



J B NAGAR CA CPE STUDY CIRCLE OF WIRC OF ICAI

Topic : Changes In Labour Laws &
Statutory Compliances

Speaker : Adv Talakshi Dharod

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Labour Laws – An overview

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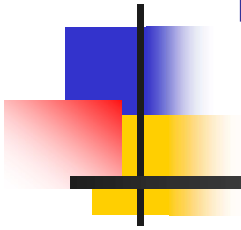
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Coverage

- Employees Provident Fund & M.P. Act, 1952
- ESI Act, 1948
- Payment Of Gratuity Act, 1976
- Payment of Bonus Act, 1965
- Maharashtra Labour Welfare Fund Act, 1953
- Maternity Benefit Act, 1961

Employees Provident Fund & M.P. Act - 1952





EMPLOYEES' PROVIDENT FUNDS & M.P.ACT, 1952

Applicability :-

- Every establishment / factory engaged in any industry specified in schedule I and in which **20 or more** persons are employed and
- Any establishment / factory employing less than **20 persons** can be covered voluntarily u/s 1(4) of the Act.
- Any Establishments which the Government may specifically notify as being covered.



EMPLOYEES' PROVIDENT FUNDS & M.P.ACT, 1952

- **Applicability :-**
- Every establishment / factory engaged in any industry specified in **schedule I** and in which **20 or more** persons are employed and
- Any establishment / factory employing less than **20 persons** can be covered voluntarily u/s 1(4) of the Act.
- Any Establishments which the Government may specifically notify as being covered.



EMPLOYEES PROVIDENT FUND ACT – 1952

Types Of Employees to be considered for coverage :

- The Act is applicable to all types of employees i.e. whether they are Monthly rated, Part-Time employees, Daily rated or Piece rated employees, Casual, Temporary, Permanent or Contractual Employees.

EMPLOYEES PROVIDENT FUND ACT – 1952



Eligibility Of Employees :

- Any person employed for salary is less than Rs.15000/- p.m. and optionally covered where salary exceeds Rs.15000/- p.m. (salary means Basic salary, D.A., and other allowances which are not justified. HRA to be excluded).
- Any person who is classified as disabled employee and working in private sector, with salary up to Rs.25000/- p.m.
- Any person who is classified as International worker under new Para 83 of the E.P.F. scheme, 1952.



EMPLOYEES PROVIDENT FUND ACT – 1952

Rate of contribution :-

- Employee's contribution @12% on salary / wages
- Employer's contribution @ 12% on salary / wages
- Total contribution @ 24% on salary / wages
- In addition employer has to pay 0.5% as a PF as administrative charges. (Minimum Rs.500/-) and 0.5 % EDLI contribution on EDLI Salary.



EMPLOYEES PROVIDENT FUND ACT – 1952

Rate of Contribution in the case of Closure of Company:-

- When company has close down their activities and having no employees minimum Adm.charges of Rs.75/- p.m. in A/c II to be paid.



EMPLOYEES PROVIDENT FUND ACT – 1952

Documents required for Cancellation of Code no :

- In case of permanent closure of the company following documents are required:
 - Surrender of Shop & Establishment Certificate/Factory Act License
 - Cancellation of GST Certificate or Any Govt. License.
 - Proof of Surrender of Premises/ Sale of Machineries etc.
 - Closure of Bank account.
 - Cancellation of name from ROC / Dissolution of Partnership Deed etc.



EMPLOYEES PROVIDENT FUND ACT – 1952

Due date of Payment:-

- The Provident Fund contribution of every month shall be paid online on or before **15th of every month.**
- No grace period allowed.



EMPLOYEES PROVIDENT FUND ACT – 1952

Rate of Interest :-

- Member is entitled to receive interest on PF accumulation as declared by Central Government from time to time. At present Rate of Interest is **8.25%p.a.** on monthly running balance.

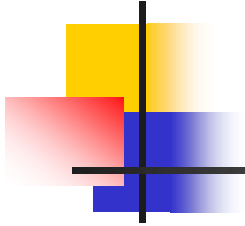


EMPLOYEES PROVIDENT FUND ACT – 1952

PF Part Withdrawal:

- Member can part withdraw his PF contribution after completion of 5yrs or 7yrs of membership as the case may be in following circumstances:
- Marriage Purpose / Housing Loan / Repayment of Housing Loan / Higher Education / Illness / Renovation Of House etc.

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EMPLOYEES PENSION SCHEME – 1995



EMPLOYEES PENSION SCHEME – 1995

Applicability:-

- It is automatically applicable to all the establishment / factories covered under E.P.F. scheme 1952.



EMPLOYEES PENSION SCHEME – 1995

Eligibility:-

- It is automatically applicable to all employees covered under E.P.F. scheme 1952.
- However, **w.e.f. 01.09.2014** if employees Basic salary is above Rs.15000/- and not a member of Pension Fund with previous company is not entitled for Pension Fund.



EMPLOYEES PENSION SCHEME – 1995

Rate of contribution:-

- Employee's contribution: NIL
- Employer's contribution: **8.33%** on salary / wages up to Rs.15000/- p.m.
- (Employer's contribution is inclusive of 12% contribution of PF)
- However, as per Supreme Court Judgment member may opt for higher pension on entire basic salary.



EMPLOYEES PENSION SCHEME – 1995

Benefits:-

- **Various types of pension are available under the scheme.**
- **Nominee & Children Pension**
- **Survivor Pension**
- **Old age pension**
- **Permanent disability pension**
- **Reduced Pension**
- **Scheme certificate**
- **Withdrawal benefit**



EMPLOYEES PENSION SCHEME – 1995

Amount of Pension:-

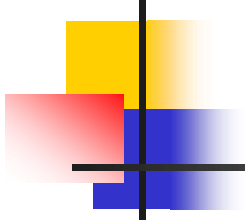
- Minimum amount of pension is Rs.1000/- p.m.
- Maximum amount of pension is Rs.5000/-p.m.

Formula of Pension:-

- Pensionable Salary (Last 60 months average) X Pensionable service

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EMPLOYEES DEPOSIT LINKED INSURANCE SCHEME, 1976



EMPLOYEES DEPOSIT LINKED INSURANCE SCHEME, 1976

Applicability :-

- It is automatically applicable to all the establishment / factories covered under E.P.F. scheme 1952.



EMPLOYEES DEPOSIT LINKED INSURANCE SCHEME, 1976

- **Rate of contribution :-**
 - Employee's contribution: NIL
 - Employer's contribution: 0.50% on salary/wages up to Rs.15000/- p.m.

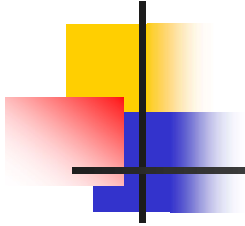


EMPLOYEES DEPOSIT LINKED INSURANCE SCHEME, 1976

Benefits :-

- On the death while in service of the member, the nominee of the deceased shall be paid addition to PF/ Pension accumulations an amount of 40 times of EDLI wages plus 50% of total PF balance of the deceased member for the average of preceding 12 months. EDLI shall be paid maximum of Rs.7 lacs to the nominee.

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EMPLOYEES' STATE INSURANCE ACT, 1948



EMPLOYEES' STATE INSURANCE ACT, 1948

Applicability:-

- a) All factories excluding seasonal factories employing **10 or more employees**
- b) Shops & Commercial Establishments employing 10 or more coverable employees' (However in certain states it is applicable on 20 or more employees)
- c) Any Establishments which the Government may specifically notify as being covered.



EMPLOYEES' STATE INSURANCE ACT, 1948

Types Of Employees :

- The Act is applicable to all types of employees i.e. whether they are Monthly rated, Part-Time employees, daily rated or piece rated employees, casual, temporary, permanent or contractual employees.



EMPLOYEES' STATE INSURANCE ACT, 1948

Eligibility:-

- a) Any person employed for Gross Wages up to **Rs.21,000/- p.m.** excluding wages for conveyance & overtime work in or in connection with the work of a Factory or Establishment.
- b) Any person who is classified as disabled employee and working in private sector, with monthly wages up to Rs.25000/- p.m.



EMPLOYEES' STATE INSURANCE ACT, 1948

Rate of contribution:-

- Employee's contribution @0.75% on gross salary / wages.
- Employer's contribution @ 3.25% on gross salary / wages.
- Total contribution @ 4.00% on gross salary / wages.



EMPLOYEES' STATE INSURANCE ACT, 1948

Due date of Payment:-

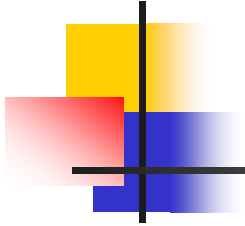
- The E.S.I. contribution of every month shall be online deposited on or before **15th of every month.**



EMPLOYEES' STATE INSURANCE ACT, 1948

Types Of Benefits:-

- a) **Medical Benefit**
- b) **Cash Benefit**
- c) **Accident Benefit**
- d) **Maternity Benefit**
- e) **Funeral Benefit**
- f) **Rehabilitation Benefit**



THE PAYMENT OF GRATUITY ACT, 1972



THE PAYMENT OF GRATUITY ACT, 1972

Applicability:-

- A. Every Factory, mine, oilfield, plantation, port & Railway Company.
- B. Every Shop or establishment/Factory in which 10 or more persons are employed.

Eligibility:-

- Any employee who has completed minimum 5 years of continues service is entitled for Gratuity.
- However in the case of death or disablement of the employee Gratuity is payable, even employee has rendered less than 5 years of service.



THE PAYMENT OF GRATUITY ACT, 1972

Calculation of Gratuity:-

- Gratuity shall be paid at the rate of **15 days wages** for every completed year of service or part thereof in excess of six months based on the rate of his last drawn wages. In the case of monthly rated employees, the rate of one day's wages is to be computed by dividing the monthly wages by 26 working days.
- “Wages” means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him and includes basic & dearness allowance but does not include any bonus, commission, HRA, OT or any other similar allowances.



THE PAYMENT OF GRATUITY ACT, 1972

Maximum amount of Gratuity:-

- As per the Act, the maximum amount of Gratuity is Rupees **20 Lacs.**
- However employer can pay Gratuity at higher rate or of higher than the minimum amount as compared to that prescribed limit, if there is any award, agreement or contract between employer & employee to that effect.



THE PAYMENT OF GRATUITY ACT, 1972

Forfeiture of Gratuity:-

- The employer can forfeit wholly or partially Gratuity amount payable to the employee in the case of
 1. For his riotous or disorderly conduct or any other Act of violence on his part
 2. For any Act which constitutes an offence involving moral turpitude (it means anything done contrary to justice, honesty, modesty or good morals).
 3. Willful omission or negligence, causing any damage or loss to or destruction of property belonging to the employer to the extent of damage or loss caused.



THE PAYMENT OF GRATUITY ACT, 1972

Nominee:-

- If the employee has a family, he must nominate one or more members of the family and none other.
- If the employee has no family, he can nominate any person or persons of his choice. However, if the employee acquired a family after nominating any person or persons of his choice, such nomination becomes invalid and the employee has to make a fresh nomination. (Form No. F)



THE PAYMENT OF GRATUITY ACT, 1972

Claim of Gratuity:-

1. As soon as Gratuity is payable the employer has to pay the Gratuity within 30 days.

Interest on delayed payment :-

- If the Gratuity is not paid within 30 days from the date it becomes payable, the employer is required to pay simple interest on the amount due to the employee. At present the rate of simple interest declared by Central govt. is **10% p.a.**



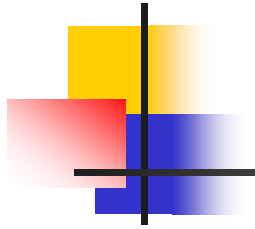
THE PAYMENT OF GRATUITY ACT, 1972

Protection of Gratuity:-

- Gratuity payable under the Act cannot be attached in execution of any decree or order of any civil, revenue or criminal court.

Punishment under the Act:-

- If any person, for the purpose of avoiding any payment to be made under the Act, knowingly makes or causes to be made any false statements or false representation he would be punished with imprisonment up to 6 months, or with fine up to Rs.10,000/- or both.
 1. If any employer contravenes, or makes default in complying with any provisions of the Act or any rule or order made there under he would be punished with imprisonment up to 1 year or with fine up to Rs.20,000/- or with both.



Payment of Bonus Act, 1965



Payment of Bonus Act, 1965

Applicability:

- Every Factory or establishment employing 20 or more persons
- Govt. may apply act to establishments employing less than 20 but more than 10 workers.
- In Maharashtra it is applicable on 10 & above persons.
- Once applied always applied



Payment of Bonus Act, 1965

Eligibility Of Employees :

- Every employee drawing salary of Rs. 21,000/- per month or less; and
- Has worked for minimum 30 days or more in a year
- Eligibility irrespective of grade/designation e.g. Manager, part-time, casual etc.



Payment of Bonus Act, 1965

Eligible Salary For Bonus :

- Salary includes Basic Salary, Dearness Allowance/Special Allowance
 - BUT DOES NOT INCLUDE –
 - Overtime, HRA, Conveyance, Travelling Allowance, contribution to PF, Retrenchment Compensation, Gratuity



Payment of Bonus Act, 1965

- Minimum Bonus @ 8.33% or Rs. 100/- whichever is higher must be paid irrespective of availability of allocable surplus
- Maximum Bonus payable is 20% if allocable surplus is more than minimum bonus payable
- Hence, bonus payable is between 8.33% and 20% depending of availability of allocable surplus.



Payment of Bonus Act, 1965

How to calculate Bonus

- As per Bonus Act, Bonus is payable on Rs. 7,000/- or Minimum Wages, whichever is higher.
- Bonus to be calculated as if his/her salary is Rs.7,000/- or minimum wages per month irrespective of his/her actual salary.



Payment of Bonus Act, 1965

Steps for calculation of available surplus :

- Calculate 'GROSS PROFIT' as per S.4
- Deduct sums referred to in S.6 [Prior Charges]
- Amount thus arrived at is 'Available Surplus'
- Percentage of available surplus as per S.2(4) is 'Allocable Surplus'



Payment of Bonus Act, 1965

- **Set on** is where 'Allocable Surplus' is more than maximum bonus payable (20%) where such excess is carried forward to next year for set on in subsequent year.
- **Set off** is where 'Allocable Surplus' is when there is NO SURPLUS or SHORT SURPLUS lesser than minimum bonus payable and there is no set on available, such deficiency can be carried forward.



Payment of Bonus Act, 1965

- Any amount paid as pooja bonus/ customary bonus can be deducted from bonus amount payable.
- Any loss caused by an employee on account of misconduct causing financial loss can be deducted from bonus amount payable.
- Bonus must be paid within 8 months from close of accounting year or within 1 month of award by any authority.



Payment of Bonus Act, 1965

Penal Provisions :

- Failure to pay bonus may attract action of attachments by Competent Authority for recovery of bonus.
- Failure to comply with any provisions shall attract imprisonment for 6 months or fine of Rs. 1,000/- or both.

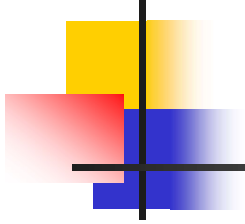


Payment of Bonus Act, 1965

Records to be maintained –:

- Form A – Computation of Allocable Surplus
- Form B – Set on & Set off
- Form C – Bonus due to each employee and deductions there from
- Form D – Annual return

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THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953

THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953



Applicability:

- The Act applies to all factories and establishments employing more than **5 workmen.**

THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953

Contribution:

- The six monthly contribution payable under this Act is as follows: **June & December. (UPTO DEC.23)**
- 1. Employee's contribution: Rs. 12/-
- 2. Employer's contribution: Rs. 36/-
- 3. State Government's Contribution : 24/-
- 4. REVISED RATE FROM JUNE-24 ONWARDS
- 5. Employee's contribution: Rs 25/-
- 6. Employer's contribution: Rs. 75/-
- 7. State Government's Contribution : 100/-

THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953



Exemption of Employees:

- Following categories of employees are exempted under the Act:
 1. Manager
 2. Supervisor
 3. Apprentice

THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953



Due Date of Payment :

- The both the employee's & employer's contributions shall be paid on or before **15th day of July & 15th day of January** as the case may be.

Interest on Delayed Payment :

1. For the first three months – **Simple Interest of 1.5%**
2. Thereafter – **Simple Interest of 2%** of that amount for each completed months during the time he continues to make default in the payment of that amount.

THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953



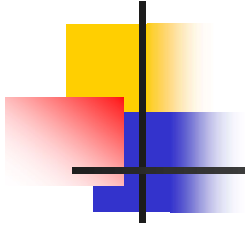
Unpaid Accumulations:

- Over and above regular six monthly contributions any payment due to the employee but not made to them within a period of three years from the date of which they became due including Wages, Salary, Gratuity, Bonus shall be deposited to the Welfare Fund and in no case employer can write off the unpaid dues of employees.

THE MAHARASHTRA LABOUR WELFARE FUND ACT, 1953

Activities carried out by Welfare Board:

1. Community and social education centers including reading room and Libraries.
2. Community necessities
3. Games & Sports
4. Excursions, Tours & Holiday Homes
5. Entertainment & other forms of recreations
6. House Industries and subsidiary occupations for woman & unemployed persons
7. Corporate activities of a social nature
8. Such other activities as in the opinion of the State Government thinks fit for social conditions of Labour.



THE MATERNITY BENEFIT ACT, 1961



THE MATERNITY BENEFIT ACT, 1961

Applicability :-

- (1) Every Shop / Establishment in which 10 or more persons are employed.
- (2) Any other establishment to which the Act is applied by the State Government.
- However, the Act does not apply to any factory or other establishment where provisions of E.S.I. Act applies to the lady.



THE MATERNITY BENEFIT ACT, 1961

Who can claim Maternity Benefit :-

- Any pregnant woman entitled to Maternity benefit unless she has actually worked in an Establishment for a period of not less than **80 days** in the 12 months immediately preceding the date of her expected delivery.

Which class of employees are covered :-

- It is applicable to all classes of women whether she is permanent, temporary, casual, daily rated, monthly rated etc.



THE MATERNITY BENEFIT ACT, 1961

Time for proceeding on Maternity Leave :-

- A) The maximum period of Maternity Leave shall be paid for **26 weeks** of which not more than **8 weeks** shall precede the date of her expected date of delivery. It is mandatory to pay minimum **18 weeks** leave after leave.

- B) However, Woman having **two or more** than two surviving children shall be paid for **12 weeks** of which not more than **6 weeks** shall precede the date of her expected date of delivery.



THE MATERNITY BENEFIT ACT, 1961

Miscarriage :-

- In case of miscarriage a woman shall be entitled to leave with wages at the rate of Maternity Benefit for a period of **6 weeks** immediately following the day of her miscarriage.

Tubectomy Operation :-

- In case of Tubectomy operation, a woman is entitled to get Leave with wages for a period of **2 weeks** immediately following the day of her operation subject to proof of operation as may be prescribed.



THE MATERNITY BENEFIT ACT, 1961

Additional Leave with wages for illness :-

- A woman suffering from illness arising out of Pregnancy delivery, premature birth of child or miscarriage shall be entitled in addition to the period of absence allowed to her under the provision of the Act, to leave with wages at the rate of Maternity Benefit for a period of **maximum one month.**



THE MATERNITY BENEFIT ACT, 1961

Adoption/ Commissioning mother:-

- A woman who legally adopts a child **below the age of three months** or a commissioning mother shall be entitled to Maternity Benefit for a period of **12 weeks** from the date the child handed over to the adopting mother or the commissioning mother as the case may be.



THE MATERNITY BENEFIT ACT, 1961

Creche Facilities:-

- A) Every establishment having **50 or more employees** shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities.
- B) Employer shall allow **4 (Four) visits** a day to the creche by the women, which shall also include the interval for rest allowed to her.



THE MATERNITY BENEFIT ACT, 1961

Time for payment of Maternity Leave :-

- Leave shall be paid in **2 installments**
- (1) the amount of Maternity benefit for the period preceding the date of her expected delivery date shall be paid in advance on production of proof that the woman is pregnant.
- (2) Subsequent period of amount shall be paid within 48 hours of production of proof that the woman has been delivered of a child.



THE MATERNITY BENEFIT ACT, 1961

Medical Bonus :-

- A woman is entitled to get medical bonus of **Rs.3500/-** in addition to her Maternity Benefit. However, if employer is providing medical care free of charge than it is not compulsory to pay Medical Bonus. The said Bonus shall be paid at the time of payment of second installment of Maternity Benefit.



THE MATERNITY BENEFIT ACT, 1961

Restriction on employment of pregnant woman :-

1. The employer is prohibited from knowingly employing a woman in any establishment during the **18 weeks** after the delivery or her miscarriage.
2. A woman is also required to remain absent during those days i.e. **18 weeks** immediately after the date of delivery or miscarriage.
3. A pregnant woman can also request the employer not to give her any work which is of an arduous nature or which involves long hour of standing etc. The period of **6 weeks** before the date of expected date of delivery.
4. **Employer cannot terminate pregnant woman on account of her absent of Maternity Leave.**



THE MATERNITY BENEFIT ACT, 1961

Payment of Maternity Benefit in case of death of a woman :-

1. A woman dies **before receiving the benefit** the employer shall pay such benefit to the person nominated by the woman. In case of no nominee than to her legal representative is entitled to receive the benefit.
 2. IF woman dies **before delivering any child** than Maternity benefit is payable up to the date of death.
- If woman **dies during the period of delivery and leaving behind child** than Maternity Benefit is payable for the entire period but if child also dies than Maternity Benefit is payable up to and including the date of death of the child.



THE MATERNITY BENEFIT ACT, 1961

Forfeiture of Claim :-

- If a woman who is on authorized Maternity Leave from her employer & works in any other establishment during those periods of authorized absent she shall forfeit her claim to the Maternity Benefit for such period.



THE MATERNITY BENEFIT ACT, 1961

Punishment :-

1. If any employer fails to pay Maternity Benefit or discharge or dismiss any woman during the period of Maternity Leave he shall be punishable with imprisonment which shall **not be less than 3 months** but which may be extended to one year and with fine which shall not less than Rs.2,000/- but may be extended to Rs.5,000/-.
2. For contravenes of the provisions of the Act, then imprisonment which may be extended to one year or fine which may be extended to Rs.5000/- or both.



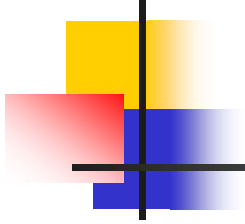
THE MATERNITY BENEFIT ACT, 1961

Appointment Letter :-

- Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Maternity Benefit Act.

Records to be maintained :-

1. **Abstract** of the provisions of Maternity Benefit Act may be displayed every part of the establishment in which women are employed.
2. To maintain Muster Roll in prescribed form.
3. To submit **Annual Return in Form No.11** to the competent Authority by the 15th day of January each year.



Thank you

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