the scope of this Act.
- It applies to workmen employed in **factories, mines, plantations, transport establishments, construction work, railways, ships, circuses, &** other hazardous occupations & employments specified in Schedule II to the Act.



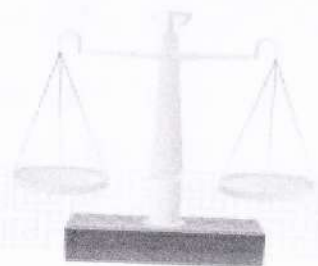
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- The Act **does not** apply to members of **Armed Forces** of the Union & those workers who are insured under the **Employees State Insurance Act 1948**.
- The coverage of this act is also to **cooks** employed in hotels and restaurants.



DEFINITIONS (SECTION 2)

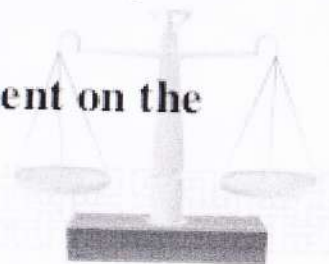
- COMMISSIONER
- DEPENDANT
- EMPLOYER
- DISABLEMENT
- WAGES
- WORKMAN



Dependent[Sec.2(1)(d)]

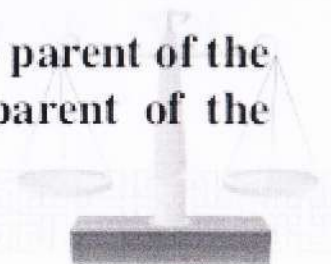
Dependent means any of the following relatives of a deceased workman, namely:

- 1. A widow, a minor legitimate or adopted son and unmarried legitimate or adopted daughter, or a widowed mother.**
- 2. If wholly dependent 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.**
- 3. And any of the following were wholly or partly dependent on the workman at the time of his death—**



Cont....

- a widower,
- a parent other than a widowed mother,
- a minor illegitimate son,
- a unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married & a minor or if widowed & minor,
- a minor brother or an unmarried sister or a widowed sister if a minor,
- a widowed daughter-in-law,
- a minor child of pre-deceased son & daughter where no parent of the child is alive & a paternal grandparent if not the parent of the workman is alive.



Employer[Sec.2(1)(e)]

"Employer" includes

- **Any person or body of persons whether incorporated or not.**
- **Any managing agent of an employer.**
- **The legal representative of a deceased employer.**
- **A person to whom services of a workman are temporarily lent or let on hire.**



Person to be treated as workmen

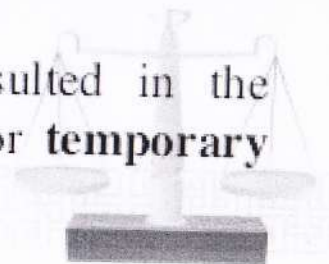
- **There must be a contract of employment.**
- **There must be a relationship of master and servant between the employer and the employee.**
- **The employment is for the purposes of employer's trade or business.**



Employer's liability to pay compensation (Sec 3)

As per Section 3(1) of the act, the following conditions must necessarily be satisfied in order to qualify for compensation:

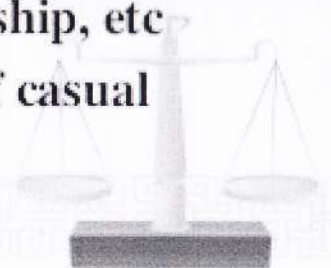
1. He must be a **workmen** within the meaning of this act.
2. **Personal injury** must have been caused by accident.
3. The injury must have been caused by **accident**.
4. The accident must have **arisen out** of and in the **course of employment**.
5. The injury caused by the accident must have resulted in the workman's **death** or **permanent total disablement** or **temporary disablement**.



Workman[Sec.2(1)(n)]

Workmen means any person who is:

- a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989 (24 of 1989), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II.
- a master, seaman or other member of the crew of a ship, etc
- It does not include a person whose employment is of casual nature.



Cont..

- A captain or other member of the crew on an aircraft.
- A person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle.
- A person recruited for work abroad by company as is mentioned in schedule II.



Accident arising out of & in the course of his employment

- The employer is liable to pay compensation in case of personal injury and occupational disease.
- Personal injury includes physical/mental injury, strain or shock caused by excitement.



Incidental to his employment & injured, then arises out of employment

An injury could be held to have arisen out of employment if it is established that:

1. It must have resulted from some risk incidental to the duties of the service / inherent in the nature of employment.
2. At the time of injury the worker must have been engaged in the business of the employer & must not be doing something for his personal advantages.



Doctrine Of Notional Extension Of Employment

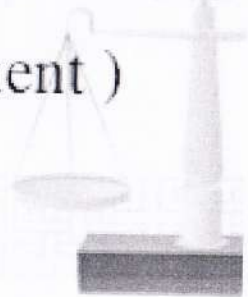
means when the employer provides the employee with regular conveyance to and from the place of employment, employee is regarded as in the course employment even though he has not reached or has left his employer's premises.

E:-

Curris vs Associated Portland Cement Manufacturers Ltd .

Lakshmi Bhai vs Chairman & Trustees, Bombay Port Trust.

Jenniss Vs White (Notinal Extension Of Employment)



Disablement

Disablement means reduction in earning capacity. It may be partial or total disablement.

➤ Partial Disablement

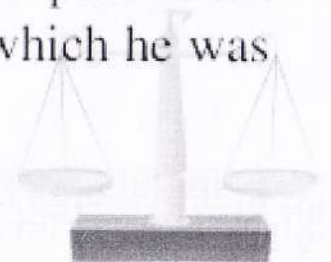
- Temporary partial disablement
- Permanent partial disablement

➤ Total Disablement

- Temporary
- Permanent



- **Temporary partial disablement** means that which reduces the earning capacity of the workmen in the employment in which he was engaged at the time of accident.
- **Permanent partial disablement** means that which reduces, for all time, the earning capacity of a workmen in every employment in which he was capable of undertaking at the time.
- **Total disablement** means whether of a temporary or permanent nature, which incapacitates a workmen for all work which he was capable of performing at the time of accident.



Calculation of Compensation

- **In the case of Death**

Amount of compensation = 50% of monthly wages \times Relevant factor/Rs.80000 which ever is more..

- **Permanent Total Disablement**

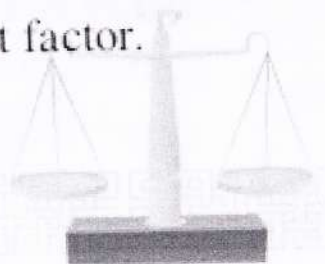
Amount of compensation = 60% of monthly wages \times Relevant factor/Rs.90000 which ever is more..

- **Permanent Partial Disablement**

Amount of compensation = 60% of monthly wages \times Relevant factor.

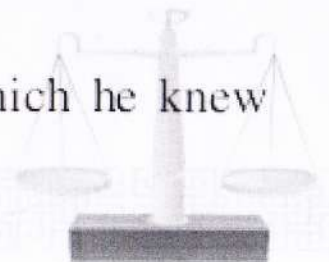
- **Temporary Disablement**

Amount of compensation = 25% of monthly wages.



Employer Not Liable

- i. The injury does not result in the disablement for a period exceeding 3 days
- ii. The injury results in death or permanent total disability due to-
 - a) The worker was at the time of accident, under the influence of drink or drugs
 - b) The worker wilfully disobeyed any order expressly given for ensuring safety.
 - c) The worker wilfully removed any safety devices which he knew would harm.



Contractual Employment(Sec-12(1))

If any employer takes the help of contractor in order to engage some workmen, workmen who are injured are entitled to compensation from the principal. When the principal is held liable for compensation, he shall be entitled to be indemnified by the contractor.



Contracting Out(Sec 17)

Any contract where by a worker relinquishes in the right of compensation from the employer for personal injury arising out of and in the course of employment will be null and void. Employer can't use it as a defence.



Authorities Under The Act(S 19-31)

These sections provides for appointment of commissioners for the enforcement of provisions of the act. Sec 20 authorises the State Government to appoint commissioners under the act.



FINISH



1

THE WORKMEN'S COMPENSATION ACT, 1923

The Objective:

To provide for the payment of compensation to the workmen for injury or accident.

This Act is one of the earliest Acts having come into force from 1st July, 1924. It extends to whole of India.

The salient features the Act in brief are as under.

Employer's Liability for Compensation:

- a) A workman is entitled to get compensation from his employer if he is injured while on duty and during the course of his employment with his employer.
- b) If a workman dies due to the accident while of duty and during the course of his employment with his employer, his dependents are entitled to receive the amount of compensation from his employer.
- c) **Occupational diseases:** If a workman contacts occupational diseases enlisted in Schedule III of this Act, while on duty and during the course of his employment with his employer, the said disease shall be deemed to be an injury by accident. The workman or if dead, his dependents are entitled to receive the amount of compensation from his employer.

d) Amount of Compensation:

(1) Temporary Disablement:

Where the disablement is temporary i.e. workman not being able to attend to duty for more than 3 days on account of injury is entitled to get compensation at the rate of a half monthly payment of the sum equivalent to twenty five percent of monthly wages of the workman. E.G. if workman's wages are Rs.500/- per month he will receive Rs.125/- for a fortnight i.e. 15 days or Rs. 8.33 p. per day and so on depending on his wages. If the disablement continues for more than 28 days therefrom days to be counted from the date of injury.

(2) Permanent total disablement:

The permanent total disablement is listed in Schedule I of the Act. Where the disablement is permanent and total the amount of compensation will be equivalent of fifty percent of the monthly wages of the injured workman multiplied by the relevant factor or an amount of twenty four thousand rupees (Rs. 24,000/-) whichever is more.

(3) Death:

Where death results from an injury an amount equal to **forty percent** of the monthly wages of the deceased workman multiplied by the **relevant factor** or an amount of twenty thousand rupees (Rs. 20,000/-) whichever is more.

NOTE:

- 1) For purpose of sub clause (2) & (3) above '**relevant factor**' in relation to workman mean the factor specified in schedule IV of the Act against the age of the workman.

2) Where the monthly wages of a workman exceed Rs. 1,000/- his monthly wages for the purpose of

e) **If Permanent partial disablement** results from the injury :- such percentage of the compensation which would have been payable in the case of permanent total disablement after determining the loss of earning capacity caused by that injury

Recovery of Compensation:

1. If the employer fails to pay the compensation to a workman or fails to deposit the amount of compensation with the commissioner for Workmen's Compensation, or the Labour Court concerned, then the injured workman, either himself or through his representative, should send a notice of his claim or his employer mentioning therein the time, date, place and nature of accident, wage rate of the workman and the amount of compensation. In case of death of a workman, any of his dependents or his/her representative can send such notice with detailed information. A copy of the same should be sent to the Commissioner for Workmen's Compensation or the Labour Court concerned.
2. If the employer fails to settle the claim, the workman himself or any of the dependents of the deceased workman should file the application before the concerned court having jurisdiction to entertain the claim. This has to be done in form 'F' by the injured workman and in form 'G' by the dependent of the deceased workman.
3. The court fee is @ Rs.1/- per every Rs. 500/- or less amount of claim and paise 50 for claim of half monthly wages for temporary disablement.
4. Amount payable under this Act cannot be assigned or charged or be liable to attachment or be passed to any person other than the workman by operation of law nor shall any claim be set-off against the same. Only the amount which is paid towards half monthly wages during the period of disablement can be deducted from the amount of final settlement of claim.
5. The Court has power to award interest on the amount of compensation, cost and penalty.
6. If the employer fails to pay or deposit the amount of compensation awarded by the Court or admitted by the employer, then on application by the workman to the concerned court for recovery of the same, the court shall write to the collector and the same will be recovered as arrears of Land Revenue.

Contracting:

- 1) Where any person (referred to as the principal) in the course of or for the purpose of his trade or business, contracts with any other person (referred to as the contractor) for execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work the compensation which he would have been liable to pay if that workman had been immediately employed by him. And where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.
- 2) The workman is at liberty to recover compensation either from the contractor or the principal.

Transfer of Assets:

The Act specifies that compensation is the first charge on assets transferred by employer.

Limitation for Filing Claim:

The application for recovery of claim should be filed within two years from the date of accident. However, the Court has power to condone the delay in filing an application.

Commissioners:

Commissioners under the Act are appointed by the Government. They carry certain powers relating to recording of evidence...

Appeals:

Workman's appeal against the order of the Commissioner for Workmen's Compensation or by the Presiding Officer of the Labour Court concerned lies to the High Court.

Where an employer makes an appeal, the Commissioner may and if so desired by the High Court, shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

The Commissioner may recover as arrears of land revenue, any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of the Revenue Recovery Act, 1980.

Schedule I

List of injuries deemed to result in Permanent Total disablement.

Schedule II

List of persons who subject to the provisions of section 2(1) (h), are included in the definition of 'workman'.

Schedule III

List of occupational diseases.

Schedule IV

Amount of compensation payable in certain cases.

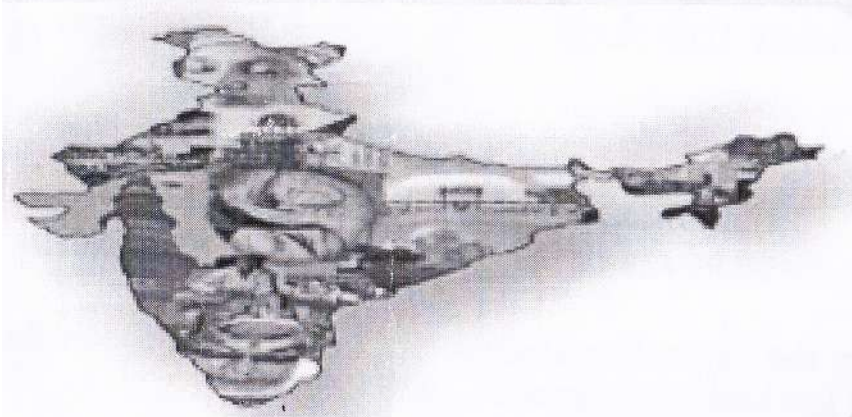
SCHEDULE IV

Factors for working out lump sum equivalent of compensation amount in case of permanent disablement and death.



12

The Employees' Provident Funds & Misc. Prov. Act, 1952



Prepared & Presented by:
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Employees' PF & MP Act, 1952 ???

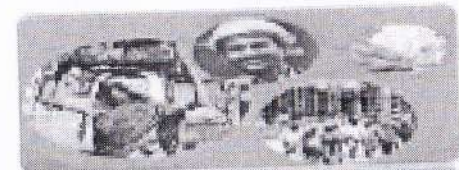


Mission Statement:

The Mission of EPFO, is to extend the reach and quality of publicly managed Old Age income security programs through consistent and ever-improving standards of compliance and benefit delivery in a manner that wins the approval and confidence of Indians in our methods, fairness, honesty and integrity, thereby contributing to economic and social well-being of Indians.

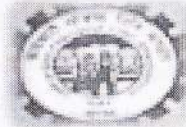
The Employees' Provident Fund came into existence with the promulgation of the Employees' Provident Funds Ordinance **in Parliament on 15th Nov, 1951**. It is now referred as The Employees' PF & Misc. Prov. Act, 1952, which extends to the whole of India, except Jammu & Kashmir. The Act came into force **w.e.f. 04th March, 1952** under the supervision of Central Board of Trustees, EPFO. Since its enactment in 1952, the Act has been **amended 15 times**. Presently, the following three schemes are in operation under the Act:

- **Employees' Provident Fund Scheme, 1952.**
- **Employees' Deposit Linked Insurance Scheme, 1976.**
- **Employees' Pension Scheme, 1995. (replacing the Family Pension Scheme, 1971)**




****The Employees' Provident Fund Organization of India, is one of the largest Provident Fund Institutions in the world in terms of members and volume of financial transactions that it has been carrying on.**

Applicability of the EPF & MP Act:



Applicability under the Act:

- Every Factories or Establishments employing **20 (Twenty)** or more persons from the date of its setup are covered under the Act, **under Sec -1(3)**. Cinema Theatres employing **05 (Five) or more** persons are covered under the Act. Government of India after giving **02 Months notice** may apply the provisions of this Act to Establishments where less than **20** persons are employed.
 - Where an Establishment consists of different departments or has branches, whether situated in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment, **under Sec - 2A**.
- 
- Establishments to which this Act "**Once Applies**" shall continue to be Governed by this Act notwithstanding that the number of persons employed therein at any time falls below then 20 (Twenty) person.
 - The Current **Wages Ceiling Limit** for coverage under the Act is **₹: 15,000/-** (Basic + DA) p/m month w.e.f: **Sep' 2014**, (Earlier it was **₹ : 6,500/-** w. e. f.: June, 2001, & before that it was **₹ : 5000/-** p/m)

The Act does not Apply to:



- The **Co-operative Societies** employing **less than 50** persons & working without aid of power. **16(1)(a)**.
- The **Establishment** to which this Act applies shall continue to be governed by this Act , even if the number of employees falls below 20 at a later date. [**1(5)**]
- The Establishments under the control of State/Central Government & Employees who are getting benefits in the nature of contributory P.F. Or Old age pension as per rules framed by the Govt. **16(1)(b)**
- The Establishment set up under any Central, Provincial or State Act and the Employees who are getting benefits in the nature of contributory P.F. Or Old age pension as per rules. **16(1)(c)**

Voluntary Coverage :

- If any of the Establishment is not satisfying the above two conditions for coverage and if the employer and majority of the employees are willing for the Coverage, the Act may be applicable to such establishment (Voluntary coverage **under Sec - 1 (4)**).



Who's an Non Eligible Employee??



Non Eligible for Provident Fund:

An **"Employee"** of the Company to whom both the following conditions apply at the time of joining to the **Organization**.

- The Employee's **Basic Salary + DA** should be more than **₹ 15,000/-** w.e.f. Sep 2014.
- Employee's has withdrawn the PF & Pension Account balance before the joining & does not have any **Balance Amount** in Old PF & Pension Fund.
- As per Para 2(f) of the EPF Scheme, an Employee has withdrawn the full amount of accumulation from Provident Fund on Retirement from Service after attaining the age of **58 years**.



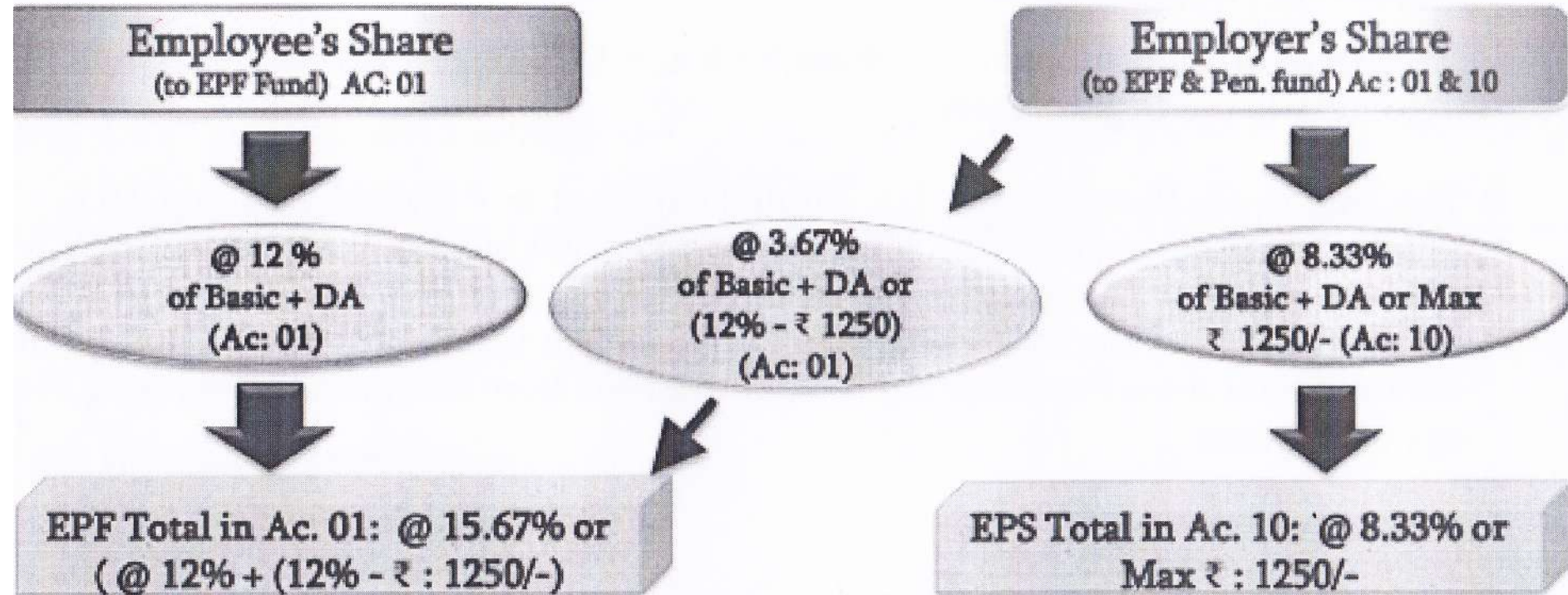
Non Eligible for Pension Fund:

- If organization provides the EPF benefits to its all employees, irrespective of any salary more than **₹ 15,000/-** w.e.f. Sep 2014. If Employee has withdrawn the PF & Pension Account balance before the joining. Then all the Employer's PF Contribution part will go to the Provident Fund Account of Employee @ 12% in place of 3.67% & no amount is need to submit in his pension fund.

Employee's & Employer's Contribution



PF Calculation Account-wise



Total Contribution to EPF & Pension Fund , Ac: 01 & 10 (@ 15.67 + 8.33) = 24 %

PF Administrative Charges in Ac: 02 (@ 0.85 % of Basic + DA)

(Minimum ₹ : 500/- functional & ₹ : 75/- for non functional Org.)

Contribution to EDLI, Ac: 21 @ 0.5 % of Basic & DA or Max upto on ₹ : 15000/-

EDLI Relocation Charges, Ac: 22 @ 0.01% of Basic & DA or Max upto on ₹ : 15000/-

(Minimum ₹ : 200/- functional & ₹ : 25/- for non functional Org.)

Total Monthly Contribution w.e.f: Jan 2015: (12%+12%+0.50%+0.85%+0.01%) = @ 25.36 %

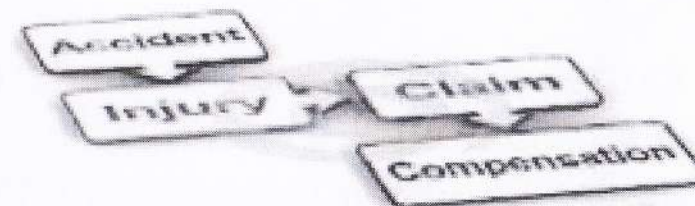
For EDLI Exempted Org. (EDLI Inspection Charge @ 0.005% of Basic & DA or Max upto on ₹ : 15000/-)

EDLI Scheme & Admin. Charges



What is EDLI ???

"Employee's Deposit Linked Insurance" is basically an **"Life Insurance"** for all covered employees under EPF & MP Act, 1952, **Since Aug 01, 1976**. Here deposit means Average Deposit in EPF A/c. When an employee dies while in service, his or her family will get some Compensation based on deposit in EPF Account. (Which will be Maximum **20 months** wages or **₹: 3.0 Lacs** & along with the admissible increase of 20% under newly introduced sub para (4) of para 22. Hence the total amount would be **₹: 3.6 Lacs** w.e.f: **Sep 2014**, earlier it was 1.3 Lacs, w.e.f. May 2010).



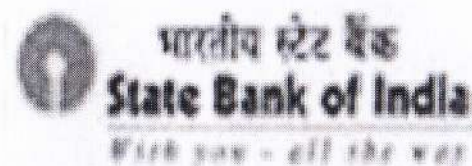
On behalf on **Employees**, the employer has to pay @ 0.50% of (Basic+DA) or Max upto on ₹: 15000/- as its Monthly Contribution with total contribution, which make eligible employee's nominee to get the claim in case of death, while in service.

Deposit-Linked Insurance Fund Account: The Amount Received as the **Employer's** Contribution and also the **Central Government's** contribution to the **"Insurance Fund"** under sub-section 2 and 3 of section 6C shall be credited to an account called the **"Deposit-Linked Insurance Fund Account"**, and all expenses towards the **Cost of any Benefits** provided by or under the Scheme shall be met out of **this account**.

Contribution Payment & Due Date



- PF Total Amount of **Monthly Contribution** of (Employee's & Employer's share) is to be deposited through **Online** Generated Combined Challan in respective Ac.: 01, 2, 10, 21 & 22 from EPFO website, **w.e.f. April 01, 2012**. Payment of total Contribution will only via Online Payment (Retail / Corporate Banking) with **56** Banks of India **w.e.f. May 01, 2015**. Online payment of PF contribution make the process so simple to pay the dues to the EPFO in few minutes. Web-link: <https://www.onlinesbi.com/prelogin/epfoinputdisplay.htm>
- Earlier the payment was made to EPFO via **State Bank Of India** only with triplicate copy (Combined Challan) along with Cheque or Demand Draft on or before **15th day** of month following calendar month.



- **Grace Period 4 Cheques Clearing:** Earlier in manual process EPFO provides Five (05) days Grace period from due date 15th Day to Employers for payment of EPF Contributions. **But from May 01, 2015** PF Contribution payment is mandatory via only so the final due date will be consider **15th day** of following month. Delay in payment after 15th Day may interacts the Interest & Damages as penalty by EPFO.

Social Security Benefits of EPFO



Employees' Prov. Fund Scheme-1952

- Retirement
- Medical Care
- Housing Loan
- Family Obligations
- Education of Children
- Financing of Insurance Policy



Employees' Pension Scheme-1995

- Monthly Member's Pension Scheme
- Widow & Children Pension
- Orphan Pension
- Reduced Pension
- Disablement Pension



Non Refundable Advances of EPF Scheme



Type of Benefits	Terms & Condition	% of Share of Amt.
1. Withdrawal from the fund for a) The purchase of House b) Construction of House	5yrs. Of membership of the fund.(Min. balance in member's a/c should be Rs.1000/-)	36 months wages (Basic & D.A.) OR Member's own share & co's share of cont.
2. Advance from the fund for repayment of loan	10 yrs membership of the fund & member should have taken loan from Govt. Body.	Same as above
3. Advance from the fund for illness viz hospitalization for more than a month, major surgical operation or suffering from T.B. . Cancer etc.	Stay in Hospital at least for a month	Stay in Hospital at least for a month
4. Advance from the fund for marriage of self/son/ daughter/sister/ brother etc	07 years membership of the fund & min.bal.in members a/c should be Rs.1000/-	50 % of member own share of contribution
5. Advance from the fund for education of daughter / son	Same as above	Same as above
6. Grant of advance in abnormal condition.(natural calamities etc.)	a) Certificate of damage from appropriate authority. b) State Govt. Declaration	Rs.500/- or 50% of member own share of contribution. (To apply within 4 months.)

Duties of Employer @ PF



- **Enroll the eligible** employees as EPF Subscriber from the Date of Joining of services into the **Organization**. Ask the New joinee to fill **Form-11** (New Declaration Form with UAN details) & **Form-02** (Nomination Form) with details of Employees, Nominee & PF Account.
- Merge the Old Universal Account Number (**UAN**) with new PF Account at the time of previous employment confirmation on Online Transfer Login of Employer. Submit the completed Form-02 to the EPFO for the nomination updation & update the same via online process also.



- Maintain **EPF Eligibility Register** consists of (a) Employee Information, (b) Employee PF/Pension Registration, Nomination and PF Account Number details, Maintain the **Inspection Book** to record the Observation by PF Inspector.
- Maintain such **accounts** in relation to the amounts contributed to the fund and by his employees. To comply with all the **directives issued** by the Central Board for proper implementation of the scheme.
- Process the **PF Claim Form** of Left or Retired employee's to the EPFO to settle the claim, without any objection. Also guide the Left employee's to opt the "Transfer of Fund" in place of withdrawal to keep some amount for his / her future need as per EPFO main objective & the same process will save the deduction **TDS** w.e.f. June 01, 2015 on withdrawal as per the new guidelines by EPFO.

Various forms of EPF:



Forms for Employer

- **"Performa Registration Form"** to Register the Organization under the EPF Act (Online process is applicable to get the EPF Code).
- **Form - 5A**, for details of **"Directors / Proprietors"** of the Organization. (Online Updation is Required).
- **Form - 9**, for all Covered Employee Details at the time of Registration.
- **Form - 11 (New)**, Declaration Form to find the PF Eligibility & old UAN of New Joinees.
- **Form - 2**, Nomination Form with details of Employees, Nominee & PF A/c No.
- **"Combined Online Generated Challan"** for Submission of PF Contribution. In Online process there is **No Need** to file Monthly & Annual Return to EPFO.

Forms for Employee

- **Form - 19** :- Withdrawal Form for Provident Fund Amount.
- **Form - 10C** :- Withdrawal Form for Pension Scheme Amount.
- **Form - 13** :- Form for Transfer of Provident Fund / Pension Scheme in New PF Account.
- **Form - 31** :- Form for Application of Advance from Provident Fund.
- **Form - 20** :- Application Form for Provident Fund (**In case of Employee's Death**).
- **Form - 10 D** :- Application Form for Pension to Nominee. (**In case of Employee's Death**).
- **Form - 5 (IF)** :- EDIL Claim Amount Form. (**In case of Employee's Death**).
- **Form - 8** :- For Change the Nominee.
- **Form - ASR** :- To Receive the Claim cheques again of Settle Account. (**In case of first cheque Rejected by Bank to EPFO**)

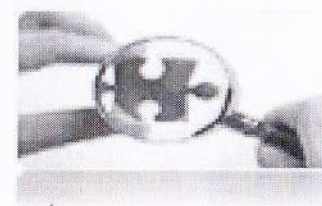
Damages & Interest:



Recovery of Damages:

If an **Employer** makes default in the **Payment** of any Contribution to the fund, or in the transfer of accumulations required to be Transferred. The Central Provident Fund Commissioner or such officer as may be authorised by the Central Government, by notification in the Official Gazette in this behalf, may recover from the employer by way of penalty, damages at the rates given below:

- **Less than 2 months :- @ 17% p.a. on total due Contribution.**
- **02 months & above, but less than upto 04 months:- @ 22% p.a.**
- **04 months & above, but less than upto 06 months:- @ 27% p.a.**
- **06 months & above :- @ 37 % p.a. on total due contribution.**



Reduction or Waiver of Damages:

The Central Board may reduce or waive the damages levied under section 14B subject to the following terms and conditions:

- In case of a **change of management** including transfer of the undertaking to workers' co-operative and in case of Merger or Amalgamation of the **Sick Industrial** company with any other industrial company, complete waiver of damages may be allowed.
- In cases where the Board for Industrial and Financial Reconstruction, for reasons to be recorded in its schemes, in this behalf recommends, waiver of damages up to **100 per cent** may be allowed.

Salient Features

Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF&MP Act, 1952)

The Employees' Provident Fund was instituted by an Act of Parliament in 1952 for providing the social security benefits to the work force engaged in non-government sector. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder have been structured as self-applying and the employers of the establishments are responsible to report compliance of their own. The three schemes framed are given below:

1. Employees' Provident Funds Scheme, 1952
2. Employees' Deposit-Linked Insurance Scheme, 1976 (EDLI) and
3. Employees' Pension Scheme, 1995 (EPS) (Earlier the Employees' Family Pension Scheme, 1971)

The primary object of these three schemes is to provide social security and to inculcate amongst the workers a spirit of savings while they are gainfully employed and to make provision for their benefit after they retire from service and for their family members after their death

Employees' Provident Funds Scheme, 1952

The Employees Provident Funds Scheme, 1952 was introduced in November 1952 to provide old-age and post service financial support to the workers in general employed in Industrial & Commercial Sector establishments. The scheme provided for provident fund system on contributory basis by the Employers and the Employees at equal rate. It made available to the employee concerned the accretions in the Provident Fund a/c with interest in lump sum on retirement or leaving the job.

∞ Applicability

Establishment employing 20 or more employees

As per Para 26(2) of the Employees' Provident Fund Scheme, 1952, every employee employed **in or in connection with the work of a factory or establishment** other than an excluded employee shall be entitled and required to become a member of the Fund from the date of joining the factory or establishment

Employee includes following persons also: -

- (1) Employed by or through the contractor in or in connection with the work of the establishment
- (2) Engaged as an apprentice, not being an apprentice under the Apprentices Act, 1961

Excluded Employee

An employee of the Company to whom both the following two conditions apply at the time of joining the services of the Company

- a) His/Her Pay is more than Rs. 6500/- per month
- b) Does not have any current PF/EPF Balance under EPF & MP Act, 1952

Voluntary Coverage:

The establishment is allowed the coverage under the provisions of the Act on voluntary basis with the consent of majority of the employees.

∞ Contribution of Employee

12% of the Pay


* "Pay" includes basic wages* with dearness allowance, retaining allowance** (if any), cash value of food concession, and also on Leave Encashment

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-

- the cash value of any food concession;
- 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, over-time allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;
- Any presents made by the employer

** **Retaining allowance** means allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his service

VOLUNTARY CONTRIBUTION: -

	<p>Member shall be at liberty to make voluntary contribution</p> <p>✓ Employer can not reduce "Pay"</p> <p>✓ Minimum PF Contribution: 12% of the Pay</p> <p>✓ Maximum PF Contribution: 100% of the Pay</p> <p># Tax Benefits to the contribution are applicable as per Income Tax Rules</p>
Employer's Contributions	<p>Equal to 12% of the Pay of employee</p> <p>Pension Fund (EPS) - 8.33% of Pensionable Salary Pensionable Salary: Pay or Rs. 6500/- whichever is less</p> <p>Provident Fund - 12% of the Pay minus EPS</p>
Amount Payable to Regional Provident Fund Commissioner's office	<p>(1) 12% of the Pay, Employees Provident Fund Contribution - A/c No. - 1</p> <p>(2) Voluntary Provident Fund Contribution - A/c No. - 1</p> <p>(3) 12% of the Pay minus EPS, Employer Provident Fund, - A/c No. - 1</p> <p>(4) 8.33% of the Pensionable Salary (EPS)-A/c No. - 10</p> <p>(5) 1.10% of the Pay, PF Admn. Charges-Minimum Rs. 5/-pm, A/c No. - 2</p> <p>(6) 0.50% of Pensionable Salary for EDLI contribution-A/c No. - 21</p> <p>(7) 0.01% of Pensionable Salary for EDLI administrative charges - Minimum Rs. 2/-pm., A/c No.-22</p> <p>Cheque in Fvg. of - State Bank of India - EPF A/c</p>
Interest on Provident fund Accumulation	<p>(1) 12% Upto 30-06-2000</p> <p>(2) 11% from 1-7-2000 to 31-03-2001</p> <p>(3) 9.5% from 01-04-2001 to 31-03-2005</p> <p>(4) 8.50 % from 01-04-2005 onwards</p> <p># Interest is calculated on the monthly running balance of the member</p> <p># Interest on provident fund accumulations exempt from income tax</p>
Type of Advance from PF accumulations	<ol style="list-style-type: none"> 1. Purchase dwelling site 2. Construction of a dwelling house 3. Completing construction of the house 4. Buy a dwelling house /Flat from Agency 5. Purchasing a newly constructed/old dwelling house or flat from an individual 6. Purchasing house/flat from a promoter 7. Additional Loan -alterations/improvements 8. Further housing withdrawal 9. Repayment housing loan 10. Withdrawal on 54 Years or within 1 year before actual retirement 11. Closure or lockout/non-receipt of wages for a continuous period of 2 months etc. 12. Further advance in case of closure or lock-out of establishment/factory for more than 6 months 13. Advance for illness of member and his family 14. For marriage, or post matriculation education 15. Property damaged by a nature calamity 16. If Members affected by cut in the supply of electricity 17. Member physically handicapped
PF Advance Conditions and PF forms - PowerPoint file enclosed	
Nomination	<ol style="list-style-type: none"> a) An employee may be allowed to make a nomination conferring on one or more persons the right to receive the provident fund amount b) If an employee nominates more than one person, he shall, in his nomination specify the amount or share payable to each of the nominees. c) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family d) Any nomination made by an employee in favour of a person not belonging to his family shall be invalid. e) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons

	<p>f) A nomination made by an employee may, at any time, be modified by filing Form no. 2</p> <p>g) Where the nomination is wholly or partly in favour of a minor, the Member may, appoint a major person of his Family to be the guardian of the minor nominee <u>Provided that</u> where there is no major person in the Family, the Member may, at his discretion, appoint any other person to be a guardian of the minor nominee.</p> <p>"Family" means: -</p> <p>For Provident Fund (PF): -</p> <p>(i) in the case of a male member, his wife, his children, whether married or unmarried, his dependent parents and his deceased son's widow and children;</p> <p>(ii) In the case of a female member, her husband, her children, whether married or unmarried, her dependent parents, her husband's, dependent parents, her deceased sons's widow and children;</p> <p>For Pension Fund (EPS):</p> <p>(i) Wife in the case of male member of the Employees' Pension Fund;</p> <p>(ii) Husband in the case of a female member of the Employees' Pension fund; and</p> <p>(iii) Sons and daughters includes child legally adopted by the member below 25 years of age</p>
<p>∞ Withdrawal from the Fund</p>	<p>Member is entitled to withdraw full amount: -</p> <ul style="list-style-type: none"> → On retirement from service. → On retirement on account of permanent and total incapacity for work due to bodily or mental infirmity. → Immediately before migration from India for permanent settlement abroad or for taking employment abroad → On termination of service in the case of mass or individual retrenchment → On termination of service under a voluntary scheme of retirement → After two months of resignation. In case of no employment <p># A member of the Fund shall continue to be a member until he withdraws under aforesaid conditions</p>
<p>⊗ Last date of transfer of contribution to RPFC</p>	<p>Payment of dues in any branch of State Bank of India within 15th days from the close of every month</p>
<p>⊗ Last date of filing monthly return with RPFC (Form no. 12A, 5, 10)</p>	<p>25th days from the close of every month</p>
<p>⊗ Last date of filing Annual return with RPFC (Form no. 3A, 6A)</p>	<p>30th April</p>
<p>⊗ Signature of Authorised person for PF Matters</p>	<p>Specimen signature of authorised person forwarded to PF office immediately, after coverage & whenever there is a change in</p>
<p>⊗ Intimation for change of ownership in (Form No. 5A)</p>	<p>Forwarded to PF office immediately after coverage & whenever there is a change in the ownership, it has to be intimated within 15 days of change</p>
<p>⊗ <u>Minimum</u> time RPFC take to settle the claim</p>	<p>45 to 60 days from the date of receipt of claims in PF office</p>
<p>⊗ Time for issue Annual Statement of accounts</p>	<p>The annual statement of accounts are issued to the employees by 30th September of the following year</p> <p>Error in the account slip if any, should be reported for correction within six months</p>
<p>∞ Must collect duly filled and signed following forms from new employee at the time of joining:</p>	

- Form No. 2 --Nomination form
- Form No. 11 --Declaration of previous employer & PF and Pension amount
- Form No. 13 --PF Transfer from previous employer

Must collect following details from ALL Contractors:

Monthly

- Name, PF and ESI no. of ALL the Contract Employees on letter head
- Acknowledge copy of monthly challan.
- Attendance Sheet of Contract Employees

Yearly

- Form no. 6A (Annual Return), Highlighting the employees working/worked in the Company

As per Para 36B of the Employees' Provident Fund Scheme, 1952 (Duties of Contractors)

Every contractor shall, within seven days of the close of every month, submit to the principal employer a statement showing the recoveries of contributions in respect of employees employed by or through him and shall also furnish to him such information as the principal employer is required to furnish under the provisions of the scheme to the Commissioner.

Interest and damage on delay transfer of PF dues	(1) Interest u/s 7Q - 12% per annum	
	(2) Damages:	
	Less than 2 months	@ 17% per annum
	2 months & above but less than 4 months	@ 22% per annum
	4 months & above but less than 6 months	@ 27% per annum
	Six months & above	@ 37% per annum

Employees' Deposit Linked Insurance Scheme, 1976 (EDLI)

The Employees' Deposit Linked Insurance Scheme, 1976 provides for payment of assurance benefit, upon death of the member while in service; linked to the average balance in the provident fund account of the deceased member. The assurance benefit shall be payable to the person entitled to receive provident fund accumulation of the deceased member.

Membership - All members of Provident Fund

Contribution

- Employees are not required to contribute
- Employer is required to contribute @ 0.50% of Pensionable Salary

Benefits:

On the death while in service of the member, the nominee of the deceased shall in addition to PF/EPS accumulation, be paid an amount equal to the average balance in the PF accumulation of the deceased for the preceding twelve months and if the average balance exceeds Rs. 35000/- then the amount payable shall be Rs. 35000/- plus 25% in excess of Rs. 35000/- subject to a maximum of Rs. 60,000/-

Employees' Pension Scheme, 1995(EPS)

Introduction: In force from 16.11.1995 retrospectively with effect from 1.4.1993

Employees' Pension Scheme is a survivor, old age and disability pension scheme.

Contribution:

- Employee is not required to contribute separately under the Employees' Pension Scheme 1995.
- Employer share of Provident Fund Contribution @ 8.33% is diverted to Pension Fund

Type of Pension:

☞ Monthly Member's Pension	On attaining the age of 58 years
☞ Invalidity pension	Permanent and total disablement during the course of employment
☞ Widow pension	Death of member whether in service or after exit from employment or after retirement/ commencement of monthly member pension Pension for life or until remarriage
☞ Children pension	Payable to two children of deceased member upto the age of 25 years in addition to widow.
☞ Orphan pension	Two orphan children upto the age of 25 years
☞ Nominee pension	In case of unmarried members, a person nominated by the member will get pension equal to widow pension.

The Scheme covers members death risk unconditionally – i.e. irrespective of whether such death occurs

- While in service;
- away from employment and not contributing to the fund ;or
- after retirement as a pensioner

The family members shall remain entitled for pensionary support uniformly

Pension benefits to Member:**❖ For Service below 10 years:**

Return of contribution on exit from employment as per Table D

Less than 6 months – **NIL**

TABLE D

Year of service	Proportion of wages at exit
1	1.02
2	2.05
3	3.10
4	4.18
5	5.28
6	6.40
7	7.54
8	8.70
9	9.88

❖ Service above 10 years but below 20 years

A person is entitled for pension after completing the age of 58 years with minimum service of 10 years

Six months or more shall be treated as one year and the service of less than six months shall be ignored.

Pension will be calculated by applying the **formula:**

$$\frac{\text{Pensionable Salary} \times \text{Pensionable Service}}{70}$$

70

❖ Service over 20 years:

- Full pension according to the formula stated above
- On rendering 20 years of Pensionable service or more, member's Pensionable service shall in all cases be increased by 2 years

❖ Commutation of Pension

- Option is available for commutation of Pension
- Commutation is permissible upto 1/3rd of pension amount
- Commuted value will be hundred times of pension amount so commuted
- Upon commutation, the balance amount of pension payable shall be the monthly pension

❖ **Early Pension of Cessation of Employment**

Old age pension on account of superannuation/retirement is normally payable on attaining the age of 58 years. However, member can opt for taking earlier than 58 years on his exit from employment but under no circumstances pension will be payable before the age of 50 years. A member who desires to draw monthly pension from a date earlier than 58 years of age will be allowed to draw a monthly-reduced pension. The amount of pension in such a case shall be reduced at the rate of 3% for every year the age falls short of 58 years.

❖ **Payment of Pension Through Bank:**

The pension is disbursed through Nationalised Bank of the respective State. The member/pensioner are required to open an account in the Bank where pension is desired and indicate the option in the application in Form 10-D

❖ **Scheme Certificate**

There are occasions when a member may leave employment and or may move from a covered establishment to an uncovered establishment before he reaches the date of superannuation, he may opt for a Scheme Certificate. The certificate will indicate his Pensionable salary and the amount of pension due on the date of exit from employment. If the member is subsequently employed in a covered establishment, his Pensionable service in the scheme certificate will be taken into account for working out his full Pensionable service.

❖ **Withdrawal Benefit:**

If the member renders less than 10 years Pensionable service on the date of exit or on attaining the age of 58 years, whichever is earlier, he is entitled for withdrawal benefits as per Table 'D' or he may opt for scheme certificate.

Web-site

DKM - www.dkmonline.com

EPFO - www.epfindia.com, www.epfindia.gov.in, www.epfindia.org

2

EMPLOYEE STATE INSURANCE ACT 1948

**PRESENTED BY;
1) MAYUR KHATRI**

The employees' state insurance act – 1948

- Pioneering measure in social insurance in india.
- Health insurance first discussed in 1927 by indian legislature.
- Originally called “workmen’s state insurance bill” 1946.
- Came into force on 19th april 1948.

OBJECTIVE

- The objective of the act is to secure sickness, maternity and medical benefits to employees of factories and establishments and dependents benefits to the dependents of such employees.

APPLICABILITY

ACT APPLIES TO FACTORIES USING POWER not using AND EMPLOYING 20 OR MORE PERSONS. Gradually extended to the following:

Smaller power-using factories with 10-19 persons

Non-power factories with 20 or more persons

Shops

Hotels and restaurants

Cinemas including preview theaters

Newspaper establishments

Road motor transport undertakings employing 20 or more persons

State govt may cover other establishments in consultation with the esi corporation and with approval of the central govt.

DEFINITIONS

Employee: employee refers to any person employed on wages in connection with the work of a factory or establishment to which this act applies.

- Includes technical, manual, clerical and supervisory functions
- No distinction between casual and temporary employees or technical and non-technical, or time-rate or piece-rate
- Covers admin staff and those in purchase
- Does not include naval, military or air force personnel.

DEFINITIONS (CONTD.)

Wages: means all remuneration paid in cash, including payment in period of leave, lockout or strike which is not illegal. Does not include:

- o Contribution paid to the provident fund or pension fund
- o Travelling allowance
- o Sum paid to defray special expenses
- o Gratuity payable on discharge

Registration

- Registration of a factory/establishment with the employees' state insurance corporation (esi) is a statutory responsibility of the employer under section 2-a and 10-b.
- Declaration of registration in form 01 to be furnished to the appropriate regional office within 15 days of the act becoming applicable.
- Employer should get the declaration form filled in by every employee covered under the scheme.

BENEFITS

1. Sickness and extended sickness benefit
2. Maternity benefit
3. Disablement benefit
4. Dependants' benefit
5. Medical benefit
6. Funeral benefit

SICKNESS AND EXTENDED SICKNESS BENEFIT

- › Represents periodical payments made to an insured person for the period of certified sickness after completing 9 months in insurable employment.
- › To qualify, contributions should be for minimum 78 days in the relevant period.
- › Maximum duration for benefit is 91 days.
- › Rates of payment vary from rs.14-125 per day, i.E. Average of 50% of daily wages.
- › Insured persons suffering from tb, leprosy, mental and malignant diseases or other specified long term diseases are entitled to extended benefits at higher rates, provided he has been continually employed for at least two years.



MATERNITY BENEFIT

- Implies cash payment to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy or premature birth.
- Woman should have contributed for minimum 70 days in the preceding two consecutive contribution periods.
- Daily rate of benefits double the standard sickness benefit rate, i.E. Full wages.
- Normally payable for max 12 weeks for confinement and 6 weeks for miscarriage or medical termination of pregnancy.
- Payable even in the event of the death of the woman.

DISABLEMENT BENEFIT

- In case of temporary disability arising out of employment injury, this benefit is admissible for the entire period certified by an insurance medical officer/practitioner for which the insured person does not work for wages.
- Rate payable not less than 70% of daily wages; minimum 3 days of incapacity required.
- In case injury results in permanent, partial or total loss of earning capacity, periodical payments to be made for life. One-time lumpsum is permissible in certain cases.

DEPENDANTS' BENEFIT

- ▷ Periodical pension paid to dependants of deceased where death occurs out of employment injury or disease.
- ▷ Widows: $3/5^{\text{th}}$ of benefit rate for life or until remarriage
- ▷ Children: $2/5^{\text{th}}$ of benefit rate until 18
- ▷ Total amount distributed not to exceed ceiling of disablement benefit.
- ▷ Benefit not paid to married daughters.
- ▷ In case there is no widow or child, benefit can be paid to other dependants including parents.
- ▷ Amount paid is reviewed and increases granted from time to time to compensate for erosion in real value and cost of living.

MEDICAL BENEFIT

-) Insured persons and their families entitled to free, full and comprehensive medical care.
-) Extended upto two years for chronic and long-term diseases.
-) Treatment continues even if person goes out of coverage, till sickness ends.
-) Package covers all aspects of health care from primary to super-specialist facilities, such as:
 -) Out-patient treatment
 -) Domiciliary treatment
 -) Specialist consultation and diagnostic facilities

MEDICAL BENEFIT (CONTD.)

In-patient treatment

Free supply of drugs and dressing

X-ray and laboratory investigations

Vaccination and preventive inoculations

Ante-natal, confinement, post-natal care

Ambulance service or conveyance charges

Free diet during admission in hospitals

Free supply of artificial limbs, aids and appliances for physical rehabilitation

Family welfare services and other national health programme services

0) Medical certification

1) Special provisions including super-speciality treatment.

FUNERAL BENEFIT

- Funeral expenses are in the nature of a lump sum payment upto a maximum of rs.2500 made to defray the expenditure of the funeral of deceased insured person.
- The amount is paid either to the eldest surviving member of the family or, in his absence, to the person who actually incurs the expenditure on the funeral.

ALL BENEFITS UNDER THE ESI SCHEME ARE PAID IN CASH EXCEPT MEDICAL BENEFIT, WHICH IS GIVEN IN KIND.

PROTECTION

An employer cannot dismiss or punish an employee under treatment for sickness or in receipt of any benefit or absent from work due to illness. Any notice of dismissal, discharge or reduction is invalid. However, the employer can discharge or punish the employee if:

- › He has received temporary disablement benefit and remained absent for 6 months or more
- › Is under treatment for sickness other than tb or arising out of pregnancy and remained absent for 6 months or more
- › Is under medical treatment for tb or a malignant disease and has remained absent continuously for 18 months or more.

MISCELLANEOUS

- Cash benefits payable under the esi act are not liable to attachment or sale in execution of any court decree or order.
- Right to receive benefit is not transferable.
- Disputes under the provisions of the act to be decided by the employees' insurance court (eic) and not by a civil court. Appeals to the high court only by an order of the eic on a question of law.
- Period of limitation for appeal is 60 days.

CASE ON MANIBEN GOVINDBHAI AND ANR. VS EMPLOYEES'
STATE INSURANCE ... ON 17 APRIL, 2000

Shah, the learned Advocate appearing for the respondent-Corporation. On the facts and in the circumstances of the **case**, the matter is taken up for final hearing today itself. The facts of the present petition, in **short**, are that the petitioner No. 1-Maniben is the widow of deceased-Govindbhai Kanabhai Makwana who was an insured person under the Employees' **State Insurance Act, 1948**. Petitioner No. 2 is the son of deceased-Govindbhai Kanabhai Makwana. The petitioners filed **ESI** Application No. 7 of 1985 before the Employees' **Insurance** Court at Ahmedabad and claimed for dependent benefits for herself and also for her then minor son which application was allowed by the **ESI** Court vide its judgment and order dated 7-1-1992. The petitioners were, thereafter, intimated by the respondent by its letter dated 12/16th March, 1992 that they have accepted the verdict of the **ESI** Court given in the said **ESI** Application No. 7 of 1985 and in the same letter, the petitioner No. 1 was asked to submit Form No. 18 duly filled in and supported with original death certificate.

The Maternity Benefit Act, 1961 ???

“An Act to regulate the employment of women in certain establishment for certain period before and after child-birth and to provide for maternity benefit and certain other benefits”.

The Objective of “**Maternity Leave & Benefit**” is to protect the dignity of “**Motherhood**” by providing the Complete & Healthy care to the Women & Her child, when she is not able to perform her duty due to her health condition. In the morden world, as the participation of women employees is growing in every industry, so the need of the Maternity Leave & other Benefits are becoming increasingly common.



“**Motherhood**” is a very special experience in **Every Woman’s life**, and this is one time when she needs to take best care of herself so that she can give birth to a Healthy & Robust baby. It also alters her lifestyle and requires her to make certain compromises with her daily life style. A woman needs to be able to give quality time to her child without having to worry about whether she will lose her job and her source of income. The Maternity Benefit Act, 1961, gives her the **assurance** that her rights will be looked after while she is at home **to care for her child**.

Applicability of the Maternity Act:

The Act extends to **whole of India**. In the first instance, to every establishment being a factory, mine or plantation in which **10** or more persons are or were employed on any day of the preceding **(12)** twelve months. (including any such establishment belonging to Government & to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances).



The Act is applicable to mines, factories, circus industry, plantations, shops and establishments employing ten or more persons, except employees covered under the **ESI Act 1948**. It can be extended to other establishments by the State Governments.

The Central Industrial Relations Machinery (CIRM) in the Ministry of Labour is responsible for enforcing this Act. CIRM is an attached office of the Ministry and is also known as the Chief Labour Commissioner (Central) [CLC(C)] Organization. The CIRM is headed by the Chief Labour Commissioner (Central).

Who is Eligible to Maternity Benefit??

Right of Maternity Benefit: Every Pregnant working women in any establishment are eligible for Maternity Benefit, provided they have served in the establishment for at least **80 days** in (12) Twelve months before the expected date of delivery. However, if a woman is earning less than Rs: 15,000/- she may be offered **ESI scheme** by her employer, & will be not eligible for the maternity benefit but she will receive the Maternity Benefit under **ESI Scheme**.



Subject to the provisions of this Act, every employed woman shall be entitled to, and her employer shall be liable for the Payment of maternity benefit @ of the average daily wages (including DA, HRA, Food Allow, Incentive Bonus, etc) for the period of her actual absence immediately preceding and including the day of her delivery for the six weeks immediately following that day.

Note: No working woman shall be entitled to Maternity Benefit unless she has actually worked in an Establishment of the employer for a period of **not less than 80 days** in the Twelve months immediately preceding the date of her expected delivery.

Duties of Employee for Maternity Benefits:

- Under Section - 5(2) of the Maternity Benefit Act, 1961: No woman shall be entitled to Maternity Benefit unless she has actually worked in an establishment not less than **80 Days** in the 12 months immediately preceding the date of her expected delivery. But aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.



- **Ten (10)** weeks before the date of her expected delivery, she may ask the employer to give her light work for a month. At that time she should produce a certificate that she is pregnant.
- She should give written notice to the employer about **Seven (07)** weeks before the date of her delivery that she will be absent / on leave for six weeks before and after her delivery. She should also name the person to whom payment will be made in case she cannot take it herself.

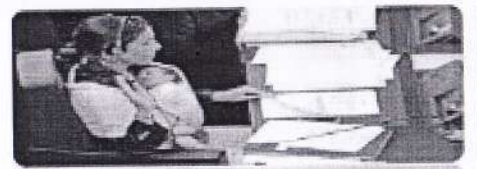
Cash Benefits @ Maternity Act:

- Maternity Leave with average pay for Six weeks (42 Days) before the delivery & Six weeks (42 Days) after the delivery.
- Total twelve weeks (84 Days) Maternity Leave before & after the delivery.
- She can take the Pay for the first Six (06) weeks before start of Maternity leave.
- She will get Pay for the Six (06) weeks after child-birth within 48 hours of Request.
- Medical Bonus of Rs. 3,500/- if the employer does not provide free medical care to the woman. (As Per latest Amendment)
- An additional leave with pay up to **One month** if the woman shows proof of illness due to the pregnancy, delivery, miscarriage or premature birth of child. (Section 10)
- In case of Miscarriage, Six (06) weeks leave with average pay w.e.f: Miscarriage.
- For Tubectomy operation: Leave @ wages of maternity benefit for period of 2 weeks.
- No deduction from the Normal & Usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made.




Non Cash Benefits @ Maternity Act:

- Light work for **Ten (10) weeks** before her expected delivery, if she asks for it.
- Two Nursing Breaks until the child will become the **(15) fifteen months** old.
- No Discharge or Dismissal while she is on Maternity Leave. (Section 5)
- No Charge to be made on her in any of the conditions to her Job while on ML.
- Pregnant Women Discharged / Dismissed may still claim Maternity benefit from the Employer.
- No deduction from the Normal and Usual daily wages of a woman entitled to Maternity Benefit under the provisions of this Act.



- **Note:** In case the **Woman dies** during this period, the maternity benefit shall be payable only for the days up to and including the day of her death. In case child is alive then Complete Maternity. If the employer is liable for maternity benefit under the second provision to sub-section (3) of section 5, or 6 the amount to be paid to the Nominee of Legal Representative.

Legal Obligation @ Maternity Act:

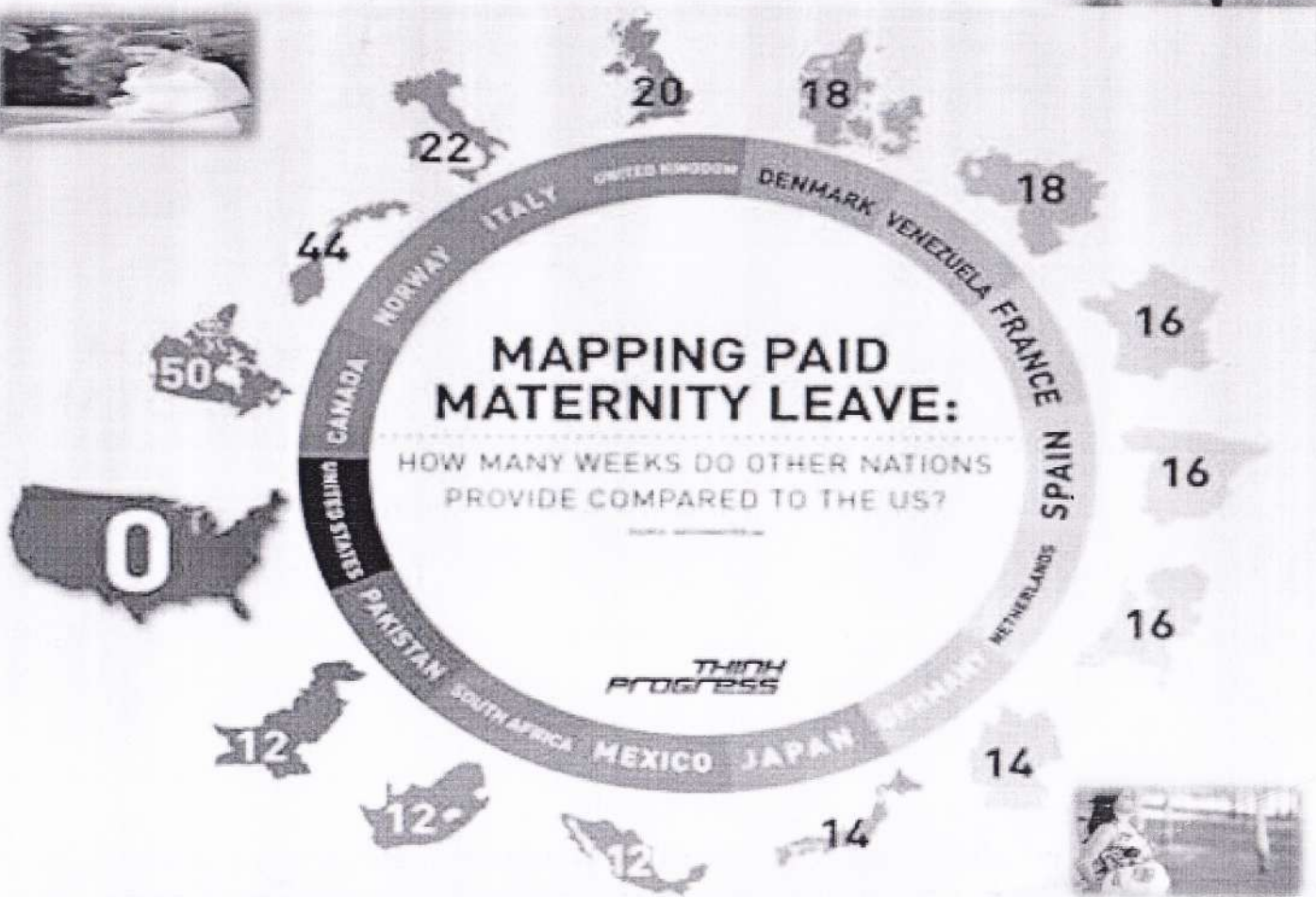
- ❖ Under this Act, “No employer” can knowingly employ a woman in his establishment during the **Six weeks** following the day of her delivery or her miscarriage. However, if the pregnant woman herself makes a request, she should not be forced to indulge in work of an arduous nature, or be forced to stand for long hours. Such work might adversely affect her pregnancy or health or normal development of the foetus or cause miscarriage.
 - ❖ No woman shall work in any establishment during the **Six weeks** immediately following the day of her delivery [miscarriage or medical termination of pregnancy].
- 
- ❖ **Dismissal during absence of pregnancy:-** 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.
 - ❖ In case of Gross misconduct the employer in written can communicate about depriving such benefit. **Within 60 days** from date of deprivation of maternity benefit, any Women can appeal to the authority prescribed by law.

Rights, Duty & Penalty of Employer:

- **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.
- **Abstract of Act and rules:** 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.
- **Records Management:** Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed under the Maternity Act.
- **Penalty for contravention of Act:** 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, the employer shall be punishable with imprisonment which shall not be less than (03) three months but which may extend to (01) one year and with fine which shall not be less than **Rs: 2000/-**, which may extend to **Rs: 5000/-**.



Maternity Leave Chart of The World



Payment of Gratuity Act , 1972

Presented by
Pratibha Mishra

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Learning Objective

- Application of the Act
- When gratuity is payable
- Amount of gratuity payable
- Forfeiture of gratuity
- Obligations and rights of the employer
- Compliance under the Act

Sec 3 Application of the Act

Depends on two factor

- Firstly He should be employed in an establishment to which the Act applies according to Section 1 (3)
 - (a) every factory, mine, oilfield, Plantation, port and railway company;
 - (b) every or establishment within the meaning of law, in relation to shops and establishment in a state, in which 10 or more people are employed, were employed or employed on any day of the preceding 12 months;
 - (c) as per the notification of Central Government in this behalf.

- Secondly he should be employee under Section 2(e)

Employee means any person (other than apprentice) employed on wages in an establishment to do any skilled, semiskilled, unskilled, manual, or supervisory, technical or clerical work.

**with removal of ceiling on wages every employee will become eligible for gratuity, irrespective of wages level w.e.f. 24th May, 1994.

When Is Gratuity Payable

- According to Section 4(1) of the Payment of Gratuity Act, 1972, gratuity is paid after termination of employee after rendering continuous service not less than 5 years:
 - (a) on his superannuation, or
 - (b) on his retirement or resignation or
 - (c) on his death or disablement due to accident or disease.

To Whom Is Gratuity Payable

- Normally paid to employee
- In case of death to nominee

**in case of no nomination been made, and his nominee to be made is minor, then controlling authority will deposit this money in bank for benefit of minor nominee.

Amount of Gratuity Payable

Gratuity: Monthly Salary x 15 days x No. of yrs of Service

26

Maximum Gratuity Payable under Act was Rs. 3,50,000/-
(w.e.f. 24-9-1997 till April 2010)

Now Maximum Gratuity Payable under Act was Rs.
10,00,000/-(w.e.f. 8 April 2010)

Note: <http://www.deccanherald.com/content/56298/F>

Forfeiture of Gratuity

(Gratuity of employee who has been terminated)

The Act deals with this issues in 2 parts

- Section 4(6)(a): Employee whose service have been terminated services have been terminated for act of willful omission or negligence causing any damage or loss or destruction of property belonging to employer , gratuity shall be forfeited is limited to the extent of damage. In absence of proof of the extent of damage, the right of forfeiture is not available
- Section 4(6)(b): Employee have been terminated
 - (a) for riotous and disorderly conduct or any other act of violence
 - (b) for act which constitutes an offence involving moral turpitude provided that such offence is committed by him in the course of his employment

Rights and Obligation of Employee

Application for payment of gratuity

- Section 7(1) : Person eligible for payment of gratuity, to act on his behalf shall send a written application to the employer.
- Rule 7: The Payment of Gratuity Rules, 1972, provides that the application shall be made ordinarily within 30 days from the date gratuity becomes payable .
- In case of superannuation or retirement of employee is known, the employee may apply before 30 days of the date of superannuation or retirement .
- Rule 7(2) : A nominee of an employee eligible for gratuity in case of death of employee shall apply within 30 days from the date of gratuity becomes payable to him.

Right And Obligation Of The Employer

Employer duty to determine and pay gratuity

Section 7(2): Lays down that as soon as gratuity becomes payable the employer shall, whether the application has been made or not, determine the amount of gratuity and give notice in writing to the person to whom gratuity is payable.

Section 7(3): Employer shall pay the amount of gratuity within 30 days from the date of it becoming payable.

Section 7(3A): Under subsection if gratuity not paid within specified period then gratuity becomes payable along with simple interest at rate of 10% per annum

Section 7(4)(e): If the disputes relates to the amount of gratuity payable, the employer shall deposit the amount with Controlling Authority such amount as he admits to be payable by him.

Compliance Under The Act

(1) The establishment has observed the following while paying the gratuity to person entitled to it:

(a) It has paid gratuity at rate of 15 days wages for every completed year

(b) In the event of death or disablement of any employee due to accident or disease, the gratuity was paid without requirement of five years of continuous service.

(c) In the event of death, the gratuity was paid to nominee or legal heir(s)

(d) Maximum amount payable should not exceed Rs.10,00,000/-

Compliance Under The Act

- (2) The establishment made deduction from the gratuity in respects of those employee who were liable for any act , or were terminated for an offence.
- (3) The establishment has paid its liability under PGA within 30 days from the date it becomes payable
- (4) The liability of gratuity was settled in cash , if the amount of gratuity was less than Rs. 1000/-

Recover of Gratuity

- The employer is under obligation to pay the gratuity amount within 30 days from the date it become payable.
- Under Section 8: If the gratuity payable is not paid by the employer within prescribed time, the controlling authority shall have to issue a certificate for that amount along with compound interest to the collector.

Sr.no	Form No.	Purpose of form
1	Form A Rule 3(1)	Notice of opening
2	Form B Rule 3(2)	Notice of change of company's particular
3	Form C Rule 3(3)	Notice of company Closure
4	Form D Rule 5(1)	Notice for excluding husband from family
5	Form D Rule 5(2)	Notice of withdrawal of notice of excluding husband from family
6	Form F Rule 6(1)	Nomination
7	Form G Rule 6(3)	Fresh Nomination
8	Form H Rule 6(4)	Modification of Nomination
9	Form I Rule 7(1)	Application of Gratuity by an Employee
10	Form J Rule 7(2)	Application of Gratuity by Nominee
11	Form K Rule 7(3)	Application of Gratuity by Legal Heir
12	Form L Rule 8(1)i	Notice for payment of gratuity
13	Form M Rule 8(1)ii	Notice rejecting claim for payment of gratuity
14	Form N Rule 10	Application for direction to controlling authority
15	Form O Rule 11(1)	Notice for appearance before controlling authority
16	Form P Rule 14	Summon to appear before controlling Authority
17	Form Q Rule 16(1)	Particular's of application under section 16
18	Form R Rule 17	Notice for payment of gratuity
19	Form S Rule 18(8)	Notice for payment of gratuity as per appellate authority
20	Form T Rule 19	Application for recovery of gratuity
21	Form U Rule 20	Abstract of the act and rules

Suggested Reading

- The Payment of Gratuity Act, 1972 – Bare Act
- Industrial Law – P.L. Malik
- Labour Law (Taxmann)
- CS- Economic and Labour Law (Model ii, Paper 5)