

Bus. Adm. - Labour and Industrial Laws

(Semester - IV)

Emergence and objective of labour laws

(श्रम सन्निधम के उद्देश्य)

The main objective of the regulative legislations is to regulate the relations between employees and employers and to provide for methods and manners of settling industrial disputes.

What is Labor - ?

Labour means that productive work which especially involves physical work and must be done for wages.

- ① work, usually of a hard, physical kind  
कड़ी व शारीरिक मेहनत, कठोर श्रम
- ② workers, when thought of as a group  
एक समूह के रूप में मजदूर कार्य करते हैं

## Labour :-

श्रमिक वो व्यक्ति होते हैं जिन्होंने किसी विशिष्ट कार्यों के लिए ही नियुक्त किया जाता है।

श्रमिक का कार्य मुख्यतः शारीरिक है। यह व्यवसाय का वेतन भोगी कर्मचारी है।

(पूना)

## Objectives of labour laws

- (1) Improves industrial relation i.e. employee - employer relations and minimizes industrial disputes.
- (2) protects workers from exploitation by the employers or Management.
- (3) Helps workers in getting fair wages.
- (4) Minimizes labour unrest.

## श्रम सन्धियों के उद्देश्य

- 1) श्रमिकों को सामाजिक, राजनीतिक एवं आर्थिक न्याय दिलाना।
- 2) श्रमिकों की वर्ग के हितों की रक्षा करना।
- 3) श्रमिकों में एकता एवं सहयोग की भावना का विकास करना।
- 4) श्रम कल्याण एवं सामाजिक सुरक्षा प्रावधानों को उन्नत बनाना।
- 5) राष्ट्र के आर्थिक विकास में सहयोग करना।
- 6) राष्ट्रीय श्रम कानूनों को अंतरराष्ट्रीय श्रम कानूनों के अनुरूप बनाना।

## Labour legislation-?

① Labour Legislation refers to all

⇒ laws of the government which have been enacted to social and Economic security to the labour or workers.

## Need of Labour legislation-?

- ① protects workers from profit seeking exploiters.
- ② promotes cordial industrial relations between employers and employees.
- ③ preserves health safety and welfare of workers.
- ④ protects interests of women and children working in the factories.

## Objectives of labour legislation - ?

- ⇒ Economic security
- ⇒ Occupation security
- ⇒ Improves working condition.
- ⇒ Ensures socio-economic progress
- ⇒ protects workers from exploitation by the employers or management
- ⇒ Helps workers in getting fair wages
- ⇒ Minimizes labour unrest.
- ⇒ Social Equity - : labour laws must be dynamic ; government must modify the laws in line with changing environment.

# Principles of Labour Legislation

- ① Social Justice - ? Equal Remuneration Act - 1972
- ② Economic Justice
- ③ National economy
- ④ International Conventions.
- ⑤ Principle of protection  
(A.) Factories Act 1948 (B.) Payment of wages Act 1936  
(C.) Minimum wages Act 1948 (D.) mines Act, 1952
- ⑥ Principle of Regulation - ?  
(A.) Trade Union Act - 1972  
(B.) Industrial Dispute Act 1947  
(C.) Industrial Employment (Standing order) Act 1946
- ⑦ Principle of social security  
(A.) Employee's Compensation Act 1923  
(B.) Maternity Benefit Act 1961  
(C.) Employees State Insurance Act 1948  
(D.) Employees Provident Fund and Miscellaneous Provisions Act 1952

स्वतंत्रता से पूर्व भारत में श्रम सन्निधम  
(Labour Legislation in India before  
Independence.)

The factories Act

(1) कारखाना अधिनियम, 1922 एवं 1934, 1948  
(Factories Act)

(2) खान अधिनियम, 1923  
(Indian mines 'Legislation)

(3) श्रमिक संघ अधिनियम, ~~1923~~ 1926  
(The Trade Union Act)

(4) श्रमिक क्षतिपूर्ति अधिनियम, 1923

(5) <sup>1929</sup> आध्यात्मिक संघर्ष अधिनियम, 1929  
(The Industrial Disputes Act)

(6) मातृत्व लाभ (maternity Benefit)  
(The maternity Benefit)

(7) मजदूरी भुगतान अधिनियम, 1936  
(The Payment of Wages Act)

Date \_\_\_\_\_  
Page \_\_\_\_\_

(8)

## स्वतंत्रता के बाद भारत में प्रमुख श्रम सन्निधम (main Labour Legislations in India After Independence)

1. कारखाना अधिनियम, 1948, 2016  
(The Factories Act)
2. भारतीय खान अधिनियम, 1952  
Indian mines legislation
3. बागान अधिनियम, 1951  
(plantation legislation)
4. परिवहन अधिनियम  
Transport Legislation
5. मजदूरी संबंधी अधिनियम  
(wage legislation)
6. सामाजिक सुरक्षा संबंधी अधिनियम  
(social security legislation)
7. श्रम कल्याण संबंधी अधिनियम  
(Labour welfare legislation)
8. Contract Labour Act  
(Abolition & Regulation Act) 1970



Evaluation of labour legislations in India.(भारत में श्रम सन्निधम)Meaning and Objectives-

श्रम सन्निधम सामाजिक सन्निधमों का वह भाग है जो कर्मचारियों के रोजगार, कार्य की दशाओं, मजदूरियों, औद्योगिक संबंधों, सामाजिक सुरक्षा, व्यवस्थाओं और श्रम कल्याण क्रियाओं से संबंध रखता है।

अन्य शब्दों में [ 'श्रम सन्निधमों' से आशय "उन वैधानिक अभिनियमों तथा न्यायिक सिद्धान्तों से है जो औद्योगिक क्षेत्र में राज्य के हस्तक्षेप को संभव बनाते हैं और सेवायोजकों व कर्मचारियों के कर्तव्यों एवं अधिकारों का निर्धारण करते हैं। ]

भारत में श्रम सन्निधम के उद्देश्य - ०

- ① श्रमिकों को सामाजिक, राजनीतिक एवं आर्थिक न्याय दिलाना
- ② श्रमिक वर्ग के हितों की रक्षा करना
- ③ श्रमिकों में एकता एवं सहयोग की भावना का विकास करना

**SUCCESS**

4. श्रम कल्याण एवं सामाजिक सुरक्षा प्रवधानों का उन्नत बनाना

5. सेवायुक्तों एवं श्रमिकों के पारस्परिक अधिकारों, कर्तव्यों और दायित्वों का निर्धारण करना

6. औद्योगिक शान्ति और औद्योगिक प्रजातंत्र का स्थापना में सहयोग करना

7. सरकार, समाज और व्यवसाय के बीच तुल्यत्व होने वाले टकराव की रोकथाम करना

8. राष्ट्रीय श्रम कानूनों को अंतरराष्ट्रीय श्रम कानूनों के अनुरूप बनाना

9. राष्ट्र के आर्थिक विकास में सहयोग करना

## भारत में श्रम सन्निपम (Laboury Legislation in India)

### संक्षिप्त इतिहास (Brief History)

19 वीं शताब्दी के अंत तक भारतीय औद्योगिक श्रमिकों की स्थिति अत्यंत शोचनीय व दयनीय थी और वे उद्योगपतियों की कृपा पर आश्रित थे। इन्हें प्रातः से रात्रि तक 15-16 घंटे निरंतर कार्य करना पड़ता था और उन्हें किसी प्रकार की सुरक्षा नहीं थी। ब्रिटिश सरकार को भी श्रमिकों की दशा सुधारने में कोई प्रयत्न नहीं था। भारतीय औद्योगिक श्रम के इतिहास में सबसे पहला अधिनियम कारखाना अधिनियम है।

स्वतंत्रता से पूर्व भारत में श्रम सन्निपम  
(Laboury Legislation in India before independence)

- (1) कारखाना अधिनियम, 1922 एवं 1934
- (2) शान्ति अधिनियम, 1923
- (3) श्रमिक प्रतिपूर्ति अधिनियम, 1923
- (4) श्रमिक सैथ अधिनियम, 1928

- 5) औद्योगिक संबंध अधिनियम, 1926
- 6) मातृत्व लाभ (Maternity Benefit) अधिनियम
- 7) मजदूरी भुगतान अधिनियम 1936
- स्वातंत्र्य के बाद भारत में प्रमुख श्रम कानून (main labour legislations in India after independence)
- 8) कारखाना अधिनियम, 1948
- 9) भारतीय खान अधिनियम, 1952
- 10) षागान अधिनियम, 1951
- 11) परिवहन अधिनियम
- 12) मजदूरी संबंधी अधिनियम
- 13) सामाजिक सुरक्षा संबंधी अधिनियम
- 14) श्रम कल्याण संबंधी अधिनियम
- 15) अन्य श्रम संबंधी अधिनियम

# Payment of wages Act 1948

## The Minimum wages Act, 1948

15<sup>th</sup> March 1948  
(Whole of India)

### Scope of the minimum wage Act

(1) Which are the employments for which minimum rates of wages may be fixed?

न्यूनतम मजदूरी देर किन-किन रोजगारों के लिए निर्धारित की जा सकती है? (2019, 7)

(2) न्यूनतम मजदूरी न देने के क्या परिणाम हो सकते हैं? What would be the consequences of not giving minimum wages to employees.

(3) न्यूनतम मजदूरी अधिनियम के उद्देश्य लिखिए। write objective of the minimum wages Act. 175 (किन्ना)

(4) न्यूनतम मजदूरी अधिनियम, 1948 के आवश्यक तत्व लिखिए। Explain the main features of minimum wages Act 1948. (2016) (7)

(5) न्यूनतम मजदूरी अधिनियम की संवैधानिकता पर एक नोट लिखिए। write a note on constitutionality of minimum wages Act.

⑥ Explain the procedure for fixing and revising the minimum rates of wages under the minimum wages Act 1948

न्यूनतम मजदूरी अधिनियम 1948 के अन्वीन न्यूनतम मजदूरी की दरों के निर्धारण एवं संशोधन की विधि समझाइये। - 2005 (15)

\* Explain the minimum wages.

न्यूनतम मजदूरी का स्तर के लिए। -

## The minimum wages Act - 1948 (न्यूनतम मजदूरी अधिनियम : 1948)

Minimum wages Act 1948 is a welfare legislation. It provides wages required for livelihood. The main object of the Act is to prevent exploitation of workers and determine minimum wages.

न्यूनतम मजदूरी अधिनियम, 1948 एक कल्याणकारी विधायक है। यह प्रतिकों के लिए जीवन निर्वाह (कानून) मजदूरी का प्रावधान करता है। इस अधिनियम का मुख्य उद्देश्य काम कर्मचारियों के शोषण को रोकना तथा न्यूनतम मजदूरी सुनिश्चित करना है।

The minimum wages should be fixed while considering -

न्यूनतम मजदूरी का निर्धारण तीन बातों को ध्यान में रखकर किया जाना चाहिए -

- (i) कर्मकार का जीवन निर्वाह *subsistence of worker*
- (ii) कर्मकार के परिवार का भरण-पोषण तत्व *Maintenance of the family of worker*
- (iii) कर्मकार की दक्षता *preserving his efficiency.*

Minimum wages means not only the wages for subsistence but is also includes the wages for facilitating the education, medical, old age marriage, entertainment etc.

न्यूनतम मजदूरी से अभिप्राय केवल जीवन निर्वाह करने वाली मजदूरी से नहीं है अपितु शिक्षा, चिकित्सा, वृद्धावस्था, विवाह, मनोरंजन आदि के लिए 'व्यवस्थाओं' को समाहित करने वाली मजदूरी से है।

The minimum amount of compensation an employee must receive for performing labour. it is stabilized by contract or legislation.

Objectives of the minimum wages Act.

- ① To ensure that the employee can have the basic physical needs, good health and a level of comfort.
- ② To ensure a secure and adequate living wage for all labourers in the interest of the public.



3) To ensure that the employee had enough to provide for his family.

4) Ensuring a decent life standard that pertains to the social comfort of the employee.

\* न्यूनतम मजदूरी अधिनियम का क्षेत्र (Scope of the Minimum wages Act) \*

यह अधिनियम उन उद्योगों या संस्थाओं के शौचालय पर लागू होता है जिनका उल्लेख इस अधिनियम की अनुसूची में किया गया है।

1) ऊनी कार्पेट बनाने या शाल बुनने वाले संस्थान

2) चावल मिल, आटा मिल, आदि

3) तम्बाकू का कारखाना

4) सिगरेट, चाय या कॉफी आदि के कारखाने

5) तेल मिल

6. स्थानीय प्राधिकरण
7. सड़कों तथा भवनों का निर्माण या रख-रखाव करने वाली संस्थाएँ
8. लाख निर्माण के कारखाने
9. आभूषण कारखाने
10. सार्वजनिक परिवहन संस्थान

न्यूनतम मजदूरी का महत्व या उद्देश्य 175 (किंटा)

(Importance or objective of minimum wages.)

1. Social Justice (सामाजिक न्याय) - 2
2. Restriction on labour exploitation (श्रम शोषण पर प्रतिबंध)
3. Protection of labourer's health (श्रमिकों के स्वास्थ्य की रक्षा)
4. (Establishment of Individual peace) (औद्योगिक शांति की स्थापना)

- (5) Elimination of competition a between employes  
(सेवायोजकों के बीच प्रतिस्पर्धा को हराना)
- (6) Control of competitions among labourers  
(श्रमिकों के बीच प्रतियोगिता रोकना)
- (7) प्रबंध में सुधार (Improvement in management)
- (8) Elimination of inefficient producers  
अकुशल उत्पादकों का उन्मूलन
- (9) Increase in production (उत्पादन में वृद्धि)
- (10) Industrial peace (औद्योगिक शान्ति बनाये रखना)
- (11) Increase in living standard of labourers  
(श्रमिकों के जीवन स्तर में वृद्धि करना)
- (12) Elimination of labourer's exploitation  
श्रमिकों के शोषण का अंत
- (13) Increase in national production  
राष्ट्रीय उत्पादन में वृद्धि

grote  
\*

## Salient Features of minimum wages \*

(1.) The act applied to certain employments (listed in the schedule).

Both the governments (Central and state) have to declare minimum wages

(2.) Minimum wage means all remuneration in cash includes HRA (deducted from minimum wage + special allowance.)

(3.) Kinds of fixing of minimum wages - ?

(a.) a minimum time rate,

(b.) a minimum piece time rate

(c.) a guaranteed time rate

(d.) a time rate or a piece rate applicable to overtime rate.

(4.) classes of fixing minimum rates of wages

(a.) different scheduled employments

(b.) different classes of work in the same scheduled employment.

- (C) adults, adolescents, children and apprentices
- (D) different localities
- ⑤ Norms to be considered for fixing minimum wage - % standard family of four members - three consumption units (2 adults + 2 children) for one earner.  
minimum food requirement should be calculated on the basis of a net intake of calories.
- ⑥ Period to revise minimum wages by the appropriate government is five years.
- ⑦ The appropriate government shall declare special allowance after every six months (i.e. 1st April and 1st October of every year.)

(8) Not paying minimum wages is an offence punishable up to six months imprisonment or with fine up to Rs. 500 or with both.

(9) Contracting out: Any contract or agreement whereby an employee either relinquishes or reduces his right to a minimum rate of wage or any privilege or concession accruing to him under this Act shall be null and void.

मजदूरी का भुगतान निम्न रूप में किया जा सकता है -

- \* चालू सिक्के
- \* चालू नोट
- \* बैंक, अथवा
- \* बैंक खाते में जमा कराकर।

## Fixing minimum Rates of wages (Sec. 5)

⇒ publish its proposals in the official gazette asking comments from the affected parties-?

⇒ Constitute Committees / Sub Committees for the purpose.

⇒ The Committees / sub-Committees and advisory boards constituted by the government consist of equal numbers of.

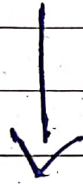
① Employers

② Employees and

③ Independent persons

## Fixation of minimum wages

⇒ Recommendation of Advisory Board for different class (unskilled, skilled, clerk, supervisor.)



publish recommendations in National publications (for public comments) representations from Trade unions etc)

Hearing of Representatives etc

Notification of minimum wages

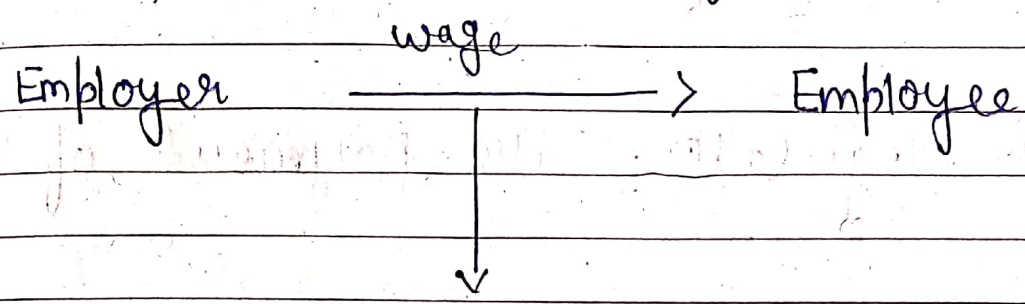


Payment of Wages Act, 1936

Assent = 23<sup>rd</sup> April 1936

Came into force = 28<sup>th</sup> March 1937 (प्रभावी हुआ)

Applicable = whole of India, J&K was added in 1970.



\* untimely payment

\* penalty / fines

\* Non uniformity

Solution - \* Timely & uniformity in payment of wages.

\* Deduction to be allowed are specified

Hem Singh Grouk

Object of the Act

(अधिनियम के उद्देश्य)

- \* The payment of wages act, 1936 is a central legislation enacted.
- \* To regulate the payment of wages.
- \* To ensure a speedy and effective remedy to them.
- \* To Against illegal deductions &/or unjustified delay caused in paying wages.
- \* उद्योगों में निम्न कुछ वर्गों के लोगों को मजदूरी के भुगतान का निश्चय करना।
- \* उनकी मजदूरी के भुगतान के दायित्व को निश्चित करना
- \* उनकी मजदूरी के भुगतान के समय एवं माध्यम को निश्चित करना।
- \* उनकी मजदूरी में से अनुचित कटौतियों की रोकथाम करना
- \* मजदूरी भुगतान सम्बन्धी प्रवृत्तियों का पालन नही करने पर उबरदायी व्यक्तियों को दण्डित करना।

Ministry of Labour & Employment:-

↓  
Can revise wages

↓  
NSSO (National Sample Survey office)

↓  
within 5 years generally

↓  
According to consumer expenditure level / Cost of living

It may be noted that the employees drawing wages up to ₹ 24000pm are covered under this act.

Dr. Hem Singh

Dep. BFE

MMV, Jodhpur

(Extent and Application of the Act)  
अधिनियम का विस्तार एवं लागू होने

Page

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Applicable To

⇒ ~~Every~~ Every factory (कारखाना)

⇒ Railway administration (रेलवे प्रशासन)

औद्योगिक संस्थान में नियुक्त व्यक्ति  
⇒ Industrial or other Establishment  
(Includes)



⇒ Tramway service or motor transport service  
जो यात्रियों या माल का दोनों का कार्य करे

⇒ Air transport services

other than  
exception  
(शामिल नहीं)  
होते

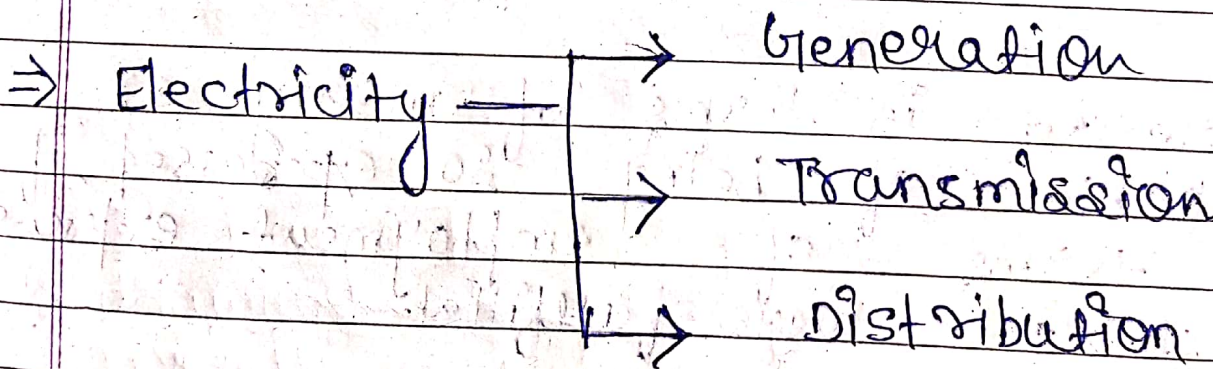
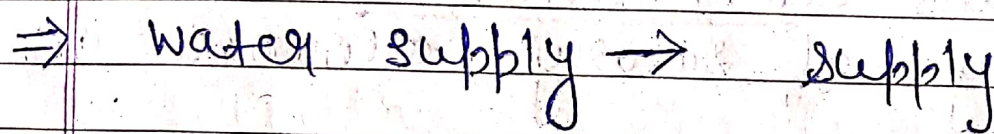
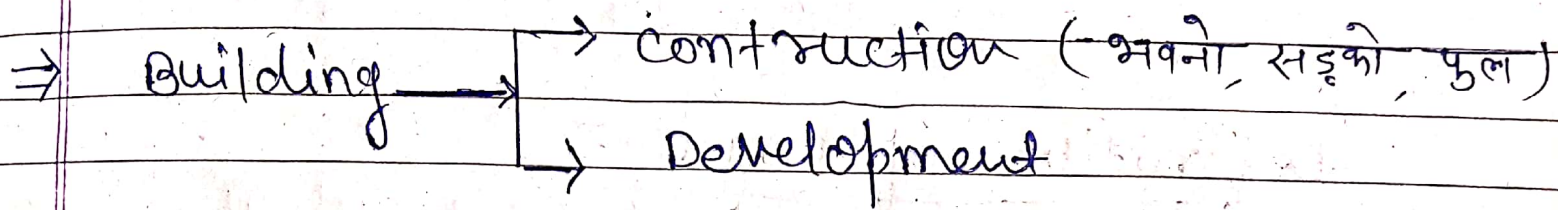
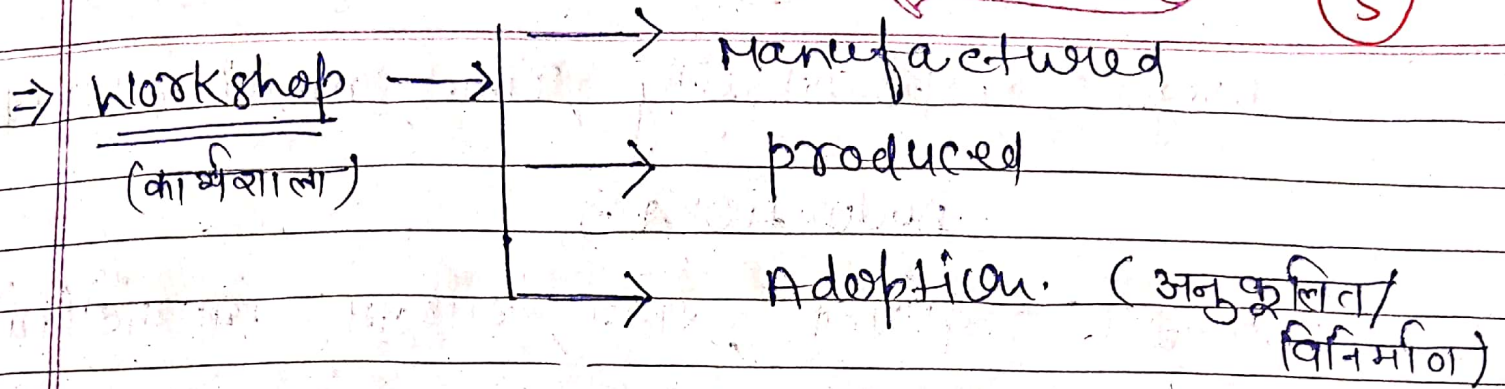
→ Army  
→ Navy  
→ Airforce

⇒ Dock wharf or jetty (डॉक) (जैती)

⇒ Inland vessels (अन्तर्देशीय जलयान) (अन्तर्देशीय)

⇒ mines / quarry / oilfield (खान, खदान या तेल क्षेत्र)

⇒ plantation (बागान)



wages; Responsibility, Time, medium and

Deductions.)

मजदूरी : दायित्व, समय, माध्यम तथा कटौतियाँ

Definition of wages - ?

wages means all remuneration whether by way of salary, allowance or otherwise.

Expressed in terms of money or capable of being so expressed if the terms of employment express or implied were fulfilled.

wages include

- \* Court Settlement award
- \* overtime, holiday wages and leave period wages.
- \* Additional remuneration, bonus
- \* Termination remuneration.

## मजदूरी की परिभाषा

मजदूरी से आशय उस लभस्व पारिश्रमिक से है।  
(चाहे वह वेतन, भत्ते या अन्य रूप में हो) जिसे  
पुत्र के रूप में व्यक्त किया गया है।

मजदूरी में निम्नलिखित भी सम्मिलित हैं:

- 1) पक्षकारों के बीच किसी परिनिर्णय या समझौते  
(Award or Settlement) या न्यायालय के किसी  
निर्णय के अधीन देय कोई पारिश्रमिक
- 2) अचिसमय या अवकाश या छुट्टी के दिन कार्य करने के  
लिए देय कोई पारिश्रमिक
- 3) नियोजन की शर्तों के अनुसार देय कोई भी अन्य  
पारिश्रमिक, चाहे उसे बोनस या किसी अन्य नाम  
से जाना जाता हो।
- 4) किसी नियोजित व्यक्ति की पदमुक्ति (Termination) के  
कारण उस किसी कानून, अनुबन्ध या प्रलेख  
के अनुसार देय राशि। ऐसी राशि में कटौतियों के  
करने की व्यवस्था हो सकती है, किन्तु इसके  
भुगतान की समय सीमा की कोई शर्त होनी  
आवश्यक नहीं है।
- 5) कोई भी वह राशि जो किसी नियोजित व्यक्ति को  
उस समय पर लागू किसी कानून के अन्तर्गत  
बनायी गयी योजना के अनुसार देय हो।

## मजदूरी अवधि का निर्धारण (Section 4) (Fixation of wages period)

इस अधिनियम में सेवायोजक का एक दायित्व मजदूरी भुगतान की अवधि निर्धारित करने का भी है। अर्थात् प्रत्येक सेवायोजक जो मजदूरी भुगतान करने के लिए उत्तरदायी है मजदूरी के भुगतान की समावधि (period) भी निर्धारित करेगा। इस समावधि को इस अधिनियम में मजदूरी समावधि (wage period) के नाम से सम्बोधित किया जाता है।

सेवायोजक कोई भी मजदूरी समावधि तय कर सकता है। किन्तु अधिनियम में यह व्यवस्था है कि "मजदूरी - समावधि" एक माह से अधिक की नहीं होगी।

दू. 8 इस धारा के प्रावधानों के उल्लंघन के लिए प्रत्येक कोषी को 3,750 रु. तक के अर्थदण्ड से दण्डित किया जा सकेगा।

Fixation of wage periods in respect of which which shall be payable must be done by every responsible person. This period must not exceeds one month in any case.



## \* मजदूरी भुगतान का समय \* (Time of payment of wages)

समय पर मजदूरी का भुगतान करना भी सेवायोजकों का दायित्व है। मजदूरी के भुगतान के समय के सम्बन्ध में कुछ प्रमुख प्रावधान निम्नानुसार हैं-

(1) रेलवे कारखाने अथवा औद्योगिक अन्य संस्थानों -  
यदि मजदूरी की समयावधि एक माह की है तो उस माह की देय मजदूरी का भुगतान अगले माह की सात तारीख से पहले करना पड़ेगा (जिसमें एक हजार से कम व्यक्ति नियुक्त हैं)

\* In case of all undertakings employing less than 1000 employees like railway, factory or industrial establishment, wages must be paid before the expiry of the seventh day.

(2) जिसमें रेलवे कारखाने औद्योगिक संस्थानों में एक हजार से कम व्यक्ति अथवा एक व्यक्ति काम करते हैं समयावधि के बाद दस दिनों के भीतर मजदूरी का भुगतान करना पड़ता है।

\* In other case before the expiry of the tenth day. After the last day of the wage period in respect of which the wages are payable.

(3) डॉक, घाट, जेरी या खानों (Dock, wharf, Jetty or mine) में नियुक्त व्यक्तियों की दशा में सात दिन के अन्तर मजदूरी का भुगतान करना पड़ता है।

\* All pay must be paid on working days

(4) किसी व्यक्ति को पदमुक्त (Terminate) करने की दशा में - ? तो उसकी अर्जित मजदूरी का भुगतान उसे पदमुक्त करने के दिन से दूसरे कार्य दिवस (Second working day) के समाप्त होने से पहले करना पड़ता है।

\* Where the employment of any person is discharged, he must be paid his wages before the expiry of the second working day from the day on which his

(5) संस्थान के बन्द होने के कारण पदमुक्ति (employment is terminated) की दशा में - ? जिस दिन उसे पदमुक्त किया जाता है उस दिन के दूसरे के समाप्त होने से पूर्व उसकी अर्जित मजदूरी का भुगतान करना पड़ता है।

(6) सरकार को कुछ दशाओं में मजदूरी भुगतान की समय सीमा में छूट देने का अधिकार है।

उपर्युक्त प्रावधानों की अनुपालना नहीं करने के दोषी व्यक्ति को कम से कम 1,500 ₹ के तथा अधिकतम 7,500 ₹ तक के अर्थदंड से दण्डित किया जा सकेगा।

wages must be paid in current currency or coin (sections) with the written authorization the employed person (sec. 6) on obtaining employee's mandate the employer can issue cheques or credit the bank a/c directly or any other mode.

\* All pay must be paid on working days

Date  
Page 10

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Date \_\_\_\_\_ Page \_\_\_\_\_ (11)

Authorized deduction from wages (Section 74B)

जुर्माने के रूप में कटौती  
(Deduction as fine.)

जुर्माने के सम्बन्ध में धारा-8 के प्रमुख प्रावधान निम्नानुसार हैं।

Section 74B of the Act deal with permissible and non-permissible deductions which can made from the wages of worker.

1. किसी नियोजित व्यक्ति पर समुचित सरकार या उसके द्वारा नियमित प्राधिकारी की पूर्वानुमति से सेवायोजक उस व्यक्ति के किसी भी ऐसे कार्य या भ्रूल के लिए जुर्माना कर सकता है जिसे नोटिस में विधि विनिर्दिष्ट कर दिया गया है।
2. किसी भी नियोजित व्यक्ति पर जुर्माना तब तक नहीं किया जा सकता है जब तक कि उसे जुर्माना लगाने के विरुद्ध कारण बताने का अवसर नहीं दे दिया गया हो।
3. "मजदूरी समयावधि" (wage period) में उसको देय मजदूरी का राशि के तीन प्रतिशत से अधिक राशि का जुर्माना उस "मजदूरी समयावधि" में नहीं किया जा सकता है।
4. यदि नियोजित व्यक्ति की आयु पंद्रह वर्ष से कम है तो उस पर कोई जुर्माना नहीं किया जा सकता है।

(5) सेवायोजक नियोजित व्यक्ति से जुमाने की राशि की वसूली जुमाने करने के 90 दिन समाप्त हो जाने के बाद नहीं कर सकेगा

(6) जुमाना उस दिन किया हुआ माना जावेगा जिस दिन नियोजित व्यक्ति ने वह कोई कार्य या शूल की धी मिसके लिए जुमाना किया गया है।

(7) नियोजित व्यक्तियों पर किये गये जुमानों तथा उनकी वसूली का अभिलेख एक रजिस्टर में रखा जावेगा।

(8) जुमाने के रूप में वसूल की गई राशि का उपयोग कारखाने या संस्थान में नियोजित व्यक्तियों के हित में विनिर्दिष्ट प्राधिकारी द्वारा अनुमोदित उद्देश्यों के लिए किया जावेगा।

सभी जुमानों से वसूल की गई राशि एक सामान्य कोष में जमा की जावेगी तथा विनिर्दिष्ट अधिकारी द्वारा अनुमोदित उद्देश्यों के लिए उसका उपयोग किया जावेगा।

meaning of Authorized Deductions:-  
(As per section 7(i))

- (1) The withholding of increment or promotion including the stoppage of increment at an efficiency bar;
- (2) The demotion to a lower post or time scale or to a lower stage in scale; or
- (3) Suspension

The following deductions are permitted:-

- (a) An employed person can be fined only for acts and omissions which are specified in a list which is approved by the state government or the prescribed authority.
- (b) The list must be exhibited in the place of work.
- (c) Before the fine is imposed on an employed person he must be given an oppo

(d) Total fine shall not be exceed 3% of wages pertaining to that wage period.

(e) No fine can be imposed on a person who is below the age of 15 years.

(f) No fine can be recovered by installments or after the expiry of sixty days from the days on which it was imposed.

(g) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it is imposed.

(h) All fines and realisation there of shall be recorded in a register.

All such realization shall be applied only to such purpose which are beneficial to the persons employed in the factory as are approved by the prescribed authority.

- (i) Deduction for ~~Absence~~ from duty,
- (j) Deduction for Damage or loss.
- (k) ~~Deducting~~ Deductions for Recovery of Advances and overpayment of wages/Loans.
- (l) Deductions for Income-tax payable by the Employed person.
- (m) orders of the Court.
- (n) Provident fund
- Deductions for payments to Cooperative Societies and Insurance.
- (o) Deductions for House Accommodation
- (p) "Acceptance" of Counterfeit Base coin?
- (q) Deductions for Recovery of Losses on Account of failure to Invoice or to collect.



# कर्मचारी क्षतिपूर्ति अधिनियम, 1923

## The Employees' Compensation Act 1923

(Old name - ? Workmen's Compensation Act 1923)

पहले इस अधिनियम का नाम 'समजीवी क्षतिपूर्ति अधिनियम' था जिसे 2009 के संशोधन अधिनियम द्वारा परिवर्तित कर वर्तमान नाम 'कर्मचारी क्षतिपूर्ति अधिनियम' रख दिया है। यह नाम 18 जनवरी, 2010 से प्रभावी है। यह अधिनियम सम्पूर्ण भारत में लागू होता है।

\* Name - ? Employee's Compensation Act, 1923

\* Applicability - ? Whole of India

\* Effective - ? 1st July, 1924

Note - ?  
① Workmen's Compensation (Amendment Act 2009)  
(effective from 18-01-2010)

## (ii) Employee's Compensation (Amendment)

Act, 2017

[ parliament enacted  
Employee's Compensation  
(Amendment) Act, 2017 ]

### Objects

- \* This act provides social security to employees कर्मचारी को सामाजिक सुरक्षा प्रदान करता है।
- \* An employee who dies or suffers from disablement, partial or total जब कर्मचारी आंशिक या पूर्ण अयोग्य हो जाता है कार्य करने के
- \* Due to Accident (यदि कर्मचारी की दुर्घटना हो जाती है)
- \* is Entitled to get Compensation ऐसी स्थिति में सेवायोजक द्वारा कर्मचारी को नियम अनुसार क्षतिपूर्ति प्रदान की जायेगी।
- \* From his Employer

Hem Singh  
MMV, Jodhpur.

# Structure of the Act

This Act contains

36 sections (Divided into 4 parts)

4 schedule

Schedule - 1: (List of Injuries)

part - 1 Total Disablement

part - 2 partial Disablement

Schedule - 2

List of persons who are included in the definition of employees

Schedule - 3

List of occupational Diseases

Schedule - 4

factors for working out lump sum equivalent of compensation amount in case of

Permanent Disablement and Death.

### Applicability of the Act -

Act is applicable to those factories, mines, transport establishments, construction works etc. which are not covered under ESI Act, 1948.

It means -

- \* An employee covered under ESI Act, 1948 (Employee's State Insurance Act) - ESI
- \* Is not entitled to get compensation under Employees Compensation Act, 1923

### Disablement

Disablement means

- \* Loss of capacity to work or to move
- \* It may result in loss or reduction of his earning capacity
- \* It may be permanent or temporary
- \* It may be partial or total

He is not able to earn as much as he used to earn before his disablement.

\* आंशिक अयोग्यता तथा पूर्ण अयोग्यता या निःशक्तता में अन्तर \*

(Difference between the partial and permanent disablement)

अन्तर का आधार	आंशिक अयोग्यता partial disablement	पूर्ण अयोग्यता permanent disablement
① आय कमाने की क्षमता पर प्रभाव	आंशिक अयोग्यता के कारण कर्मचारी की आय कमाने की क्षमता आंशिक रूप से कम हो जाती है।	पूर्ण अयोग्यता की स्थिति में कर्मचारी की आय कमाने की क्षमता पूर्णतः समाप्त हो जाती है।
② रोजगार	रोजगार में कार्य करने की क्षमता समाप्त नहीं होती है।	कर्मचारी इस स्थिति में आय कमाने की क्षमता खो देता है। जिसे वह दुर्घटनाओं के समय कर सकता था।

<p>3. क्षतिपूर्ति की राशि</p>	<p>इसमें अयोग्यता के अनुपात में क्षतिपूर्ति की राशि निश्चित की जाती है।</p>	<p>इसमें सभी दरशाओं में क्षतिपूर्ति की राशि समान ही होती है।</p>
<p>4. अनुसूची</p>	<p>आंशिक रचायी अयोग्यता उत्पन्न करने वाली चोट का उल्लेख प्रथम अनुसूची के द्वितीय भाग में किया जाता है।</p>	<p>पूर्ण अयोग्यता उत्पन्न करने वाली चोटों का उल्लेख प्रथम अनुसूची के प्रथम भाग में किया जाता है।</p>

### Partial Disablement - 2 (Sec - 2(j))

Means where the disablement is of a temporary nature, such disablement reduces the earning capacity of a employee in any employment in which he was engaged at the time of the accident resulting in the disablement and where disablement is of a permanent nature such disablement reduces his earning capacity in every employment which he was capable of inducting at that time.

- (A) Temporary partial disablement
- (B) permanent partial disablement

## Total Disablement - 2 (Sec - 2(L))

Means such disablement whether of a temporary or permanent nature as incapacitates a employee for all work which he was capable of performing at time of the accident resulting in such disablement.

provided that permanent total disablement shall be deemed to result from every injury specified in part I of schedule I or from any combination of injuries specified in part - II thereof where the aggregate percentage of the loss of earning capacity as specified in the said part II against those injuries amount to one hundred percent or more.

Definition of Employee (Sec-2)

Employee means a person who is

① ~~Railway~~ Railway servant (रेलवे कर्मचारी)

② Crew of ship (जहाज का कप्तान)

③ Crew of aircraft. (वायुयान का कप्तान)

④ Driver, Cleaner, Helper or Mechanic of Motor vehicles

किसी मोटोवाहन के लिए नियुक्त ड्राइवर हेल्पर मैकेनिक क्लीनर  
अथवा अन्य किसी हैसियत की स्थिति में नियुक्त व्यक्ति

⑤ Employees Recruited abroad.

⑥ persons employed in Activities like Manufacturing process, Explosives, Mines, ship loading / unloading, Construction, Electricity Generation & Distribution, Drivers, Horticulture.

Note - 2 Employee does not include any person working in the capacity of a member of the armed forces of the union.

सशस्त्र सेना का सदस्य को इसमें शामिल नहीं किया जाना है।



## Computation and payment of Compensation (क्षतिपूर्ति की गणना तथा भुगतान)

xxx ————— xxx

इस अधिनियम के अन्तर्गत क्षतिपूर्ति की राशि की गणना करने के लिए हमें क्षति या चोट की प्रकृति को ध्यान में रखना पड़ता है।  
सामान्यतः दुर्घटना के परिणामस्वरूप निम्न प्रकार की क्षति या चोट उत्पन्न हो सकती है।

- 1) मृत्यु की दशा में क्षतिपूर्ति की गणना  
(Computation of Compensation in case of death.)
- 2) स्थायी पूर्ण अयोग्यता की दशा में क्षतिपूर्ति की गणना  
(Computation of Compensation in case of permanent total disablement.)
- 3) स्थायी आंशिक अयोग्यता की दशा में क्षतिपूर्ति की गणना  
(Computation of Compensation in case of permanent partial disablement.)
- 4) पूर्ण या आंशिक दार-थायी अयोग्यता की दशा में क्षतिपूर्ति की गणना  
(Computation of Compensation in case of total or permanent temporary disablement.)

● Section - 3 States Employer's Liability  
for compensation

Liability of the Employer shall be subject to following conditions:-

- ① Personal Injury must have been caused to an employee.
- ② Such injury must have been caused by an accident.
- ③ The accident must have arisen out of and in the course of employment.
- ④ The injury must have ~~resulted~~ resulted either in death of the employee in his total or partial disablement for a period exceeding 3 days.

Hem Singh

The Employer shall not be liable to pay Compensation in the following cases :-

① If the injury did not result in total or partial disablement of the employee for a period exceeding 3 days.

② That the Employee was at the time of accident under the influence of drinks or ~~drugs~~ drugs.

③ That the Employee wilfully disobeyed an ~~order~~ order expressly given or framed for the purpose of securing safety of employees.

④ That the Employee having known certain safety guards or safety devices.

# कर्मचारी क्षतिपूर्ति अधिनियम, 1923

## The Employees' Compensation Act 1923

(Old name - ? Workmen's Compensation Act 1923)

पहले इस अधिनियम का नाम 'समजीवी क्षतिपूर्ति अधिनियम' था जिसे 2009 के संशोधन अधिनियम द्वारा परिवर्तित कर वर्तमान नाम 'कर्मचारी क्षतिपूर्ति अधिनियम' रख दिया है। यह नाम 18 जनवरी, 2010 से प्रभावी है। यह अधिनियम सम्पूर्ण भारत में लागू होता है।

\* Name - ? Employee's Compensation Act, 1923

\* Applicability - ? Whole of India

\* Effective - ? 1st July, 1924

Note - ?  
① Workmen's Compensation (Amendment Act 2009)  
(effective from 18-01-2010)

(ii) Employee's Compensation (Amendment)

Act, 2017

[ parliament enacted  
Employee's Compensation  
(Amendment) Act, 2017 ]

Objects

- \* This act provides social security to employees कर्मचारी को सामाजिक सुरक्षा प्रदान करता है।
- \* An employee who dies or suffers from disablement, partial or total जब कर्मचारी आंशिक या पूर्ण अयोग्य हो जाता है कार्य करने के
- \* Due to Accident (यदि कर्मचारी की दुर्घटना हो जाती है)
- \* is Entitled to get Compensation ऐसी स्थिति में सेवायोजक द्वारा कर्मचारी को नियम अनुसार क्षतिपूर्ति प्रदान की जायेगी।
- \* From his Employer

Hem Singh  
MMV, Jodhpur.

# Structure of the Act

This Act contains

36 sections (Divided into 4 parts)

4 schedule

Schedule - 1: (List of Injuries)

part - 1 Total Disablement

part - 2 partial Disablement

Schedule - 2

List of persons who are included in the definition of employees

Schedule - 3

List of occupational Diseases

Schedule - 4

factors for working out lump sum equivalent of compensation amount in case of

Permanent Disablement and Death.

### Applicability of the Act -

Act is applicable to those factories, mines, transport establishments, construction works etc. which are not covered under ESI Act, 1948.

It means -

- \* An employee covered under ESI Act, 1948 (Employee's State Insurance Act) - ESI
- \* Is not entitled to get compensation under Employees Compensation Act, 1923

### Disablement

Disablement means

- \* Loss of capacity to work or to move
- \* It may result in loss or reduction of his earning capacity
- \* It may be permanent or temporary
- \* It may be partial or total

He is not able to earn as much as he used to earn before his disablement.

\* आंशिक अयोग्यता तथा पूर्ण अयोग्यता या निःशक्तता में अन्तर \*

(Difference between the partial and permanent Disablement)

अन्तर का आधार	आंशिक अयोग्यता partial Disablement	पूर्ण अयोग्यता permanent Disablement
1) आय कमाने की क्षमता पर प्रभाव	आंशिक अयोग्यता के कारण कर्मचारी की आय कमाने की क्षमता आंशिक रूप से कम हो जाती है।	पूर्ण अयोग्यता की स्थिति में कर्मचारी की आय कमाने की क्षमता पूर्णतः समाप्त हो जाती है।
2) रोजगार	रोजगार में कार्य करने की क्षमता समाप्त नहीं होती है।	कर्मचारी इस स्थिति में आय कमाने की क्षमता खो देता है। जिसे वह दुर्घटनाओं के समय कर सकता था।



<p>3. क्षतिपूर्ति की राशि</p>	<p>इसमें अयोग्यता के अनुपात में क्षतिपूर्ति की राशि निश्चित की जाती है।</p>	<p>इसमें सभी दरशाओं में क्षतिपूर्ति की राशि समान ही होती है।</p>
<p>4. अनुसूची</p>	<p>आंशिक रचापी अयोग्यता उत्पन्न करने वाली चोट का उल्लेख प्रथम अनुसूची के द्वितीय भाग में किया जाता है।</p>	<p>पूर्ण अयोग्यता उत्पन्न करने वाली चोटों का उल्लेख प्रथम अनुसूची के प्रथम भाग में किया जाता है।</p>

### Partial Disablement - 2 (Sec - 2(j))

Means where the disablement is of a temporary nature, such disablement reduces the earning capacity of an employee in any employment in which he was engaged at the time of the accident resulting in the disablement and where disablement is of a permanent nature such disablement reduces his earning capacity in every employment which he was capable of inducting at that time.

- (A) Temporary partial disablement
- (B) permanent partial disablement

## Total Disablement - 2 (Sec - 2(L))

Means such disablement whether of a temporary or permanent nature as incapacitates a employee for all work which he was capable of performing at time of the accident resulting in such disablement.

provided that permanent total disablement shall be deemed to result from every injury specified in part I of schedule I or from any combination of injuries specified in part - II thereof where the aggregate percentage of the loss of earning capacity as specified in the said part II against those injuries amount to one hundred percent or more.

Definition of Employee (Sec-2)

Employee means a person who is

① ~~Railway~~ Railway servant (रेलवे कर्मचारी)

② Crew of ship (जहाज का कप्तान)

③ Crew of aircraft. (वायुयान का कप्तान)

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⑤ Employees Recruited abroad.

⑥ persons employed in Activities like Manufacturing process, Explosives, Mines, ship loading / unloading, Construction, Electricity Generation & Distribution, Drivers, Horticulture.

Note - 2 Employee does not include any person working in the capacity of a member of the armed forces of the union.  
सशस्त्र सेना का सदस्य को इसमें शामिल नहीं किया जाना है।

# Computation and payment of Compensation (क्षतिपूर्ति की गणना तथा भुगतान)

xxx ————— xxx

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Hem Singh

The Employer shall not be liable to pay Compensation in the following cases :-

1. If the injury did not result in total or partial disablement of the employee for a period exceeding 3 days.

2. That the Employee was at the time of accident under the influence of drinks or ~~do~~ drugs.

3. That the Employee wilfully disobeyed an ~~and~~ order expressly given or framed for the purpose of securing safety of employees.

4. That the Employee having known certain safety guards or safety devices.

# कारखाना अधिनियम (Factory Legislation) Act 1948

\* Came into force on 1st April 1949

\* Objects of the Act.

\* To Secure-

Security  
\* Health, safety & welfare

\* proper working hours

\* Other benefits to workers

\* IT provides that precaution should be taken for

Safety of workers & preventions of Accidents.

## \* Meaning of factory?

(जीरिनार)  
श्रीरिपिक

\* Any premises, including the precincts thereof

\* in any part of which manufacturing process is carried on

\* with or without the aid of power, **SUCCESS** provided 10 or 20 persons are employed on any

day of the preceding 12 months.

Note

— This Act is Applicable to All factories.

— premises is a general term meaning open land or building alone.

Manufacturing process : Sec - 2(k)

(1) Making, Altering & Repairing

(2) pumping water

(3) Generating (बिजली)

(4) Composing

(5) Constructing

(6) preserving (स्टोर करते रखना) (Cold storage)

(7) washing

(8) Book binding

Not factory

does not include

(1) Mine

(2) mobile unit

(3) railway running shed

(4) hotel

(5) Restaurant

(6) eating place.

(7) armed forces



# Occupier of factory

A person who has ultimate control over affairs of factory

IT includes :

\* partner in case of a firm

\* Director or in case of a company

\* Notes -

(1) The occupier shall ensure as far as possible health, safety & welfare of workers while they are working in a factory.

(2) The name of the occupier of the factory is required to be informed to the chief inspector of factories

(3) The occupier will be held responsible if the provisions of the factories Act, 1948 not complied with

Hem Singh  
MNV, Jodhpur

## Duties of the occupier -

① Every occupier shall ensure, as far as is reasonably practicable the Health Safety & welfare of all workers while they are working in the factory.

② Maintenance of plant & system of work in the factory that are safe & without risks to health.

③ Ensuring safety for workers while handling, storage & transportation of articles.

④ Duty of the occupier to provide information, instruction, training & supervision to the workers.

⑤ Maintenance of all place of work.

Hem Singh  
MMV, Jodhpur

## Facilities and Conveniences-

### Health

क. व. - 31-11

1. factory should be kept clean.
2. there should be arrangement to dispose off wastes & effluents.
3. Ventilation should be adequate.
4. Reasonable temperature for employees.
5. Dust & fumes should be controlled.
6. over crowding should be avoided.
7. Adequate lighting, drinking water, toilets should be provided.

### Working Hours -

1. A worker can't be employed for more than 48 hours in a week.
2. weekly holiday is compulsory.
3. A worker can't be employed for more than 9 hours in a day.
4. At least ~~1/2~~ Half-Hour rest should be provided after every 5 hours.

SUCCESS

## overtime wages - \*

① if a worker works beyond 9 hours a day or 48 hours a week, overtime wages are paid at double the rate of normal wages. ✓

② Total working hours including overtime should not exceed 60 hours in a week.

आरस

## Employment of women - ?

\* A woman worker can't be employed beyond 6 am to 7 pm.

सुबने ले रात

\* In any case a woman can't be permitted to work during 10 pm to 5 am.

\* Adult Sec - 2(A) means a person who has completed his/her 18 years of age.

## \* Display ON Notice Board - \*

\* A Notice Containing an Abstract of the factories Act 1948 & the Rules made there under

the name and Address of Inspector of factories & Certifying surgeons.

\* ~~particular~~ particulars of Notice shall be in English and Local Language.

\* powers of Inspectors-? State Gov. power through state

\* He can enter any place which is used or which He had Reason to believe is used As factory.

\* He can make Examination of the premises, plant and machinery etc.

\* He can Require the production of any prescribed Register or any other documents relating to the factory.

XI take Measurement & photograph and make such Recording as He considers necessary for the purpose of any Examination.

# Provisions Regarding Health, ~~etc~~

DI. \_\_\_\_\_ B+(9)  
Welfare and Security:

## ① Working hours - ?

According to the provision of working hours of adults, no adult worker shall be required or allowed to work in a factory for more than 48 hours in a week. There should be a weekly holiday.

## ② Health - ? (Sec 11 to 20)

① For protecting the health of workers, the act lays down that every factory shall be kept clean and all necessary precautions shall be taken in this regard. ② The factory should have proper draining system, adequate lighting, ventilation, temperature etc.

③ Adequate arrangements for drinking water should made.

\* working space.

\* Adequate ventilation.

\* purified water

\* Adequate ventilation and cooling of the Air in the work

\* Sufficient And Suitable Lighting

**SUCCESS**

## Safety (Security)

① In order to provide safety to the workers, the act provides that the machinery should be fenced. ② No young person shall work at any dangerous machine in confined spaces, there should be provision for manholes of adequate size so that in case of emergency the workers can escape.

8

④

## Welfare

For the welfare of the workers the act provides that in every factory adequate and suitable facilities for washing should be provided and maintained for the use of workers.

facilities for storing and drying clothing, first aid, facilities for sitting, shelters, rest rooms, and lunch rooms, creches should be there.

SUCCESS



## Health (sec 11 to sec 20)

- ① yield of cleanliness (sec 11)  
ईश्वर (सफाई)
- ② Disposal of wastes and effluents  
डिस्पोसल अपशिष्ट एवं गन्दे पदार्थों को (sec 12)  
धारा की व्यवस्था
- ③ ventilation and temperature  
हवादान तथा तापमान की व्यवस्था Sec 13
- ④ Dust and fume (sec 14)  
धूल और धुआँ
- ⑤ Artificial humidification (sec 15)  
कृत्रिम नमी या आर्द्रता देना रखवाने की को हो
- ⑥ overcrowding (sec 16)  
अत्यधिक भीड़
- ⑦ Lighting (sec 17) - प्रकाश की व्यवस्था
- ⑧ Drinking water (sec 18) पेयजल
- ⑨ exercisable latrines and urinals  
तोरीत शौचालय एवं मूत्रालय
- ⑩ spitton (sec 20) पीछदान  
धुंकना Spitter

Hem Singh

MMU, Jodhpur

# Provisions Relating to "safety" of workers:

Dt. \_\_\_\_\_

Pg. (Sec 21)

12  
B+  
Bosey

## Safety (Sec 21 - Sec 41) → 20

10

Fencing of Machinery (Sec 21)

यंत्रों की घेराव-दी  
फेन्सिंग मशीन सुरक्षित भाग रक्षना

2

Examination of any part of Machine while in motion (Sec 22)

प्रशिक्षित व्यक्ति ही मशीन पर प्रशिक्षित नर्सवरी के मशीन चेंक करे। चलते हुए यंत्र के पास चेंक करे

3

Employment of young persons in dangerous machine (Sec 23)

पूरा प्रशिक्षित करने खतरनाक मशीन पर नये/भुजा लड़कों से काम का दबाव देना ही करनाया जायेगा। (प्रशिक्षित करने के बाद)

4

Suitable device for cutting off power (Sec 24)

चालू मशीन को बन्द करने के प्रशिक्षित यंत्र के

5

No traversing part of self-acting machines (Sec 25)

मशीनों में दूरी हो चाहिए जो स्व चालित हो

6

Casing of new machinery (Sec 26)

नये यंत्रों को सुरक्षित मशीन आते चालू व नही करना ही प्रोहिबिशन जब तक घरी जांच नही कर लीजाय

7

Prohibition of employment of women and children (Sec 27)

महिला बच्चों को मशीन के दूरी

8

Hoist and lift (Sec 28)

होइसर

लिफ्ट

होइसर या लिफ्ट

माल उतारना/उठाना

9

Effective lifting of machines chains Ropes (Sec 29)

लिफ्ट

SUCCESS

(मजबूत बंधन हो)

## Welfare (Sec 42 to Sec 50)

- ① Adequate washing facilities (Sec 42)  
नहाने - धोने की सुविधा
- ② facilities for storing and drying clothing (Sec 43)  
कपड़ों को रखने की व सुखाने की सुविधा
- ③ sitting facilities (Sec 44)  
बैठने की सुविधा
- ④ provisions for first aid appliances (Sec 45)  
प्राथमिकता उपकरण की सुविधा
- ⑤ Canteen facilities (Sec 46)  
जलपान सह
- ⑥ Arrangement for Rest Room, Lunch Room & Shelter (Sec 47)  
विश्राम सह, आराम कक्ष तथा ओपन कक्ष
- ⑦ Creches (Sec 48)  
शिशु सह
- ⑧ Requirement of welfare officers (Sec 49)  
ग्राम कल्याण अधिकारी
- ⑨ power to make rules (Sec 50)  
नियम बनाने का अधिकार

Hem Singh  
MMU, Jodhpur

9887315233

DI. \_\_\_\_\_ B+ (17)  
(दूर होने वाले यंत्र की सख्खिप्राम गति का निष्परीण)  
(Revolving Machinery)

(10) For process of Grinding (Sec 80)  
ग्रेडिंग Speed  $\frac{1}{10}$

(11) Safe working pressure (Sec 81)  
वायुमण्डल से अधिक दबाव देना या  
के रोकना

(12) Sound Construction of Fibrous  
Stairs, steps, passages (Sec 82)  
कर्मचारियों के आने-जाने वाली जगह सुरक्षित  
होनी

(13) Secured Covered and fenced of  
fixed vessel, pit, pump, tank etc  
पानी जमा गड़ा हो रखा है।  
नहीं - बना हुआ हो। (Sec 83)

(14) Excessive weight (Sec 84) (अत्यधिक वजन)  
लिफ्ट में माल वजन का ध्यान रखना है।

(15) Effective screen or suitable  
(आँखों की रक्षा) goggles for protecting eyes  
खिल्ल / शीशे / शीशे  
आँखों को नुकसान की सम्भावना हो गोगलस  
(Sec 85)

(16) Appropriate protection against  
dangerous fumes, gases (Sec 86)  
धुआँ, गैस

(17) Good measures for preventing from  
explosion (Sec 87)

18) precaution in case of fire (sec 38)  
भाग बुझाने के उपकरण लाने चाहिए।

19) power to determine defective parts (sec 39 & sec 40)  
defective parts की safety सेफ्टी नम्बर से जांच

20) power to make rules (sec 41)  
अगर राज्य सरकार को लगता है तो नया कानून Rule बनाना चाहिए।

Hem Singh

MMV, Jodhpur

Industrial Disputes Act 1947

( औद्योगिक विवाद अधिनियम, 1947 )

provisions regarding strikes Lockouts  
हड़ताल लालबांदी

Retrenchment and layoff.  
छवनी

देश में औद्योगिक शान्ति स्थापित करने  
प्रमिकाँ एवं सेवायोजकों के बीच मध्यस्थ सम्बन्धों  
की स्थापना करने तथा औद्योगिक विवादों  
को निपटाने की व्यवस्था करने के उद्देश्य से  
देश में एक उपयुक्त अधिनियम की आवश्यकता  
अनुभव की गई।

इस हेतु तत्कालीन सरकार ने 1947 में एक  
औद्योगिक विवाद अधिनियम बनाया तथा  
1 अप्रैल, 1947 से लागू कर दिया।

Disputes may Arise Between	Applicability of this Act.
① Employer & Employee.	① Whole of India
② Employer & Employer.	② All Industries Including Central & State govt.
③ Employee & Employee.	

SUCCESS

अधिनियम के उद्देश्य / महत्व

(Objectives / Importance of the Act.)

औद्योगिक विवाद अधिनियम का प्रमुख उद्देश्य सेवाशोधकों तथा कर्मचारियों के बीच सौहार्दपूर्ण सम्बन्धों का स्थापना करना तथा देश में औद्योगिक शान्ति बनाये रखना है।

1) औद्योगिक विवादों के निपटारे के लिए प्रभावकारी व्यवस्था उपलब्ध कराना।

2) हड़तालों तथा तालाबन्दियों को प्रतिबन्धित करना तथा उन पर निषेध लगाना।

3) छूटनी किये गये कर्मचारियों की क्षतिपूर्ति दिलाना।

4) "ले - ऑफ" या कामबंदी सम्बन्धी कुछ नियमों की व्यवस्था करना।

Reasons for disputes

1) Related to wages. (Time, Amt.)

2) Related to working (Hours) Conditions

3) Compensation -? lay off Retrenchment-  
काम नवी हा छूटनी **SUCCESS**

## Objectives

- ① promotion of measures for securing and preserving amity and good relation between the employers and workers
- ② Investigation and Settlement of Industrial disputes.
- ③ prevention of illegal strikes and lock outs.
- ④ Relief to workmen in the matter of lay off and retrenchment etc.
- ⑤ promotion of collective bargaining

## Result

- ① Relations between Emp



## Causes of Industrial Disputes

(औद्योगिक संघर्ष के कारण)

① आर्थिक कारण

(Economic Causes)

Demand for more wages  
(अधिक मजदूरी की मांग)

Demand for bonus  
(बोनस की मांग)

Working Conditions  
(काम करने की दशाएँ)

Recruitment System  
(भर्ती प्रणाली)

Demand for facilities  
(सुविधाओं की मांग)

Working hours  
(काम के घंटे)

(ii) प्रबंधकीय कारण  
(Managerial Causes)

- सहानुभूति हड़ताल (Sympathy Strikes)
- Illiteracy of workers (श्रमिकों की अशिक्षा)
- Rationalisation (विवेकीकरण)
- Misbehaviour of Managers (प्रबंधकों की दुर्व्यवहार)
- Lack of Collective bargaining (सामूहिक सौदेबाजी का अभाव)
- Inefficient and defective leadership (अयोग्य एवं दोषपूर्ण नेतृत्व)

राजनीतिक कारण  
(Political Causes)

- (1) Anti-Government Strikes (सरकार विरोधी हड़तालें)
- (2) Arrest of leaders (नेताओं की गिरफ्तारी) (क) In protest of government policy.
- (3) Political influence (राजनीतियों का प्रभाव)

## औद्योगिक संघर्षों के परिणाम (Effects of industrial disputes.)

### औद्योगिक संघर्षों के हानिकारक परिणाम (Harmful effects of industrial.)

#### ① उत्पादकों के लिए हानि (Disadvantages to producers.)

हड़ताल व तालाबंदीके

\* Reduction in production - उत्पादन कार्य में रुकावट  
(उत्पादन घटना)

\* More expenditure - उत्पादन कार्य बंद  
(अधिक व्यय)

\* Hatred between labour and Capital  
(श्रम और पूंजी की बीच घृणा) -

सेवायोजक प्रमियों को घृणा की दृष्टि से देवता है।

#### ② श्रमिकों के लिए हानियाँ

#### (Disadvantage for labourers.)

\* आय में कमी (Loss in Income) - मजदूरियां कम वेतन नहीं मिलना

हड़तालों की असफलता से हानियाँ  
(Losses due to failure of strikers.)

एकता के अभाव में मिन मालिक भी मनमानी करते हैं। वे प्रमियों की SUCCESS छिनी करने में सफल हो जाते हैं।

(3) **Disadvantage to Society and Nation**  
(समाज व राष्ट्र के लिए हानि)

इत्पादनों की कमी - राष्ट्रीय आय एवं प्रतिव्यक्ति आय दोनों कम गिरती हैं।  
(Reduction in production)

Problem to government  
सरकार के लिए समस्या - करों की धनि

Social unrest  
(सामाजिक अव्यवस्था) - कानून व व्यवस्था बनाये रखने के लिए इतना काम करना पड़ता है।

सामाजिक वातावरण हूँ दूषित हो जाता है।

Inconvenience to general public  
(जनसाधारण को अशुविधा) - वस्तुओं की कीमतें कम होने लगती हैं।

(2) औद्योगिक संघर्षों के लाभदायक परिणाम

(Beneficial effects of industrial Disputes)

(1) Unity and Co-operation of workers  
श्रमिकों में पारस्परिक एकता व सहयोग की भावना बढ़ती है।

(2) Protection of economic interest  
(आर्थिक हितों की रक्षा) - करने की प्रवृत्ति बढ़ती है।

(3) Improvement in working conditions  
(कार्य करने की दशाओं में सुधार) - आवश्यक मांगों को ध्यान में रखकर सुनिश्चित करना।  
सुखानता व रत्न-वदन का स्तर बढ़ाने।

(4) Reduction in working hours  
(कार्य करने के घंटों में कमी.)

दुर्घटनों में घट्टि अवकाश की उचित व्यवस्था होने लगती है।

(5) प्रबंधकों के लिए चुनौती  
(Challenge for management)

प्रबंधकों के दुरु्यवहार से मुक्ति मिल जाती है।  
प्रमियों का अनावश्यक क्षोषण नहीं करते हैं।

\* औद्योगिक विवाद को परिभाषित कीजिए <sup>2019/2018</sup>  
Define Industrial Dispute..

\* प्रम संघ किसे कहते हैं ?  
What is a trade union?

\* 'जनोपयोगी सेवा' से आप क्या समझते हैं ? <sup>2018, 17</sup>  
What do you mean by public utility service?

\* छंटनी (Retrenchment)

\* स्थायी आदेश से आप क्या समझते हैं ?  
What do you mean by standing order?

\* कार्य समितियाँ क्या होती हैं ?  
What are work committees? **SUCCESS**

- ① Write differences in Arbitration & Conciliation - 2016-7  
 पंच निर्णय और समझौते में अन्तर 2016
- ② भारत में औद्योगिक विवादों को निपटाने के लिए उपकरणों का विवेचन कीजिए 2016
- ③ भारत में औद्योगिक विवादों के कारणों को स्पष्ट कीजिए (2018) 2019  
 Explain the Causes of Industrial disputes in India  
 इसके कम करने के सुझाव दीजिए।  
 Make suggestions for the minimisation
- ④ भारत में औद्योगिक विवादों को निपटाने के उपकरणों का विवेचन कीजिए।  
 Explain the machinery for the settlement of Industrial disputes in India.
- ⑤ हड़ताल तथा तालाबन्दी का अर्थ बताइये। उन परिस्थितियों का वर्णन कीजिए जिनमें हड़ताल एवं तालाबन्दीयों पर निषेध होता है।  
 Give the meaning of strike and lockout state the circumstances in which strikes and lockouts are prohibited.

① औद्योगिक विवाद अधिनियम, 1947 समझाइए।  
Explain the Industrial Disputes Act 1947  
(2019)

② औद्योगिक विवादों का निपटारा करने के लिए औद्योगिक विवाद अधिनियम 1947 में की गई तंत्र-ब्यवस्था का स्पष्टतः समझाइए।  
Explain the machinery that has been provided in the Industrial Disputes Act 1947 for the settlement of industrial disputes.  
(2018)

③ हड़ताल और तालाबन्दी में अन्तर बताइए। औद्योगिक विवाद अधिनियम के अन्तर्गत हड़ताल और तालाबन्दियों पर क्या प्रतिबन्ध लगाये गये हैं?

Distinguish between strike and Lock-outs. What restrictions have been imposed on strikes and lock-outs under the Industrial Disputes Act

# औद्योगिक संघर्ष की रोकथाम एवं निपटारा prevention and settlement of Industrial disputes.

- ① कार्य समितियाँ (works committees)
- ② सुहृद श्रम संघ (sound trade unions)
- ③ लाभ अंशभागिता (profit sharing)  
सेवायोजकों द्वारा अपने लाभों में से कुछ हिस्सा श्रमिकों को प्रदान करना लाभ अंशभागिता कहलाता है।
- ④ सहभागिता (co-partnership)  
किसी औद्योगिक संस्था में श्रमिकों के हिस्सेदार बन जाने से है।
- ⑤ श्रम कल्याण अधिकारी (Labour welfare officer)  
प्रत्येक ऐसे कारखाने में जहाँ साधारणतया 500 या इससे अधिक श्रमिक नियुक्त हो श्रम कल्याण अधिकारी नियुक्त किया जाता है।
- ⑥ औद्योगिक शांति प्रस्ताव (Industrial Peace Resolution)  
निपटारा + श्रमिक + सरकार मिलकर प्रस्ताव पारित करते हैं।
- ⑦ त्रिपक्षीय श्रम व्यवस्था (Tripartite Labour Machinery)  
जिसके अन्तर्गत सरकार सेवायोजकों व श्रमिकों के प्रतिनिधियों को सम्मिलित करते हैं। इस एक संस्था का निर्माण किया जाता है।



जिसका इद्देश्य औद्योगिक शांति बनाये रखना एवं विवादों को रोकना है। (12)

(8) मजदूरी मंडल (Wage Board.)

(9) स्थायी आदेश (Standing orders.)

(10) सामूहिक सौदेबाजी (Collective Bargaining.)

(11) परिवेदना निवारण पद्धति (Grievance Handling procedure.)

(12) अनुशासन संहिता (Code of Discipline.)

(13) सुझाव पद्धति (Suggestion Scheme.)

Strike is a cessation or stoppage of work  
Sec 2(e) ⇒

⇒ Cessation of work a body of persons employed in any industry acting in combination.

⇒ Strike means the stoppage of work by a body of workman bring pressure upon the employer.

SUCCESS

a demand concerning in work conditions B+ (13)

## Distinction between strike and lock out

Strike	Lock-out
<p>① Strike is held by workmen हड़ताल कर्मकारों द्वारा की जाती है।</p>	<p>lock out is carried by employer. जबकि तालाब-दी नियोजकों द्वारा की जाती है।</p>
<p>② Strike is easy weapon in the hands of workman to enforce their demands हड़ताल अपनी मांगे मनवाने का कर्मकारों का सुलभ अस्त्र है, जबकि तालाब-दी</p>	<p>lock out is a weapon in the hands of employer to <u>coerce</u> the workmen to come down or leave their demands. तालाब-दी कर्मकारी को अपनी मांगे छोड़ देने या कम कर देने के लिए विवश करने का नियोजकों का एक अस्त्र है।</p>
<p>③ There are several ways to strike like general strike, symbolic strike, pens-down or tools-down strike,</p>	<p>there are no different ways of lock-out.</p>

Hom Singh  
MMV, Jodhpur  
9887315235 SUCCESS

Strike is a temporary cessation of work by a group of employees in order to express their grievance or to enforce

A refusal under a common understanding of any no of persons have been employed in any industry.

Cessation of work even for half an hour amount to a strike.

### Kinds of Strike Types

- ① Go slow strikes (धीमे काम करो)  
Go slow does not amount to हड़ताल strike but it is serious case of misconduct.
- ② Sympathetic strikes (तबानुभूति हड़ताल)  
एक पार्टी को काम में रोकना
- ③ Work according to rule (निपमानुसार हड़ताल)
- ④ Hunger strikes (भूख हड़ताल)
- ⑤ Gherao (घेराव)
- ⑥ Economic strike -
- ⑦ Token strikes (नाकेतिक हड़ताल)
- ⑧ Stay in, sit-down, pen down or ~~down~~ **success** down strike.

# Essential of Strike

- ① Cessation of work.
- ② Stoppage must be within Common intentions.

①  
Unit  
अ-3  
क(ग)

Lock outs - ? It is declared by the employers to put pressure on their workers. It is an act on the part of employers to close down the place of work until the

Lay off है।

क  
अ-3  
क(ग)  
Job  
विभाजन

Retrenchment - ? निवास

Benefit

## Lock-out Sec 2(I)

It is a weapon in the hands of employer which shuts down his place of business or pressure upon the employees.

### Essential

- \* Refusal of (employer) or to continued
- \* suspension of work.
- \* closure of place of employment.
- \* the temporary closing of a place of employment or the supervision of work.
- \* It not permanent closure but only temporary cessation of work.

# Strike

1.

strike is "a temporary cessation of work by a group of employees in order to express their grievance or to enforce a demand concerning changes in work conditions."

Strike means the stoppage of work by a body of workman being ~~a~~ pressure upon the employer.

## Types

2.

Lock-outs:- It is declared by the employers to put pressure on their workers. It is an act on the part of employers to close down the place of work until the workers agree to ~~resume~~ resume work on the terms and conditions specified by the employers.

It is a weapon in the hands of employer. He shuts down his place of business or pressure upon the employees.

\* Refusal of er to continued.

\* suspension of work. <sup>Dr.</sup>          <sup>Pt.</sup>          Bt (18)

\* closure of place of employment

3. Lay-off - ? Lay off means failure

refusal or inability of an employer,  
shortage of power or raw material,  
or accumulation of the stocks  
or the breakdown of the  
Machinery or for any other  
reason not to give employment  
to a workman. (iv) Economic crisis

Reasons (i) more than required labourer  
or employees are employed.

(2) closure of any part or Department of  
Industrial institution (iii) Lack of raw material  
(iv) Defect in machinery (v) Natural calamity

4. Retrenchment - ? It means the  
termination of the service of a  
workman for any reasons by  
the employer. It does not  
include the voluntary retirement  
of the workman.

Hem Singh

MMV, Jodhpur

9087315293

strikes

Vs

Lock-out

\* By workman

By employer

\* Refusal to work or accept employment

Temporary closure

\* Under common understanding or acting in concert

employ the person employed.

\* A refusal under a common understanding of such persons.

An intention to re-employ if workers accept demands.



# Strike

(1) Strike requires an Industry and industry requires employees and workman.

हड़ताल में किसी उद्योग का होना आवश्यक है और उद्योग में लिए नियोजक एवं कर्मचारी होना अपेक्षित है।

(2) Workmen employed in an industry has collectively Ceased to work.

उद्योग में नियोजित कर्मचारी द्वारा सामूहिक रूप से काम करना बन्द कर दिया जाता है।

(3) A group of workmen has refused to continue to work or to accept employment

कर्मचारी के एक समूह द्वारा नियोजन शर्तों को अर्थात् काम करने से इन्कार कर दिया जाता है।

(4) The intention to refuse to do work or to cease to work is to enforce their demands from the employer.

काम को बन्द करने का भासाप नियोजक से अपनी मांगों का मवाना होगा।

## Lockout

(1) Employer temporarily closes the place of employment or refuses to keep to labour in employment or employer suspends the work.

इसमें नियोजको द्वारा नियोजन स्थल को अस्थायी रूप से बन्द कर दिया जाता है।

(2) The object of closing the place of employment, refusal to keep workman or suspension of work is to create pressure upon workmen to come down on their demands.

(3) Lock out is carried out in the industry defined by the Act.

(4) The situations of lock out arise in consequence of an industrial dispute.

SUCCESS

\*

Payment wage Act - 19436 (1936)

\*

कारखानों में कुछ विशेष वर्ग के व्यक्तियों को मिलने वाली मजदूरी का नियमन करने के उद्देश्य से भारत में मजदूरी भंगुतान अधिनियम बनाया गया। स्व.रात्रता से पूर्व सन 1936 में यह अधिनियम बनाया गया था, जिसमें सन 1937 (दो बार)

1940, 1948, 1950, 1957, 1964, 1970,

1976, 1977, 1982 तथा 2005 में संशोधन किया गया है। इस अधिनियम के दूल् उद्देश्य निम्नानुसार हैं।-

- (I) उद्योगों में नियुक्त कुछ वर्ग के लोगों को मजदूरी के भंगुतान का नियमन करना।-
- (II) उनकी मजदूरी के भंगुतान के समय दायित्व को निर्धारित करना।
- (III) उनकी मजदूरी के भंगुतान के समय एवं माध्यम को निर्धारित करना।
- (IV) उनकी मजदूरी में से अनुचित कटौतियों को **SUCCESS** रोकथाम करना।

(V) मजदूरी भुगतान सम्बन्धी प्रावधानों का पालन न करने पर उत्तरदायी व्यक्तियों को दण्ड करना।

\* अधिनियम का विस्तार एवं लागू करना \*

Extent Application of the Act

\* सम्पूर्ण देश में लागू

\* 28 मार्च, 1937 से प्रभावी हुआ था।

\* वे व्यक्ति, जिन पर यह अधिनियम लागू होता है।

① किसी कारखाने में नियुक्त व्यक्तियों की मजदूरी के भुगतान पर।

② रेलवे प्रशासन द्वारा किसी रेलवे में नियुक्त व्यक्तियों पर।

(iii) रेलवे प्रशासन के साथ हुए किसी ठेके के अनुबन्ध को पूरा करने के लिए किसी ठेकेदार पर

(iv) किसी भी ऐसे औद्योगिक या अन्य संस्थान में नियुक्ति व्यक्तियों की मजदूरी के भुगतान पर जिसे धारा (2) के उपखण्ड (घ) से (ह) तक के संस्थान पर -

a (i) परिवहन सेवा संस्थान

b (ii) हवाई परिवहन सेवा संस्थान

c (iii) डॉक

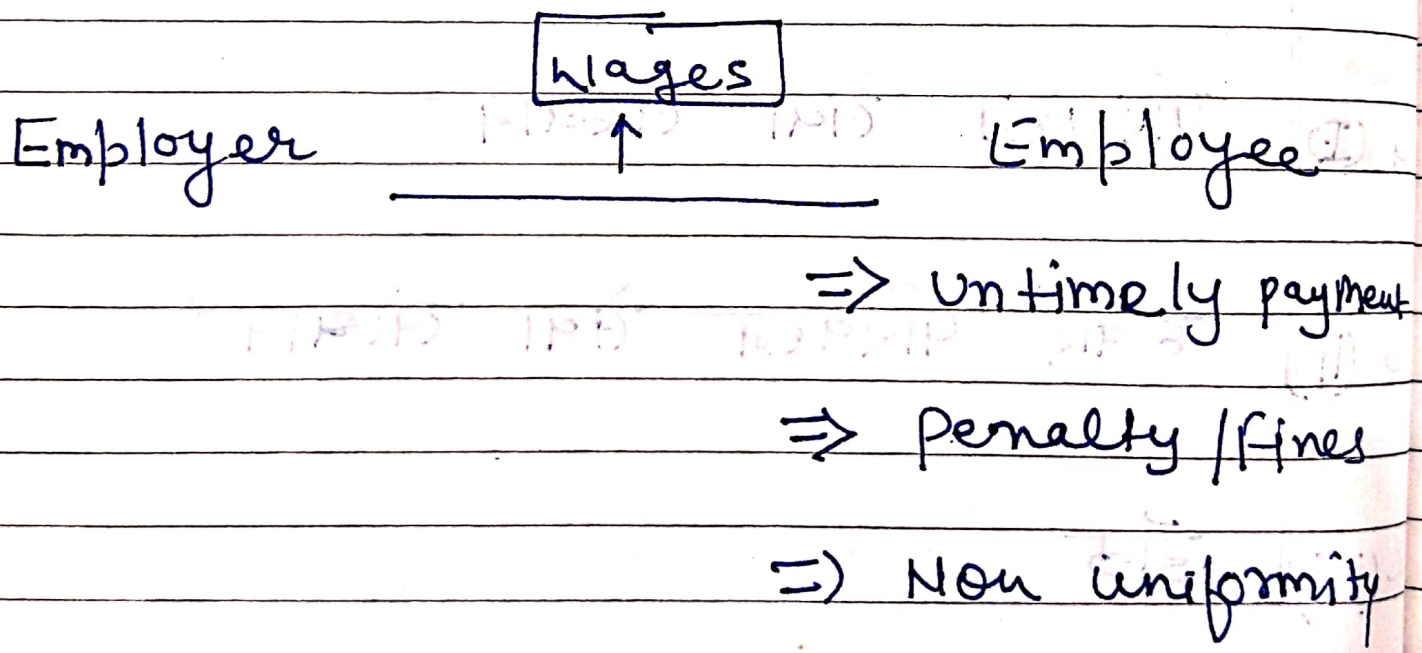
d (iv) यन्त्रचालित जलापान

(e) खान, खदान, तेल क्षेत्र

(f) बागान

(g) कोई भी संस्थान जिसमें वस्तुओं को उनके उपयोग, परिवहन या विक्रय के उद्देश्य से उत्पादित या विनिर्मित किया जाता है -

(h) कोई भी संस्थान जिसमें भवनों, पुलों या नहरों के निर्माण, विकास, पुर्नोत्थान, सिंचाई, जल आपूर्ति संबंधी अथवा विद्युत या किसी अन्य प्रकार की शक्ति के उत्पादन परिषद और वितरण संबंधी कोई कार्य किया जाता है। -



# SEMESTER- IV

Bus. Adm. - Labour and Industrial Laws Pg. B+

## Factories Act 1948

कारखाना शब्द से आप क्या समझते हैं?  
इसकी प्रमुख विशेषताओं का वर्णन कीजिए

What do you mean by term 'factory'?  
Describe its main characteristics.

भारतीय कारखाना अधिनियम, 1948 में श्रमिकों के कल्याण सम्बन्धी प्रावधानों को बताइये।  
Explain the provisions of the Indian Factories Act 1948 regarding to welfare of workers.

कारखाना अधिनियम में श्रमिकों के स्वास्थ्य सम्बन्धी प्रावधानों को बताइये।

1948 के कारखाना अधिनियम की धारा 6 के द्वारा कारखाना के पूंजीकरण या लायसेंस के सन्दर्भ में उपलब्ध प्रस्ताव क्रिये गये हैं। एवं राज्य सरकारों को अधिकृत किया गया है कि वे इस सम्बन्ध में नियम इत्यादि बना सकते हैं।

Hem Singh  
MMV, Jodhpur  
9887315299  
SUCCESS

कारखाना अधिनियम 1948 का विशेषताये  
(Main features of factories Act 1948)

10 क्षेत्र विस्तार - १

इस अधिनियम में कारखाने की परिभाषा विस्तृत सन्दर्भ धारण किये हुए है। शक्ति की सहायता से 10 अथवा बिना शक्ति की सहायता से 20 अथवा अधिक श्रमिकों वाले समस्त संस्थाओं पर इस अधिनियम को प्रभावी बनाया गया है।

2 अनुमति एवं पंजीकरण - १

अधिनियम में राज्य सरकारों पर यह दायित्व अधिरोपित किया गया है कि स्वच्छता, स्वास्थ्य तथा सुरक्षा के दृष्टिकोण को ध्यान में रखते हुए कारखानों की स्वीकृति तथा लाइसेंस प्रदान करे।

3 स्वास्थ्य सुरक्षा तथा प्रम - कल्याण - १  
अधिनियम में श्रमिकों के स्वास्थ्य की सुरक्षा के विस्तृत प्रावधान किये गये हैं, जैसे -  
हवादान, तापमान, प्रकाश तथा पेय जल की आराम करने, शिशुगृह, जलापान - गृह आदि।



4. कार्य के द्योत एवं अधिसमय कार्य  
(Overtime work)

अधिनियम में वयस्क प्रमियों के लिए साप्ताहिक एवं दैनिक काम के द्योत निश्चित किये गये हैं। जो क्रमशः 48 एवं 8 रखे गये हैं। अधिसमय के लिए अतिरिक्त पारिश्रमिक देने सम्बन्धी उपलब्ध भी किये गये हैं।

5. बालकों का नियोजन - :

1934 के कारखाना अधिनियम में बालकों के नियोजन की आयु 12 वर्ष निश्चित की गई थी। 1948 के कारखाना अधिनियम द्वारा यह आयु 14 वर्ष निश्चित की गई है।

6. मजदूरी सहित वार्षिक अवकाश  
(Annual leave with wages) - :

अधिनियम में साप्ताहिक अवकाश सम्बन्धी विस्तृत उपबन्ध किये गये हैं। जिस कार्यचारी ने किसी कैलेंडर वर्ष के दौरान किसी कारखाने में 240 दिन अथवा इससे अधिक दिनों की समयवधि के लिए काम किया है, उसे प्रत्येक से 30 दिनों के लिए एक दिन के हिसाब से सेवेतन अवकाश प्रदान किया जाएगा।

7. दोट सम्बन्धी उपलब्ध - : कारखाना अधिनियम 1948 के विभिन्न उपलब्धों को क्रियान्वित करने के लिए तथा इस अधिक प्रभावी बनाने के लिए दोट प्र विधान किया गया है।

# Factories Act, 1948

## LESSON OUTLINE

- Learning objectives
- Object and scope of the Act
- Competent Person
- Prime mover
- Transmission Machinery
- Hazardous Process
- Factory
- Manufacturing Process
- What is not manufacturing process
- Statutory agencies and their powers
- Approval licensing and registration of factories
- Power of inspector
- Notice by Occupier
- General duties of the occupier and manufacturers
- Health, measures
- Safety measures
- Welfare measures
- Special Provisions relating to Hazardous Processes
- Working hours of adults
- Annual Leave with wages
- Employment of women in a Factory
- Employment of young persons and children
- Penalties and Procedures
- Compliances under the Act

## LEARNING OBJECTIVES

There are several legislations which regulate the conditions of employment, work environment and other welfare requirements of certain specific industries. The Factories Act, 1948 enacted to regulate the working conditions in factories.

In the case of *Ravi Shankar Sharma v. State of Rajasthan*, AIR 1993 Raj 117, Court held that Factories Act is a social legislation and it provides for the health, safety, welfare and other aspects of the workers in the factories. In short, the Act is meant to provide protection to the workers from being exploited by the greedy business establishments and it also provides for the improvement of working conditions within the factory premises. An adequate machinery of instructions and strict observance of the directions are provided in the Act. Hence, a beneficial construction should be given and the provisions of the Act should be so construed/interpreted so as to achieve its object i.e. the welfare of the workers and their protection from exploitation and unhygienic working conditions in the factory premises.

The Factories Act has been enacted primarily with the object of protecting workers employed in factories against industrial and occupational hazards. For that purpose, it seeks to impose upon the owner or the occupier certain obligations to protect the workers and to secure for them employment in conditions conducive to their health and safety.

The objective of the study lesson is to familiarize the students with the legal requirements stipulated under the Act.

**Factories Act, 1948 is an Act to consolidate and amend the law regulating labour in factories.**

## OBJECT AND SCOPE OF THE ACT

The main object of the Factories Act, 1948 is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. The Act also makes provisions regarding employment of women and young persons (including children and adolescents), annual leave with wages etc.

The Act extends to whole of India including Jammu & Kashmir and covers all manufacturing processes and establishments falling within the definition of 'factory' as defined under Section 2(m) of the Act. Unless otherwise provided it is also applicable to factories belonging to Central/State Governments. (Section 116)

## IMPORTANT DEFINITIONS

### Adult

"Adult" means a person who has completed his eighteenth year of age. [Section 2(a)]

### Adolescent

"Adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year. [Section 2(b)]

### Calendar Year

"Calendar Year" means the period of twelve months beginning with the first day of January in any year. [Section 2(bb)]

### Child

"Child" means a person who has not completed his fifteenth year of age. [Section 2(c)]

### Competent Person

"Competent Person" in relation to any provision of this Act, means a person or an institution recognised as such by the Chief Inspector for the purposes of carrying out tests, examinations and inspections required to be done in a factory under the provisions of this Act having regard to

- (i) the qualifications and experience of the person and facilities available at his disposal; or
- (ii) the qualifications and experience of the persons employed in such institution and facilities available therein.

With regard to the conduct of such tests, examinations and inspections and more than one person or institution can be recognised as a competent person in relation to a factory. [Section 2(ca)]

## Test your knowledge

State whether the following statement is "True" or "False"

As per the Factories Act, 1948, "Adolescent" means a person who has completed his 15th year of age but has not completed his 21st year.

- True
- False

Correct answer: False



## **Hazardous Process**

"Hazardous Process" means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, by-products, wastes or effluents thereof would

- (i) cause material impairment to the health of the persons engaged in or connected therewith, or
- (ii) result in the pollution of the general environment;

Provided that the State Government may, by notification in the Official Gazette amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule. [Section 2(cb)]

## **Young Person**

"Young Person" means a person who is either a child or an adolescent. [Section 2(d)]

## **Day**

"Day" means under Section 2(e), a period of twenty-four hours beginning at mid-night. [Section 2(e)]

## **Week**

"Week" means a period of seven days beginning at mid-night on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories. [Section 2(f)]

## **Power**

"Power" means electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency. [Section 2(g)]

## **Prime Mover**

"Prime" Mover means any engine, motor or other appliance which generates or otherwise provides power. [Section 2(h)]

## **Transmission Machinery**

"Transmission" Machinery means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime-mover is transmitted to or received by any machinery or appliance. [Section 2(i)]

## **Machinery**

The term includes prime-movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied. [Section 2(j)]

## **Factory**

"Factory" includes any premises including the precincts thereof

- (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on; or
- (ii) whereon twenty or more workers are working, or were working on a day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on.

# Minimum Wages Act, 1948

## LESSON OUTLINE

- Learning Objectives
- Object and Scope
- Important Definitions
- Fixation of minimum rates of wages
- Revision of minimum wages
- Manner of fixation/revision of minimum wages
- Minimum rate of wages
- Procedure for fixing and revising minimum wages
- Advisory Board
- Central Advisory Board
- Minimum Wages – Whether to be paid in cash or kind
- Payment of minimum wages is obligatory on employer
- Fixing hours for a normal working day
- Payment of overtime
- Wages of worker who works less than normal working
- Minimum time – Rate Wages for piece work
- Maintenance of Registers and records
- Authority & claims
- Offences Penalties
- Compliances under the Act

## LEARNING OBJECTIVES

The Minimum Wages Act was enacted primarily to safeguard the interests of the workers engaged in the unorganized sector. The Act provides for fixation and revision of minimum wages of the workers engaged in the scheduled employments. Under the Act, both central and State Governments are responsible, in respect of scheduled employments within their jurisdictions to fix and revise the minimum wages and enforce payment of minimum wages.

In case of Central sphere, any Scheduled employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a mine, oil-field or major port, or any corporation established by a Central Act, the Central Government is the appropriate Government while in relation to any other Scheduled employment, the State Government is the appropriate Government. The Act is applicable only for those employments, which are notified and included in the schedule of the Act by the appropriate Governments. According to the Act, the appropriate Governments review/revise the minimum wages in the scheduled employments under their respective jurisdictions at an interval not exceeding five years.

However, there is large scale variation of minimum wages both within the country and internationally owing to differences in prices of essential commodities, paying capacity, productivity, local conditions, items of the commodity basket, differences in exchange rates etc.

The objective of this study lesson is to thoroughly acclimatize the students with the law relating to minimum wages.

***The Minimum Wages Act, 1948, is an Act to provide for fixing minimum rates of wages in certain employments. The employments are those which are included in the schedule and are referred to as 'Scheduled Employments'.***

## OBJECT AND SCOPE OF THE LEGISLATION

The Minimum Wages Act was passed in 1948 and it came into force on 15<sup>th</sup> March, 1948. The National Commission on Labour has described the passing of the Act as landmark in the history of labour legislation in the country. The philosophy of the Minimum Wages Act and its significance in the context of conditions in India, has been explained by the Supreme Court in *Unichoyi v. State of Kerala* (A.I.R. 1962 SC 12), as follows:

*"What the Minimum Wages Act purports to achieve is to prevent exploitation of labour and for that purpose empowers the appropriate Government to take steps to prescribe minimum rates of wages in the scheduled industries. In an underdeveloped country which faces the problem of unemployment on a very large scale, it is not unlikely that labour may offer to work even on starvation wages. The policy of the Act is to prevent the employment of such sweated labour in the interest of general public and so in prescribing the minimum rates, the capacity of the employer need not to be considered. What is being prescribed is minimum wage rates which a welfare State assumes every employer must pay before he employs labour".*

According to its preamble the Minimum Wages Act, 1948, is an Act to provide for fixing minimum rates of wages in certain employments. The employments are those which are included in the schedule and are referred to as 'Scheduled Employments'. The Act extends to whole of India.

## IMPORTANT DEFINITIONS

### **Appropriate Government [Section 2(b)]**

"Appropriate Government" means –

- (i) in relation to any scheduled employment carried on by or under the authority of the Central or a railway administration, or in relation to a mine, oilfield or major part or any corporation established by a Central Act, the Central Government, and
- (ii) in relation to any other scheduled employment, the State Government.

### **Employee [Section 2(i)]**

"Employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an outworker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale purpose of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises, net being premises under the control and management of that person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of Armed Forces of the Union.

### **Employer [Section 2(e)]**

"Employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except, in sub-section (3) of Section 26 –

- (i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948, as manager of the factory;

- (ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person of authority is so appointed, the Head of the Department;
- (iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the Chief Executive Officer of the local authority;
- (iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner of the supervision and control of the employees or for the payment of wages.

The definitions of "employees" and "employer" are quite wide. Person who engages workers through another like a contractor would also be an employer (1998 LLJ I Bom. 629). It was held in *Nathu Ram Shukla v. State of Madhya Pradesh* A.I.R. 1960 M.P. 174 that if minimum wages have not been fixed for any branch of work of any scheduled employment, the person employing workers in such branch is not an employer with the meaning of the Act. Similarly, in case of *Loknath Nathu Lal v. State of Madhya Pradesh* A.I.R. 1960 M.P. 181 an out-worker who prepared goods at his residence, and then supplied them to his employer was held as employee for the purpose of this Act.

### **Scheduled employment [Section 2(g)]**

"Scheduled employment" means an employment specified in the Schedule or any process or branch of work forming part of such employment.

Note: The schedule is divided into two parts namely, Part I and Part II. When originally enacted Part I of Schedule had 12 entries. Part II relates to employment in agriculture. It was realised that it would be necessary to fix minimum wages in many more employments to be identified in course of time. Accordingly, powers were given to appropriate Government to add employments to the Schedule by following the procedure laid down in Section 21 of the Act. As a result, the State Government and Central Government have made several additions to the Schedule and it differs from State to State.

### **Wages [Section 2(h)]**

"Wages" means all remunerations capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes house rent allowance but does not include:

- (i) the value of:
  - (a) any house accommodation, supply of light, water medical;
  - (b) any other amenity or any service excluded by general or social order of the appropriate Government;
- (ii) contribution by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;
- (iii) any traveling allowance or the value of any traveling concession;
- (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;
- (v) any gratuity payable on discharge.

# Payment of Wages Act, 1936

## LESSON OUTLINE

- Learning objectives
- Object of the Act
- Employed Person
- Employer
- Factory
- Industrial or other establishment
- Responsibility for payment of wages
- Fixation of wage period
- Time of payment of wages
- Wages to be paid in current coin or currency notes
- Deduction from wages
- Maintenance of registers and records
- Claims
- Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.

## LEARNING OBJECTIVES

The Payment of Wages Act, 1936 is a central legislation which has been enacted to regulate the payment of wages to workers employed in certain specified industries and to ensure a speedy and effective remedy to them against unauthorized deductions and/or unjustified delay caused in paying wages to them. It applies to the persons employed in a factory, industrial or other establishment or in a railway, whether directly or indirectly, through a sub-contractor.

In order to bring the law in uniformity with other labour laws and to make it more effective and practicable, the payment of wages Act was last amended in 2005. The amendment enhancing the wage ceiling per Month with a view to covering more employed persons and substitute the expressions "the Central Government" or "a State Government" by the expression "appropriate Government". Amendment also strengthening compensation and penal provisions made more stringent by enhancing the quantum of penalties by amending of the Act.

The Central Government is responsible for enforcement of the Act in railways, mines, oilfields and air transport services, while the State Governments are responsible for it in factories and other industrial establishments.

Therefore, students should be well versed in the Payment of Wages Act, 1936 and Rules made thereunder.

***The Payment of Wages Act, 1936 regulates the payment of wages of certain classes of employed persons.***



## OBJECT AND SCOPE

The main object of the Act is to eliminate all malpractices by laying down the time and mode of payment of wages as well as securing that the workers are paid their wages at regular intervals, without any unauthorised deductions. In order to enlarge its scope and provide for more effective enforcement the Act empowering the Government to enhance the ceiling by notification in future. The Act extends to the whole of India.

### Definitions

**"Employed person"** includes the legal representative of a deceased employed person. {Section 2(ia)}

**"Employer"** includes the legal representative of a deceased employer. {Section 2(ib)}

**"Factory"** means a factory as defined in clause (m) of section 2 of the Factories Act 1948 (63 of 1948) and includes any place to which the provisions of that Act have been applied under sub-section (1) of section 85 thereof. {Section 2(ic)}

**"Industrial or other establishment"** means any –

- (a) tramway service or motor transport service engaged in carrying passengers or goods or both by road for hire or reward;
- (aa) air transport service other than such service belonging to or exclusively employed in the military naval or air forces of the Union or the Civil Aviation Department of the Government of India;
- (b) dock wharf or jetty;
- (c) inland vessel mechanically propelled;
- (d) mine quarry or oil-field;
- (e) plantation;
- (f) workshop or other establishment in which articles are produced adapted or manufactured with a view to their use transport or sale;
- (g) establishment in which any work relating to the construction development or maintenance of buildings roads bridges or canals or relating to operations connected with navigation irrigation or to the supply of water or relating to the generation transmission and distribution of electricity or any other form of power is being carried on;
- (h) any other establishment or class of establishments which the Appropriate Government may having regard to the nature thereof the need for protection of persons employed therein and other relevant circumstances specify by notification in the Official Gazette. {Section 2(ii)}

**"Wages"** means all remuneration (whether by way of salary allowances or otherwise) expressed in terms of money or capable of being so expressed which would if the terms of employment express or implied were fulfilled by payable to a person employed in respect of his employment or of work done in such employment and includes –

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

- (d) any sum which by reason of the termination of employment of the person employed is payable under any law contract or instrument which provides for the payment of such sum whether with or without deductions but does not provide for the time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force,

but does not include –

- (1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
- (2) the value of any house-accommodation or of the supply of light water medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of Appropriate Government;
- (3) any contribution paid by the employer to any pension or provident fund and the interest which may have accrued thereon;
- (4) any travelling allowance or the value of any travelling concession;
- (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
- (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d). (Section 2(vi))

### **Responsibility for payment of wages**

Section 3 provides that every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under the Act. However, in the case of persons employed in factories if a person has been named as the manager of the factory; in the case of persons employed in industrial or other establishments if there is a person responsible to the employer for the supervision and control of the industrial or other establishments; in the case of persons employed upon railways if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned; in the case of persons employed in the work of contractor, a person designated by such contractor who is directly under his charge; and in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act, the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

It may be noted that as per section 2(ia) "employer" includes the legal representative of a deceased employer.

### **Fixation of wage period**

As per section 4 of the Act every person responsible for the payment of wages shall fix wage-periods in respect of which such wages shall be payable. No wage-period shall exceed one month.

### **Time of payment of wages**

Section 5 specifies the time payment of wages. The wages of every person employed upon or in any railway factory or industrial or other establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day.

The wages of every person employed upon or in any other railway factory or industrial or other establishment shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable. However, in the case of persons employed on a dock wharf or jetty or in a mine the balance

# Employees' State Insurance Act, 1948

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Confinement
- Contribution
- Employment Injury
- Immediate Employer
- Registration of Factories and Establishments under this Act
- Employees' State Insurance
- Administration of Employees' State Insurance Scheme
- Employees' State Insurance Corporation
- Wings of the Corporation
- Employees State Insurance Fund
- Contributions
- Benefits
- Employees' Insurance Court (E.I. Court)
- Exemptions
- Compliances under the Act

## LEARNING OBJECTIVES

Parliament has enacted a number of legislations in the area of social security for the workers. The Employees' State Insurance Act was promulgated by the Parliament of India in the year 1948. It was the first major legislation on Social Security in independent India to provide certain benefits to the employees in the organized sector in case of sickness, maternity and employment injury.

The Central Government established a Corporation to be known as the 'Employees' State Insurance Corporation is the premier social security organization in the country. It is the highest policy making and decision taking authority under the ESI Act and oversees the functioning of the ESI Scheme under the ESI Act.

For the administration of the of Employees' State Insurance scheme , the Employees' State Insurance Corporation Standing Committee and Medical Benefit Council have been constituted. Further, ESI Fund has been created which is held and administered by ESI Corporation through its executive committee called Standing Committee with the assistance, advice and expertise of Medical Council and Regional and Local Boards and Committees

It is important for the students to be thoroughly acclimatized with this branch of law to know its practical significance.

***The Employees' State Insurance Act, 1948 provides an integrated need based social insurance scheme that would protect the interest of workers in contingencies such as sickness, maternity, temporary or permanent physical disablement, death due to employment injury resulting in loss of wages or earning capacity. The Act also guarantees reasonably good medical care to workers and their immediate dependants.***

## INTRODUCTION

The Employees' State Insurance Act, 1948 provides for certain benefits to employees in case of sickness, maternity and employment injury and also makes provisions for certain other matters in relation thereto. The Act has been amended by the Employees' State Insurance (Amendment) Act, 2010 for enhancing the Social Security Coverage, streamlining the procedure for assessment of dues and for providing better services to the beneficiaries.

The Act extends to the whole of India. The Central Government is empowered to enforce the provisions of the Act by notification in the Official Gazette, to enforce different provisions of the Act on different dates and for different States or for different parts thereof [Section 1(3)]. The Act applies in the first instance to all factories (including factories belonging to the Government) other than seasonal factories [Section 1(4)]. According to the proviso to Section 1(4) of the Act, nothing contained in sub-section (4) of Section 1 shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under the Act. Section 1(5) of the Act empowers the appropriate Government to extend any of the provisions of the Act to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise after giving one month's notice in the Official Gazette. However, this can be done by the appropriate Government, only in consultation with the Employees' State Insurance Corporation set up under the Act and, where the appropriate Government is a State Government, it can extend the provisions of the Act with the approval of the Central Government.

Under these enacting provisions, the Act has been extended by many State Governments to shops, hotels, restaurants, cinemas, including preview theatres, newspaper establishments, road transport undertakings, etc., employing 20 or more persons. **It is not sufficient that 20 persons are employed in the shop. They should be employee as per Section 2(9) of the Act, getting the wages prescribed therein (ESIC v. M.M. Suri & Associates Pvt. Ltd., 1999 LAB IC SC 956).** According to the proviso to sub-section (5) of Section 1 where the provisions of the Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishment within that part, if the provisions have already been extended to similar establishment or class of establishments in another part of that State.

It may be noted that a factory or an establishment to which the Act applies shall continue to be governed by this Act even if the number of persons employed therein at any time falls below the limit specified by or under the Act or the manufacturing process therein ceases to be carried on with the aid of power. [Section 1(6)]

The coverage under the Act is at present restricted to employees drawing wages not exceeding ₹15,000 per month.

### Test your knowledge

**Which of the following establishments come under the Central Government, with the Central Government acting as the "Appropriate Government"?**

- (a) Establishments under railway administration
- (b) Establishments under a major port
- (c) Establishments under an oil-field or mine
- (d) Establishments under the state ministry

**Correct answer: (a), (b) and (c)**



## IMPORTANT DEFINITIONS

### (i) Appropriate Government

"Appropriate Government" means in respect of establishments under the control of the Central Government or a railway administration or a major port or a mine or oil-field; the Central Government, and in all other cases, the State Government. [Section 2(1)]

### (ii) Confinement

"Confinement" means labour resulting in the issue of a living child or labour after 26 weeks of pregnancy resulting in the issue of child whether alive or dead. [Section 2(3)]

### (iii) Contribution

"Contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employees and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act. [Section 2(4)]

### (iv) Dependent

"Dependent" under Section 2(6A) of the Act (as amended by the Employees' State Insurance (Amendment) Act, 2010) means any of the following relatives of a deceased insured person namely:

- (i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years,, an unmarried legitimate or adopted daughter,
- (ia) a widowed mother,
- (ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of 25 years and is infirm;
- (iii) if wholly or in part dependent on the earnings of the insured person at the time his death:
  - (a) a parent other than a widowed mother,
  - (b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and minor or if widowed and a minor,
  - (c) a minor brother or an unmarried sister or a widowed sister if a minor,
  - (d) a widowed daughter-in-law,
  - (e) a minor child of a pre-deceased son,
  - (f) a minor child of a pre-deceased daughter where no parent of the child is alive or,
  - (g) a paternal grand parent if no parent of the insured person is alive.

### (v) Employment Injury

It means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India. [Section 2(8)]

It is well settled that an employment injury need not necessarily be confined to any injury sustained by a person within the premises or the concern where a person works. Whether in a particular case the theory of notional extension of employment would take in the time and place of accident so as to bring it within an employment injury, will have to depend on the assessment of several factors. There should be a nexus between the circumstances of the accident and the employment. On facts no case could be an authority for another case, since there would necessarily be some differences between the two cases. Therefore, each case has to be

# Employees' Provident Funds and Miscellaneous Provisions Act, 1952

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Application of the Act
- Appropriate Government
- Basic Wages
- Contribution
- Exempted Employee
- Pension Fund
- Pension Scheme
- Schemes under the Act
- Employees' Provident Fund Scheme
- Class of Employees entitled and required to join provident fund
- Employees' Pension Scheme
- Employees' Deposit-Linked Insurance Scheme
- Determination and Recovery of Moneys due from and by Employers
- Employer not to reduce Wages
- Transfer of Accounts
- Protection against Attachment
- Power to Exempt
- Compliances under the Act

## LEARNING OBJECTIVES

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is a social welfare legislation to provide for the institution of Provident Fund, Pension Fund and Deposit Linked Insurance Fund for employees working in factories and other establishments. The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress.

Accordingly, three schemes are in operation under the Act. These schemes taken together provide to the employees an old age and survivorship benefits, a long term protection and security to the employee and after his death to his family members, and timely advances including advances during sickness and for the purchase/ construction of a dwelling house during the period of membership.

The Act is administered by the Government of India through the Employees' Provident Fund Organisation (EPFO). EPFO 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.

The Central Government has been constituted Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such by Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The Tribunal consist of one person only and appointed by the Central Government.

Students must have knowledge of the provisions of this Act to be aware of the statutory obligations under the Act.

***The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments. It extends to the whole of India except the State of Jammu and Kashmir.***

## INTRODUCTION

Provident Fund schemes for the benefit of the employees had been introduced by some organisations even when there was no legislation requiring them to do so. Such schemes were, however, very few in number and they covered only limited classes/groups of employees. In 1952, the Employees Provident Funds Act was enacted to provide institution of Provident Fund for workers in six specified industries with provision for gradual extension of the Act to other industries/classes of establishments. The Act is now applicable to employees drawing pay not exceeding Rs. 6,500/- per month. The Act extends to whole of India except Jammu and Kashmir. The term pay includes basic wages with dearness allowance, retaining allowance (if any), and cash value of food concession.

**The following three schemes have been framed under the Act by the Central Government:**

- (a) The Employees' Provident Fund Schemes, 1952;
- (b) The Employees' Pension Scheme, 1995; and
- (c) The Employees' Deposit-Linked Insurance Scheme; 1976.

The three schemes mentioned above confer significant social security benefits on workers and their dependents.

## APPLICATION OF THE ACT

According to Section 1(3), the Act, subject to the provisions of Section 16, applies:

- (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed; and
- (b) to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

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

The Central Government can extend the provisions of the Act to any establishment [including the co-operative society to which under Section 16(1) the provisions of the Act are not applicable by notification in Official Gazette when the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to them [Section 1(4)]. However, before notification is made, parties can opt out of such an agreement (1996 20 CLA 25 Bom.). Once an establishment falls within the purview of the Act, it shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty. [Section 1(5)] Where an establishment to which this Act applied was divided among the partners, the Act would continue to apply to the part of each ex-partner even if the number of persons employed in each part is less than twenty (1986 2 LLJ 137). Where as a result of real and bona fide partition among the owners, an establishment was disrupted and separate and distinct establishments come into existence, allottees with no regular employee, cannot be saddled with liability to pay minimum administrative charges as before (1993 1 LLN 698). For compliance with the Act and the scheme, for an establishment there should be an employer and one or more employees are required to be in existence atleast. When there is not even one employee, it would be difficult to contend that the Act continues to apply to the establishment (1998 LLJ 1 Kar. 780).

The constitutional validity of this Act was challenged on the ground of discrimination and excessive delegation. It was held that the law lays down a rule which is applicable to all the factories or establishments similarly placed. It makes a reasonable classification without making any discrimination between factories placed in the same class or group (*Delhi Cloth and General Mills v. R.P.F. Commissioner* A.I.R. 1961 All. 309).

The liability to contribute to the provident fund is created the moment the Scheme is applied to a particular establishment.



On the question whether casual or temporary workmen should be included for the purpose of ascertaining the strength of workmen in terms of Section 1(3) it was held by the Rajasthan High Court in *Bikaner Cold Storage Co. Ltd. v. Regional P.F. Commissioner, Rajasthan, 1979 Lab. I.C. 1017*, that persons employed in the normal course of the business of the establishment should be considered as the persons employed for the purposes of Section 1(3)(a) and persons employed for a short duration or on account of some urgent necessity or abnormal contingency, which was not a regular feature of the business of the establishment cannot be considered as employees for the purpose of determining the employment strength in relation to the applicability of Section 1(3)(a). In the case of *P.F. Inspector v. Hariharan, AIR 1971 S.C. 1519*, the Supreme Court held that casual workers are not covered under Section 1(3).

Section 1(3)(b) empowers the Central Government to apply the Act to trading or commercial establishments whether, such establishments are factories or not.

### Non-applicability of the Act to certain establishments

Section 16(1) of the Act provides that the Act shall not apply to certain establishments as stated thereunder. Such establishments include (a) establishments registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any State relating to co-operative societies, employing less than 50 persons and working without the aid of power; or (b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or (c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits.

According to Section 16(2), if the Central Government is of opinion that having regard to the financial position of any class of establishments or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt that class of establishments from the operation of this Act for such period as may be specified in the notification.

The date of establishment of a factory is the date when the factory starts its manufacturing process. A change in the ownership does not shift the date of establishment. A mere change in the partnership deed, does not mean that a new business has come into existence for the purpose of Section 16(1) (*P.G. Textile Mills v. Union of India (1976) 1 LLJ 312*).

### Test your knowledge

Which of the following schemes have been framed under the Employees' Provident Funds and Miscellaneous Provisions Act?

- (a) The Employees' Provident Fund Schemes, 1952
- (b) The Employees' Pension Scheme, 1995
- (c) The Employees Gratuity Scheme 1992
- (d) The Employees' Deposit-Linked Insurance Scheme, 1976



Correct answer: (a), (b) and (d)



To understand the meaning of different Sections and provisions thereto, it is necessary to know the meaning of important expressions used therein. Section 2 of the Act explains such expressions which are given below:

**(i) Appropriate Government**

"Appropriate Government" means:

- (i) in relation to those establishments belonging to or under the control of the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil field or a controlled industry, or in relation to an establishment having departments or branches in more than one State, the Central Government; and
- (ii) in relation to any other establishment, the State Government. [Section 2(a)]

**(ii) Basic Wages**

"Basic Wages" means all emoluments which are earned by an employee while on duty or on leave or on holiday with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include:

- (i) the cash value of any food concession;
- (ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house- rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;
- (iii) any presents made by the employer. [Section 2(b)]

**(iii) Contribution**

"Contribution" means a contribution payable in respect of a member under a Scheme or the contribution payable in respect of an employee to whom the Insurance Scheme applies. [Section 2(c)]

**(iv) Controlled Industry**

"Controlled Industry" means any industry the control of which by the Union has been declared by the Central Act to be expedient in the public interest. [Section 2(d)]

**(v) Employer**

"Employer" means

- (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948, the person so named; and
- (ii) in relation to any other establishment, the person who or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director, or managing agent, such manager, managing director or managing agent. [Section 2(e)]

**(vi) Employee**

"Employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer and includes any person

- (i) employed by or through a contractor in or in connection with the work of the establishment;
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# Employees' Provident Funds and Miscellaneous Provisions Act, 1952

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Application of the Act
- Appropriate Government
- Basic Wages
- Contribution
- Exempted Employee
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- (ii) in relation to any other establishment, the State Government. [Section 2(a)]

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"Basic Wages" means all emoluments which are earned by an employee while on duty or on leave or on holiday with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include:

- (i) the cash value of any food concession;
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"Contribution" means a contribution payable in respect of a member under a Scheme or the contribution payable in respect of an employee to whom the Insurance Scheme applies. [Section 2(c)]

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"Employer" means

- (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948, the person so named; and
- (ii) in relation to any other establishment, the person who or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director, or managing agent, such manager, managing director or managing agent. [Section 2(e)]

### (vi) Employee

"Employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer and includes any person

- (i) employed by or through a contractor in or in connection with the work of the establishment;
- (ii) engaged as an apprentice, not being an apprentice engaged under Apprentices Act, 1961 or under the standing orders of the establishment. [Section 2(f)]

# Payment of Gratuity Act, 1972

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Application of the Act
- Establishments to which the Act applies
- Who is an 'employee'?
- Continuous Service
- Retirement
- Superannuation
- Wages
- When is gratuity payable?
- To whom is gratuity payable
- Amount of gratuity payable
- Nomination
- Forfeiture of gratuity
- Exemptions
- The Controlling Authority and the Appellate Authority
- Rights and obligations of employees
- Rights and obligations of the employer
- Recovery of gratuity
- Protection of gratuity
- Compliances under the Act

## LEARNING OBJECTIVES

Gratuity is an old age retiral social security benefit. It is a lump sum payment made by an employer to an employee in consideration of his past service when the employment is terminated. In the case of employment coming to an end due to retirement or superannuation, it enables the affected employee to meet the new situation which quite often means a reduction in earnings or even total stoppage of earnings. In the case of death of an employee, it provides much needed financial assistance to the surviving members of the family. Gratuity schemes, therefore, serve as instruments of social security and their significance in a developing country like India where the general income level is low cannot be over emphasised.

Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years:- (i) on his superannuation; or (ii) on his retirement or resignation; or (iii) on his death or disablement due to accident or disease. However, the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement. The employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned for every completed year of service or part thereof in excess of six months.

The object of this lesson is to impart knowledge to the students about the legal frame work pertaining to payment of gratuity.

***The Payment of Gratuity Act, 1972 provides for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto. It extends to the whole of India.***

## INTRODUCTION

Gratuity is a lump sum payment made by the employer as a mark of recognition of the service rendered by the employee when he retires or leaves service. The Payment of Gratuity Act provides for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments.

The Payment of Gratuity Act has been amended from time to time to bring it in tune with the prevailing situation. Recently the Act has been amended twice to enhance the ceiling on amount of gratuity from Rs.3.50 lakh to Rs.10 lakh as well as to widen the scope of the definition of "employee" under section 2 (e) of the Act. These amendments have been introduced by the Payment of Gratuity (Amendment) Act, 2010 with effect from May 24, 2010.

## APPLICATION OF THE ACT

Application of the Act to an employed person depends on two factors. Firstly, he should be employed in an establishment to which the Act applies. Secondly, he should be an "employee" as defined in Section 2(e).

According to Section 1(3), the Act applies to:

- (a) every factory, mine, oilfield, plantation, port and railway company;
- (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
- (c) such other establishments or class of establishments in which ten or more employees are employed, or were employed, on any day of the preceding twelve months as the Central Government may, by notification specify in this behalf.

In exercise of the powers conferred by clause (c), the Central Government has specified Motor transport undertakings, Clubs, Chambers of Commerce and Industry, Inland Water Transport establishments, Solicitors offices, Local bodies, Educational Institutions, Societies, Trusts and Circus industry, in which 10 or more persons are employed or were employed on any day of the preceding 12 months, as classes of establishments to which the Act shall apply.

A shop or establishment to which the Act has become applicable once, continues to be governed by it, even if the number of persons employed therein at any time after it has become so applicable falls below ten. (Section 3A)

## WHO IS AN EMPLOYEE?

The definition of "employee" under section 2 (e) of the Act has been amended by the Payment of Gratuity (Amendment) Act, 2009 to cover the teachers in educational institutions retrospectively with effect from 3rd April, 1997. The amendment to the definition of "employee" has been introduced in pursuance to the judgment of Supreme Court in *Ahmedabad Private Primary Teachers' Association v. Administrative Officer*, AIR 2004 SC 1426. The ceiling on the amount of gratuity from Rs.3.50 lakh to Rs.10 lakh has been enhanced by the Payment of Gratuity (Amendment) Act, 2010.

According to Section 2(e) as amended by the Payment of Gratuity (Amendment) Act, 2009 "employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed

by any other Act or by any rules providing for payment of gratuity. The wage ceiling of Rs. 3,500/- which was earlier in the Act has been removed. With the removal of ceiling on wage every employee will become eligible for gratuity, irrespective of his wage level w.e.f. 24th May, 1994.

Teacher was held to be not an employee (LAB 1C Pat 365) under the Act. The teachers are clearly not intended to be covered by the definition of 'employee'. [*Ahmedabad Pvt. Primary Teachers Association v. Administrative Officer*, LLJ (2004) SC]

Now the controversy has been set at rest. The Payment of Gratuity (Amendment) Act, 2009 has amended the definition of 'employee' including teachers in educational institutions within the purview of the Act retrospectively in pursuance to the judgement of Supreme Court in the above mentioned case.

### Test your knowledge

#### Choose the correct answer

What is the minimum number of employees required in an establishment for it to come under the purview of the Payment of Gratuity Act?

- (a) 10
- (b) 15
- (c) 20
- (d) 25



**Correct answer: (a)**

### OTHER IMPORTANT DEFINITIONS

#### Appropriate Government

"Appropriate Government" means:

- (i) in relation to an establishment:
  - (a) belonging to, or under the control of, the Central Government,
  - (b) having branches in more than one State,
  - (c) of a factory belonging to, or under the control of the Central Government.
  - (d) of a major port, mine, oilfield or railway company, the Central Government.
- (ii) in any other case, the State Government. [Section 2(a)]

It may be noted that many large establishments have branches in more than one State. In such cases the 'appropriate Government' is the Central Government and any dispute connected with the payment or non-payment of gratuity falls within the jurisdiction of the 'Controlling Authority' and the 'Appellate Authority' appointed by the Central Government under Sections 3 and 7.

A Company Secretary should know whether the 'appropriate Government' in relation to his establishment is the Central Government or the State Government. He should also find out who has been notified as the 'Controlling Authority' and also who is the 'Appellate Authority'. It may be noted that any request for exemption under Section 5 of the Act is also to be addressed to the 'appropriate Government'. It is, therefore, necessary to be clear on this point.



## Continuous Service

According to Section 2A, for the purposes of this Act:

- (1) An employee shall be said to be in 'continuous service' for a period if he has, for that period been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), layoff, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act;
- (2) Where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1) for any period of one year or six months, he shall be deemed to be in continuous service under the employer:
  - (a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than:
    - (i) one hundred and ninety days in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and
    - (ii) two hundred and forty, days in any other case;
  - (b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than:
    - (i) ninety five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and
    - (ii) one hundred and twenty days in any other case;
- Explanation:* For the purpose of clause (2), the number of days on which an employee has actually worked under an employer shall include the days on which:
  - (i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
  - (ii) he has been on leave with full wages, earned in the previous year;
  - (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
  - (iv) in the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks.
- (3) Where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1) for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent, of the number of days on which the establishment was in operation during such period.

Service is not continuous, in case of legal termination of service and subsequent re-employment.

# Payment of Gratuity Act, 1972

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Application of the Act
- Establishments to which the Act applies
- Who is an 'employee'?
- Continuous Service
- Retirement
- Superannuation
- Wages
- When is gratuity payable?
- To whom is gratuity payable
- Amount of gratuity payable
- Nomination
- Forfeiture of gratuity
- Exemptions
- The Controlling Authority and the Appellate Authority
- Rights and obligations of employees
- Rights and obligations of the employer
- Recovery of gratuity
- Protection of gratuity
- Compliances under the Act

## LEARNING OBJECTIVES

Gratuity is an old age retiral social security benefit. It is a lump sum payment made by an employer to an employee in consideration of his past service when the employment is terminated. In the case of employment coming to an end due to retirement or superannuation, it enables the affected employee to meet the new situation which quite often means a reduction in earnings or even total stoppage of earnings. In the case of death of an employee, it provides much needed financial assistance to the surviving members of the family. Gratuity schemes, therefore, serve as instruments of social security and their significance in a developing country like India where the general income level is low cannot be over emphasised.

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#### Choose the correct answer

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- (2) Where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1) for any period of one year or six months, he shall be deemed to be in continuous service under the employer:
  - (a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than:
    - (i) one hundred and ninety days in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and
    - (ii) two hundred and forty, days in any other case;
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    - (i) ninety five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and
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  - (i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
  - (ii) he has been on leave with full wages, earned in the previous year;
  - (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
  - (iv) in the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks.
- (3) Where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1) for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent, of the number of days on which the establishment was in operation during such period.

Service is not continuous, in case of legal termination of service and subsequent re-employment.

# Employees' Compensation Act, 1923

## LESSON OUTLINE

- Learning Objectives
- Object and Scope
- Disablement
- Employer's Liability for Compensation in cases of occupational disease
- Employer's Liability for Compensation In cases of personal injuries
- Employer's liability when Contractor is engaged
- Compensation
- Obligations and Responsibility of Employer
- Notice and Claim
- Medical Examination
- Procedure in the proceedings before the Commissioner
- Appeals
- Penalties
- Special provisions relating to Masters and Seamen
- Special provisions relating to captains and crew of aircrafts
- Special provisions relating to workmen abroad of companies and motor vehicles
- Compliances under the Act
- Schedules

## LEARNING OBJECTIVES

The passing of the Workmen's Compensation Act renamed as Employees' Compensation Act, 1923 was the first step towards social security of workmen. It aims at providing financial protection to workmen and their dependants in case of accidental injury by means of payment of compensation by the employers.

The Employees' Compensation Act, 1923 provides for payment of compensation to the employees' and their dependents in the case of injury by industrial accidents including certain occupational diseases arising out of and in the course of employment resulting in death or disablement.

This Act applies to certain railway servants and persons employed in hazardous employments such as factories, mines, plantations mechanically propelled vehicles, construction work etc.,. The Workmen's Compensation Act, 1923 has been renamed as the Employees' Compensation Act, 1923. For the words "workman" and "employee" and "employees" have been substituted respectively for making the Act gender neutral. The amendment has been brought about by the Workmen's Compensation (Amendment) Act, 2009 came into force on January 18, 2010. For the purpose of calculation of compensation under the Employees' Compensation Act, 1923 monthly wages has been increased by the Government and minimum rates of compensation for permanent total disablement and death are increased from ₹ 80, 000/- and ₹ 90,000/ to ₹ 1,20,000/- and ₹ 1,40, 000/- respectively.

Therefore, it is essential for the students to be familiar with the general principles of employee's compensation stipulated under the Act.

***Employees' Compensation Act, 1923 provides for the payment by certain classes of employers to their employees of compensation for injury by accident.***

## OBJECT AND SCOPE

The Employees' Compensation Act is social security legislation. It imposes statutory liability upon an employer to discharge his moral obligation towards his employees when they suffer from physical disabilities and diseases during the course of employment in hazardous working conditions. The Act also seeks to help the dependents of the employee rendered destitute by the 'accidents' and from the hardship arising out from such accidents. The Act provides for cheaper and quicker mode of disposal of disputes relating to compensation through special proceedings than possible under the civil law. The Act extends to the whole of India.

## DEFINITIONS

Some important definitions are given below:

### (i) Dependant

Section 2(1)(d) of the Act defines "dependant" as to mean any of the following relatives of a deceased employee, namely:

- (i) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter, or a widowed mother, and
- (ii) if wholly dependent on the earnings of the employee at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm; and
- (iii) if wholly or in part dependent on the earnings of the employee at the time of his death:
  - (a) a widower,
  - (b) a parent other than a widowed mother,
  - (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor, or if widowed and a minor,
  - (d) a minor brother or an unmarried sister, or a widowed sister if a minor,
  - (e) a widowed daughter-in-law,
  - (f) a minor child of a pre-deceased son,
  - (g) a minor child of a pre-deceased daughter where no parent of the child is alive or
  - (h) a paternal grandparent, if no parent of the employee is alive.

*Explanation* – For the purpose of sub-clause (ii) and items (f) and (g) of sub-clause (iii) references to a son, daughter or child include an adopted son, daughter or child respectively.

### (ii) Employee

The definition of workmen has been replaced by the definition of employee. The term "employee" has been inserted by the Workmen's Compensation (Amendment) Act, 2009 under a new clause (dd) in Section 2 of the Act. Clause (n) defining "workman" has been omitted.

Under Section 2(dd) "employee" has been defined as follows:

"Employee" means a person, who is –

- (i) 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; or

- (ii) (a) a master, seaman or other members of the crew of a ship,
  - (b) a captain or other member of the crew of an aircraft,
  - (c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle.
  - (d) a person recruited for work abroad by a company,
- and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or
- (iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been "injured" shall, where the employee is dead, include a reference to his dependants or any of them;

## (ii) Employer

The following persons are included in the definition of "employer":

- (a) any body of persons incorporated or not;
- (b) any managing agent of the employer;
- (c) legal representative of a deceased employer. Thus, one who inherits the estate of the deceased, is made liable for the payment of compensation under the Act. However, he is liable only upto the value of the estate inherited by him;
- (d) any person to whom the services of a employee are temporarily lent or let on hire by a person with whom the employee has entered into a contract of service or apprenticeship. [Section 2(1)(e)]

A contractor falls within the above definition of the employer. Similarly, a General Manager of a Railway is an employer (*Bajjnath Singh v. O.T. Railway*, A.I.R. 1960 All 362).

## (iii) Seaman

"Seaman" under Section 2(1)(k) means any person forming part of the crew of any ship but does not include the master of the ship.

## (iv) Wages

According to Section 2(1)(m), the term "wages" include any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer to an employee towards any pension or provident fund or a sum paid to employee to cover any special expenses entailed on him by the nature of his employment.

Wages include dearness allowance, free accommodation, overtime pay, etc. (*Godawari Sugar Mills Ltd. v. Shakuntala; Chitru Tanti v. TISCO; and Badri Prasad v. Trijugi Sitaram*).

The driver of a bus died in an accident. On a claim for compensation made by widow it was held that line allowance and night out allowance came under the privilege or benefit which is capable of being estimated in money and can be taken into consideration in computing compensation as part of wages (*KSRTC Bangalore v. Smt. Sundari*, 1982 Lab. I.C. 230). The claim of bonus being a right of the workman is a benefit forming part of wages and the same can be included in wages (LLJ-II 536 Ker.).



# Contract Labour (Regulation and Abolition) Act, 1970

## LESSON OUTLINE

- Learning Objectives
- Scope and Application
- Act not to apply to certain establishments
- Contract Labour
- Contractor
- Controlled Industries
- Establishment
- Principal Employer
- Workman
- The Advisory Boards
- Registration of establishments employing Contract Labour
- Effect of non-registration
- Prohibition of Employment of Contract Labour
- Appointment of Licensing Officer and Licensing of Contractors
- Welfare and Health of Contract Labour
- Rules framed under the Act by the Central Government on the question of wages
- Penalties and Procedure
- Inspectors
- Maintenance of Records and Registers
- Compliances under the Act

## LEARNING OBJECTIVES

Contract Labour is a significant and growing form of employment. It is prevalent in almost all industries and allied operations and also in service sector. It generally refers to workers engaged by a contractor for user enterprise. Contract labour have very little bargaining power, have little or no social security and are often engaged in hazardous occupations endangering their health and safety. The exploitation of workers under the contract labour system has been a matter of deep concern for the Government. The Government enacted the Contract Labour (Regulation and Abolition) Act in 1970 and it came into force on 10.2.71.

The Act applies to every establishment/ contractor in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour. Every establishment and contractor, to whom the Act applies, have to register themselves or obtain a license for execution of the contract work.

Under the Act, interests of contract workers are protected in terms of wages, hours of work, welfare, health and social security. The amenities to be provided to contract labour include canteen, rest rooms, first aid facilities and other basic necessities at the work place like drinking water etc. The liability to ensure payment of wages and other benefits is primarily that of the contractor, and in case of default, that of the principal employer.

In this lesson, students will be acclimatized with the legal frame work stipulated under the Contract Labour (Regulation and Abolition) Act, 1970.

***Recognizing the need for protecting the interest of contract labour, the Contract Labour (Regulation and Abolition) Act, 1970 was enacted to regulate the employment of Contract Labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.***

## SCOPE AND APPLICATION

The Contract Labour (Regulation and Abolition) Act, 1970 regulates the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

The Act extends to the whole of India. According to Section 1(4), it applies:

- (a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;
- (b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen.

The appropriate Government may, after giving not less than two months notice of its intention to do so, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

## ACT NOT TO APPLY TO CERTAIN ESTABLISHMENTS

According to Section 1(5), the Act shall not apply to establishments in which work only of an intermittent or casual nature is performed.

If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, as State Board, and its decision shall be final.

### Test your knowledge

State whether the following statement is "True" or "False"

The Act applies to every establishment in which 10 or more workmen are employed as contract labour or were so employed on any day of the preceding 12 months.

- True
- False

**Correct answer: False**



## IMPORTANT DEFINITIONS

### (a) Appropriate Government

"Appropriate Government" means

- (i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 is the Central Government, the Central Government;
- (ii) in relation to any other establishment, the Government of the State in which that other establishment is situated. [Section 2(1)(a)]

### (b) Contract Labour

A workmen shall be deemed to be employed as contract labour in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer. [Section 2(1)(b)]

**(c) Contractor**

"Contractor" in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor. [Section 2(1)(c)]

**Test your knowledge**

**Choose the correct answer**

Which establishments are exempt from the purview of the Contract Labour (Regulation and Abolition) Act, 1970?

- (a) Establishments where work of an intermittent nature is performed
- (b) Establishments where embroidery work is performed
- (c) Establishments where metal work is performed
- (d) Establishments where manufacturing work is performed



**Correct answer: (a)**

**(d) Controlled Industry**

"Controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest. [Section 2(1)(d)]

**(e) Establishment**

"Establishment" means

- (i) any office or department of the Government or local authority, or
- (ii) any place where any industry, trade, business, manufacture or occupation is carried on. [Section 2(1)(e)]

**(f) Principal Employer**

"Principal Employer" means

- (i) In relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf.
- (ii) In a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948, the person so named.
- (iii) In a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named.
- (iv) in any other establishment, any person responsible for the supervision and control of the establishment. [Section 2(1)(g)]

*Explanation:* For the purpose of sub-clause (iii) of this clause, the expressions mine, owner and agent shall have the meanings respectively assigned to them in clause (j) clause (l) and clause (c) of sub-section (l) of Section 2 of the Mines Act, 1952.

**(g) Workman**

"Workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, but does not include any such person-

- (a) Who is employed mainly in a managerial or administrative capacity, or

- (b) Who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or
- (c) who is an out-worker, that is to say, a person to whom any articles or materials are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out worker or in some other premises not being premises under the control and management of the principal employer. [Section 2(1)(i)]

# Maternity Benefit Act, 1961

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Appropriate Government
- Establishment
- Wages
- Maternity benefit
- Employment of or work by women prohibited during certain period
- Right to payment of maternity benefits
- Notice of claim for maternity benefit
- Nursing breaks
- Abstract of Act and Rules there under to be exhibited
- Maintenance of Register and Record
- Penalty

## LEARNING OBJECTIVES

Article 42 of the Constitution of India states that the State shall make provision for securing just and humane conditions of work and for maternity relief.

The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance (ESI) for certain periods before and after child-birth and provides for maternity and other benefits. The Employees' State Insurance Act, 1948 (ESI Act) which also provides for maternity and certain other benefits.

The coverage under the ESI Act is, however, at present restricted to factories and certain other specified categories of establishments located in specified areas. The Maternity Benefit Act, 1961 still applicable to women employees employed in establishments which are not covered by the ESI Act, as also to women employees, employed in establishments covered by the ESI Act, but who are out of its coverage because of the wage-limit.

Under the Maternity Benefit Act, 1961, women employees are entitled to maternity benefit at the rate of average daily wage for the period of their actual absence up to 12 weeks due to the delivery. In cases of illness arising due to pregnancy, etc., they are entitled to additional leave with wages for a period of one month. They are also entitled to six weeks maternity benefit in case of miscarriage. The Maternity Benefit Act, 1961 provides that every woman entitled to maternity benefit shall also be entitled to receive from her employer medical bonus. The Maternity Benefit Act, 1961 also makes certain other provisions to safeguard the interest of pregnant women workers.

Therefore, it is essential for the students to be familiar with the general principles of maternity benefit stipulated under the Act.

***The Maternity Benefit Act, 1961 regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. It extends to the whole of India.***

## INTRODUCTION

Article 39(e) &(f) of the Constitution of India provides that the State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Maternity Benefits are aimed to protect the dignity of motherhood by providing for the full and healthy maintenance of women and her child when she is not working. The Maternity Benefit Act, 1961 is applicable to mines, factories, circus industry, plantations, shops and establishments employing ten or more persons. It can be extended to other establishments by the State Governments.

### Definition

**"Appropriate Government"** means in relation to an establishment being a mine or an establishment wherein persons are employed for the exhibition of equestrian acrobatic and other performances the Central Government and in relation to any other establishment the State Government. { Section 3(a)}

**"Child"** includes a still-born child. { Section 3(b)}

**"Employer"** means –

- (i) in relation to an establishment which is under the control of the government a person or authority appointed by the government for the supervision and control of employees or where no person or authority is so appointed the head of the department;
- (ii) in relation to an establishment under any local authority the person appointed by such authority for the supervision and control of employees or where no person is so appointed the chief executive officer of the local authority;
- (iii) in any other case the person who or the authority which has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager managing director managing agent or by any other name such person; { Section 3(d)}

**"Establishment"** means –

- (i) a factory;
- (ii) a mine;
- (iii) a plantation;
- (iv) an establishment wherein persons are employed for the exhibition of equestrian acrobatic and other performance;
- (iva) a shop or establishment; or
- (v) an establishment to which the provisions of this Act have been declared under sub-section (1) of section 2 to be applicable { Section 3(e)};

**"Maternity benefit"** means the payment referred to in sub-section (1) of section 5 { Section 3(h)};

**"Wages"** means all remuneration paid or payable in cash to a woman if the terms of the contract of employment express or implied were fulfilled and includes -

- (1) such cash allowances (including dearness allowance and house rent allowances) as a woman is for the time being entitled to
- (2) incentive bonus and
- (3) the money value of the concessional supply of foodgrains and other articles but does not include –

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- (i) any bonus other than incentive bonus;
- (ii) over-time earnings and any deduction or payment made on account of fines;
- (iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and
- (iv) any gratuity payable on the termination of service; { Section 3(n)}

### Employment of or work by women prohibited during certain periods

On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit. The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof, that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

### **Nursing breaks**

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

### **Abstract of Act and rules there under to be exhibited**

As per section 19 an abstract of the provisions of this Act and the rules made there under 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.

### **Registers**

Every employer shall prepare and maintain such registers, records and muster-rolls and in prescribed manner under section 20 of the Act.

### **Penalty for contravention of Act by employer**

Section 21 provides that 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 the Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees. However, the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

If any employer contravenes the provisions of the Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under the Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both. Where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.

## **LESSON ROUND UP**

- The Maternity Benefit Act, 1961 regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. Such benefits are aimed to protect the dignity of motherhood by providing for the full and healthy maintenance of women and her child when she is not working.
- Maternity benefit means the payment referred to in sub-section (1) of section 5 .
- Employer shall not knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.
- Every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

- The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.
- Any woman employed in an establishment and entitled to maternity benefit under the provisions of the Act may give notice in writing in prescribed form, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under the Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for

- The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.
- Any woman employed in an establishment and entitled to maternity benefit under the provisions of the Act may give notice in writing in prescribed form, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under the Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.
- Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months.
- Every employer shall prepare and maintain such registers, records and muster-rolls and in prescribed manner under the Act.

### SELF TEST QUESTIONS

1. Explain the scope and object of the Maternity Benefit Act, 1961
  2. What do you mean by maternity benefit?
  3. State the provision regarding nursing break under the Act.
  4. Is it necessary for a working woman to give notice to its employer for maternity benefit?
  5. Is it mandatory for maintainance of Register under the Maternity Benefit Act, 1961?
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# Industrial Disputes Act, 1947

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Object and significance of the Act
- Important Definitions
- Types of Strike and their Legality
- Legality of Strike
- Dismissal etc. of an Individual workman to be deemed to be an Industrial Dispute
- Authorities under the Act and their Duties
- Reference of Disputes
- Voluntary Reference of Disputes to Arbitration
- Procedure and Powers of Authorities
- Strikes and Lock-outs
- Justified and unjustified strikes
- Wages for Strike period
- Dismissal of workmen and illegal strike
- Justification of Lock-out and wages for Lock-out Period
- Change in Conditions of Service
- Unfair Labour Practices
- Penalties
- Schedules

## LEARNING OBJECTIVES

Industrial disputes are the disputes which arise due to any disagreement in an industrial relation. Industrial relation involves various aspects of interactions between the employer and the employees. In such relations whenever there is a clash of interest, it may result in dissatisfaction for either of the parties involved and hence lead to industrial disputes or conflicts. These disputes may take various forms such as protests, strikes, demonstrations, lock-outs, retrenchment, dismissal of workers, etc

Industrial Disputes Act, 1947 provides machinery for peaceful resolution of disputes and to promote harmonious relation between employers and workers. The Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolutions and set up the necessary infrastructure so that the energies of partners in production may not be dissipated in counter productive battles and assurance of industrial may create a congenial climate. The Act enumerates the contingencies when a strike or lock-out can be lawfully resorted to, when they can be declared illegal or unlawful, conditions for laying off, retrenching, discharging or dismissing a workman, circumstances under which an industrial unit can be closed down and several other matters related to industrial employees and employers.

Under the Act various Authorities are established for investigation and settlement of industrial disputes. They are Works Committee; Conciliation Officers; Boards of Conciliation; Court of Inquiry; Labour Tribunals; Industrial Tribunals and National Tribunals.

The knowledge of this legislation is a must for the students so that they develop a proper perspective about the legal frame work stipulated under the Industrial Disputes Act, 1947.

***The Industrial Disputes Act, 1947 is the legislation for investigation and settlement of all industrial disputes.***



## INTRODUCTION

The first enactment dealing with the settlement of industrial disputes was the Employers' and Workmen's Disputes Act, 1860. This Act weighed much against the workers and was therefore replaced by the Trade Disputes Act, 1929. The Act of 1929 contained special provisions regarding strikes in public utility services and general strikes affecting the community as a whole. The main purpose of the Act, however, was to provide a conciliation machinery to bring about peaceful settlement of industrial disputes. The Whitely Commission made in this regard the perceptive observation that the attempt to deal with unrest must begin rather with the creation of an atmosphere unfavourable to disputes than with machinery for their settlement.

The next stage in the development of industrial law in this country was taken under the stress of emergency caused by the Second World War. Rule 81-A of the Defence of India Rules was intended to provide speedy remedies for industrial disputes by referring them compulsorily to conciliation or adjudication, by making the awards legally binding on the parties and by prohibiting strikes or lock-outs during the pendency of conciliation or adjudication proceedings and for two months thereafter. This rule also put a blanket ban on strikes which did not arise out of genuine trade disputes.

With the termination of the Second World War, Rule 81-A was about to lapse on 1st October, 1946, but it was kept alive by issuing an Ordinance in the exercise of the Government's Emergency Powers. Then followed the Industrial Disputes Act, 1947. The provisions of this Act, as amended from time to time, have furnished the basis on which industrial jurisprudence in this country is founded.

## OBJECT AND SIGNIFICANCE OF THE ACT

The Industrial Disputes Act, 1947 makes provision for the investigation and settlement of industrial disputes and for certain other purposes. It ensures progress of industry by bringing about harmony and cordial relationship between the employers and employees. Definitions of the words 'industrial dispute, workmen and industry' carry specific meanings under the Act and provide the framework for the application of the Act.



In the case of *Workmen of Dimakuchi Tea Estate v. Dimakuchi Tea Estate*, AIR 1958 S.C. 353, the Supreme Court laid down following objectives of the Act:

- (i) Promotion of measures of securing and preserving amity and good relations between the employer and workmen.
- (ii) Investigation and settlement of industrial disputes between employers and employers, employers and workmen, or workmen and workmen with a right of representation by registered trade union or federation of trade unions or an association of employers or a federation of associations of employers.
- (iii) Prevention of illegal strikes and lock-outs.
- (iv) Relief to workmen in the matter of lay-off and retrenchment.
- (v) Promotion of collective bargaining.

This Act extends to whole of India. The Act was designed to provide a self-contained code to compel the parties to resort to industrial arbitration for the resolution of existing or apprehended disputes without prescribing statutory norms for varied and variegated industrial relating norms so that the forums created for resolution of disputes may remain unhampered by any statutory control and devise rational norms keeping pace with improved industrial relations reflecting and imbibing socio-economic justice. This being the object of the Act, the Court by interpretative process must strive to reduce the field of conflict and expand the area of agreement and show its preference for

upholding agreements sanctified by mutuality and consensus in larger public interest, namely, to eschew industrial strife, confrontation and consequent wastage (*Workmen, Hindustan Lever Limited v. Hindustan Lever Limited*, (1984) 1 SCC 728).

## Test your knowledge

### Choose the correct answer

Which was the first enactment that dealt with the settlement of industrial disputes?

- (a) Employers' and Workmen's Disputes Act, 1850
- (b) Employers' and Workmen's Disputes Act, 1860
- (c) Trade Disputes Act, 1860
- (d) Trade Disputes Act, 1929

**Correct answer: (b)**



The Act applies to an existing and not to a dead industry. It is to ensure fair wages and to prevent disputes so that production might not be adversely affected. It applies to all industries irrespective of religion or caste of parties. It applies to the industries owned by Central and State Governments too (*Hospital Employees Union v. Christian Medical College*, (1987) 4 SCC 691).

## IMPORTANT DEFINITIONS

### (i) Industry

"Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft, or industrial occupation or avocation of workmen. [Section 2(j)]

The Supreme Court carried out an indepth study of the definition of the term industry in a comprehensive manner in the case of *Bangalore Water Supply and Sewerage Board v. A Rajiappa*, AIR 1978 SC 548 (hereinafter referred to as Bangalore Water Supply case), after considering various previous judicial decisions on the subject and in the process, it rejected some of them, while evolving a new concept of the term "industry".

### Tests for determination of "industry"

After discussing the definition from various angles, in the above case, the Supreme Court, laid down the following tests to determine whether an activity is covered by the definition of "industry" or not. It is also referred to as the triple test.

- I. (a) Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee, (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g., making, on a large scale, prasad or food) prima facie, there is an "industry" in that enterprise.
  - (b) Absence of profit motive or gainful objective is irrelevant wherever the undertaking is whether in the public, joint, private or other sector.
  - (c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
  - (d) If the organisation is a trade or business, it does not cease to be one because of philanthropy animating the undertaking.
- II. Although Section 2(i) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over-stretch itself. Undertaking must suffer a contextual and associational shrinkage, so

# The Trade Union Act, 1926

## LESSON OUTLINE

- Learning Objectives
- Introduction
- Trade Union
- Executive
- Office bearer
- Registered Office of Trade Union
- Trade Dispute
- Registration of Trade Union
- Mode of Registration
- Rules of Trade Union
- Certificate of Registration
- Cancellation of Registration
- Return of Trade Union

## LEARNING OBJECTIVES

Trade Union means "any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions".

Trade union is a voluntary organization of workers pertaining to a particular trade, industry or a company and formed to promote and protect their interests and welfare by collective action. They are the most suitable organisations for balancing and improving the relations between the employer and the employees. They are formed not only to cater to the workers' demand, but also for inculcating in them the sense of discipline and responsibility.

Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

In this lesson, students will be acclimatized with the legal frame work stipulated under the Trade Unions Act, 1926.

*The legislation regulating the trade unions is the Trade Unions Act, 1926.*

## Introduction

Trade Unions Act, 1926 deals with the registration of trade unions, their rights, their liabilities and responsibilities as well as ensures that their funds are utilised properly. It gives legal and corporate status to the registered trade unions. It also seeks to protect them from civil or criminal prosecution so that they could carry on their legitimate activities for the benefit of the working class. The Act is applicable not only to the union of workers but also to the association of employers. It extends to whole of India.

## Definition

Section 2 of the Act defines various terms used in the Act, some of the definitions are given here under:

**Executive** means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted. [Section 2 (a)]

**Office-bearer** in the case of a trade union, includes any member of the executive thereof, but does not include an auditor. [Section 2 (b)]

**Registered office** means that office of a trade union which is registered under this Act as the head office thereof. [Section 2 (d)]

**Registered trade union** means a trade union registered under this Act. [Section 2 (e)]

**Trade dispute** means any dispute between employers and workmen, or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labor, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises. [Section 2 (g)]

**Trade union** means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions. [Section 2 (h)]

## Mode of registration

Section 4 provides that any seven or more members of a Trade Union may by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union .

However, no Trade Union of workmen shall be registered unless at least ten per cent. or one hundred of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.

## Application for registration

Section 5 stipulates that every application for registration of a Trade Union shall be made to the Registrar and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely:

- the names, occupations and address of the members making application;
- in the case of a Trade Union of workmen, the names, occupations and addresses of the place of work of the members of the Trade Union making the application;
- the name of the Trade Union and the address of its head office; and
- the titles, names, ages, addresses and occupations of the office-bearers of the Trade Union.

## Cancellation of registration

A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar on the following grounds –

- on the application of the Trade Union to be verified in such manner as may be prescribed;
- if the Registrar is satisfied that the certificate has been obtained by fraud or mistake or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision or has rescinded any rule providing for any matter provision for which is required by section 6;
- if the Registrar is satisfied that a registered Trade Union of workmen ceases to have the requisite number of members:

## Returns

Section 28 of the Act provides that there shall be sent annually to the Registrar, on or before such date as may be prescribed, a **general statement**, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

Together with the general statement there shall be sent to the Registrar a statement showing changes of office-bearers made by the Trade Union during the year to which the general statement refers together also with a copy of the rules of the Trade Union corrected upto the date of the despatch thereof to the Registrar. A **copy of every alteration** made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

For the purpose of examining the abovementioned documents the Registrar, or any officer authorised by him by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers, and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a Trade Union.

## LESSON ROUND UP

- Trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions.
- Any seven or more members of a Trade Union may by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of the Act with respect to registration, apply for registration of the Trade Union .
- Every application for registration of a Trade Union shall be made to the Registrar and shall be accompanied by a copy of the rules of the Trade Union and a statement of the specified particulars.
- The Registrar, on being satisfied that the Trade Union has complied with all the requirements of the Act in regard to registration, shall register the Trade Union and issue a certificate of registration .
- Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.
- Trade Union Act provides that there shall be sent annually to the Registrar, on or before such date as

may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December.

### **SELF TEST QUESTIONS**

1. Write short notes on Trade Dispute and Trade Union.
2. Briefly explain the scope and object of Trade Union Act, 1926.
3. State the procedure of registration of Trade Union
4. What are the advantages of a registered Trade Union?
5. State the provisions regarding filing of Return by Trade Union under Trade Union Act, 1926.