

# **MAR GREGORIOS COLLEGE OF ARTS & SCIENCE**

Block No.8, College Road, Mogappair West, Chennai – 37

Affiliated to the University of Madras  
Approved by the Government of Tamil Nadu  
An ISO 9001:2015 Certified Institution



## **PG DEPARTMENT OF SOCIAL WORK**

**SUBJECT NAME: LABOUR LEGISLATION**

**SUBJECT CODE: HBWCA**

**SEMESTER: III**

**PREPARED BY: PROF. D. MOIEESON THAIRIYAM**

## SPECIALIZATION I – HUMAN RESOURCE MANAGEMENT

### b. Labour Legislations

Total Teaching Hours: 60

#### Objectives:

- Gain knowledge about labour legislations and labour welfare
- Understand the legal provisions of labour welfare
- Acquire the skills of working with corporate sector

#### Unit 1: Concept and History of Labour Legislations:

Origin and development; objectives and principles of labour laws; Labour legislations in the Indian Constitution. Industrial Jurisprudence, judicial activism in India; Impact of Liberalization and Globalization; Labour Policy of India; International Labour Organisation (ILO) and its role in labour welfare; Challenges in enacting and enforcing Labour Laws

#### Unit 2: Legislations related to Labour:

The Factories Act 1948; The Tamil Nadu Shops and Establishment Act 1947; The Plantation Labour Act 1951; Interstate migrant workmen (regulation and employment and conditions of service) Act, 1979; The Contract Labour (regulation and abolition) Act 1970; The Mines Act 1952; The Motor Transport Workmen Act 1961; The Dock Workers (Safety Health and Welfare) Act 1986; Employment of Manual Scavengers and Construction of Dry latrines (Prohibition) Act, 1993

#### Unit 3

##### Legislations related to Industrial Relations and Wages:

The Trade Union Act 1926, Industrial Employment Standing Order Act, 1946; The Industrial Dispute Act 1947; The Payment of Wages Act 1936; The Minimum Wages Act 1948; The Payment of Bonus Act 1965

#### Unit 4

##### Social Security Legislations:

Employees State Insurance Act 1948, Employees Provident Fund Act 1952, Payment of Gratuity Act 1972, Maternity Benefit Act 1961, Workmen's Compensation Act 1923. TN Labour Welfare Fund Act 1972, Equal Remuneration Act, 1976; Sexual Harassment of Women at Workplace (Prevention Prohibitions & Redressal) Act 2013; Unorganized Workers Social Securities Act, 2008

#### Unit 5

##### Enforcement Authorities:

Work Committees; Industry Conciliation officers; Board of Conciliation; Adjudication; Courts of Enquiry, Labour Court, Industrial Tribunal and National Tribunal; Powers of the Government – Procedures, Powers and Duties of enforcement authorities; Role of the Ministry of Labour and Employment

#### BOOKS FOR REFERENCE

1. Babu Sharath and Rashmi Shetty. 2007, Social Justice and Labour Jurisprudence. SAGE Publication. New Delhi.
2. Bhatia, 2008 Strategic Industrial Relations and Labour Laws, Deep and Deep Publications, New Delhi.

## Unit 1

### Concept and History of Labour Legislation

#### Origin and Development of labour Legislation:

#### Introduction to Labour Laws

- Labour laws or labour legislations is the body of laws, administrative rulings, precedents which address the relationship between and among the employers, employees and labour organisations, often dealing with the issues of public law.
- Indian labour law refers to laws regulating labour in India.
- Traditionally, Indian governments at federal and state level have sought to ensure a high degree of protection for workers, but in practice, legislative rights only cover a minority of workers. ¶ India is a federal form of government and because labour is a subject in the concurrent list of the Indian Constitution, labour matters are in the jurisdiction of both central and state governments; both central and state governments have enacted laws on labour relations and employment issues.
- Importance and Necessity of Labour Laws (1) Improves industrial relation i.e. employee-employer relations and minimizes industrial disputes. (2) Prospects workers form exploitation by the employers or management (3) Helps workers in getting fair wages (4) Minimizes labour unrest (5) Reduces conflicts and strikes etc. (6) Ensures job security for workers (7) Promotes welcome environment conditions in the industrial system (8) Fixes rest pauses and work hours etc. (9) Provides compensation to workers, who are victims of accidents.
- The law relating to labour and employment is also known as Industrial law in India. The history of labour legislation in India is interwoven with the history of British colonialism. The industrial/labour legislations enacted by the British were primarily intended to protect the interests of the British employers. Considerations of British political economy were naturally paramount in shaping some of these early laws. • Thus came the Factories Act. It is well known that Indian textile goods offered stiff competition to British textiles in the export market and hence in order to make India labour costlier the Factories Act was first introduced in 1883 because of the pressure brought on the British parliament by the textile magnates of Manchester and Lancashire. Thus India received the first stipulation of eight hours of work, the abolition of child labour, and the restriction of women in night employment, and the introduction of overtime wages for work beyond eight hours. While the impact of this measure was clearly welfarist the real motivation was undoubtedly protectionist. The earliest Indian statute to regulate the relationship between employer and his workmen was the Trade Dispute Act, 1929 (Act 7 of 1929). Provisions were made in this Act for restraining the rights of strike and lock out but no machinery was provided to take care of disputes.
- The original colonial legislation underwent substantial modifications in the post-colonial era because independent India called for a clear partnership between labour and capital.

The content of this partnership was unanimously approved in a tripartite conference in December 1947 in which it was agreed that labour would be given a fair wage and fair working conditions and in return capital would receive the fullest co-operation of labour for uninterrupted production and higher productivity as part of the strategy for national economic development and that all concerned would observe a truce period of three years free from strikes and lockouts. Ultimately the Industrial Disputes Act (the Act) brought into force on 01.04.1947 repealing the Trade Disputes Act 1929 has since remained on statute book.

- **Objectives of Labour Laws** \ Fair Wages \ Equal Opportunity \ Protecting Children \ Protecting the Disabled \ Working Hours
- Principles of Labour Laws • Protection from Discrimination • Compensation • Labor Unions • Creating a Union

### **Principles of Labour Laws**

- Protection from Discrimination Labour laws in the United States generally protect employees from unlawful discrimination. This means that businesses cannot discriminate in hiring practices, promotions or firing of employees. Businesses also cannot discriminate based on race, ethnicity, sex, religion or nation of origin. These are called protected classes. Some states also protect against discrimination based on religion, sexual orientation and gender identification. Often the most contentious of these protected classes is religion. Labour law requires that businesses make attempts to accommodate the religious beliefs of their employees, unless doing so would create a hardship for the company. For example, if you have Jewish employees, they may request certain holy days off work. As an employer, you cannot deny the request and should make an accommodation to find other workers to cover the shift if at all possible. With regards to all the protected classes, business owners cannot retaliate against an employee that files a complaint about discrimination.
- Compensation The Fair Labour Standards Act is federal legislation that applies to most employees in the United States. This law says that employees must generally be paid a minimum wage (depending on the state in which they live). It also requires that employees who are employed on an hourly basis be paid overtime pay (time and a half) if they work more than 40 hours per week. These rules vary slightly by state and by industry. For example, servers in restaurants may be paid much less than the minimum hourly wage but are compensated through tips and service charges to make up the difference. Some states also have a minimum wage that is higher than the one set by the federal government.
- Labor Unions The development of labour unions has changed the way that employees deal with their employers. The National Labour Relations Act (NLRA) of 1935 is federal legislation that requires businesses that hire members of unions to meet with union representatives to negotiate on wages, working hours, and workplace conditions.
- Creating a Union Employees are also free to form unions to bargain collectively with their employers. The National Labour Relations Board is a federal organization that oversees the rules regarding the creation of unions. To form a union, employees must

organize themselves so that at least 30 percent of the employees of a business agree to have a union; the names and signatures of the employees are then submitted to the National Labour Relations Board. The board will verify the signatures and hold a secret ballot vote of the employees to ascertain if a majority desire to have a workplace union. If this turns out to be the case, the employees are free to arrange their union and to appoint representatives to negotiate with the business. As a business owner, it is important to know about this procedure, to follow the law and to be amenable to working with unions to create a positive work environment.

- International Labour Organization The International Labour Organization (ILO) is a United Nations agency dealing with labour issues, particularly international labour standards, social protection, and work opportunities for all. The ILO has 187 member states: 186 of the 193 UN member states plus the Cook Islands are members of the ILO. In 1969, the organization received the Nobel Peace Prize for improving peace among classes, pursuing decent work and justice for workers, and providing technical assistance to other developing nations. The ILO registers complaints against entities that are violating international rules; however, it does not impose sanctions on governments.
- ILO is a special organization of the United Nations that regulates labor relations. At the current time 180 nations have become members of this organization; based in Geneva since 1920. • The ILO was created in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice. • The driving forces for ILO's creation arose from security, humanitarian, political and economic considerations. Summarizing them, the ILO Constitution's Preamble says the High Contracting Parties were 'moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world...' • There was keen appreciation of the importance of social justice in securing peace, against a background of exploitation of workers in the industrializing nations of that time. There was also increasing understanding of the world's economic interdependence and the need for cooperation to obtain similarity of working conditions in countries competing for markets.
- Main reasons for establishing ILO } Political – ILO was established due to Russian and European revolutions in order to regulate and solve the problems faced by the society. The organizing members decided to create an organization that would support social progress and foster peace between the different social classes; } Social – And whereas conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required; } Economical – Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.
- The ILO has four strategic objectives: • Promote and realize standards and fundamental principles and rights at work • Create greater opportunities for women and men to decent employment and income • Enhance the coverage and effectiveness of social protection for all • Strengthen tripartism and social dialogue

- ILO structure and offices: • Employer sector; • Social sector; • Social benefits sector; • Management and administration; • General Director's statements sector; • Regional and technical partnership

### **Industrial Jurisprudence:**

- Industrial legislation finds its origin from the industrial jurisprudence, which is a development of the 20th century world.
- The evolution of Industrial Jurisprudence in India can be traced back to the period of post Independence. Before the Independence, the industrial jurisprudence existed in a primary state.
- The paramount concern of the Pre-independence industrial jurisprudence was the improvement of the working condition of the workers at the factories.
- Before the Independence, India was not only a great agricultural country, but also a manufacturing country. But the British Government, as a matter of their policies always tended to discourage the Indian industries.
- This led to a widespread nationalism in India, which laid emphasis on the boycott of the foreign goods. Further a non-cooperation movement saw its birth that is also called swadeshi movement which emphasized on the use of indigenous goods and boycott of the foreign goods.
- Industrial revolution was the emanating factor behind the growth of the industrial jurisprudence. Industrial revolution brought with it the most inhumane aspect of the human life.
- It saw the exploitation of a man by a man. The maximization of profit, even at the cost of the life of the labourers, was paramount goal of the employer.
- 'Freedom of contract' was the evident result of the laissez faire. The employer was free to fire the employee, at his arbitrariness. Thus the employees were always at the loss.
- To protect the interest of the employees, the legislature and courts, in India took a giant step to give birth to the industrial jurisprudence in India former through the enactments and the latter through the judgments.

### **Labour law and constitution**

1. Relevant Articles: ♦ Art. 14 Equality before Law ♦ Art. 16 Equality of Opportunity ♦ Art. 19 (1) (c) Right to form Associations and Trade Unions ♦ Art. 21 Right to livelihood under Right to life. ♦ Art. 23 Prohibits traffic in human beings and forced labour. ♦ Art. 24 Prohibits child labour below the age of 14 years. ♦ Art. 39(d) ensures equal pay for equal work.
2. ♦ Relevant Articles: ♦ Art. 41 Right to work, to education and to public assistance in certain cases ♦ Art. 42 Provision for just and humane conditions of work and maternity relief ♦ Art. 43 Living wage, etc., for workers ♦ Art. 43-A Participation of workers in management of industries ♦ Art. 47 Duty of the State to raise the level of nutrition and the standard of living and to improve public health

### Principle of Labour legislation

- Social Justice ♦ Social Security/welfare ♦ National economy ♦ International uniformity

♦ Social Justice ♦ The first step in establishing social justice is to protect those who can't protect themselves. Industrial laws provide social justice to the workers by ensuring suitable distribution of profits and benefits among the employer and employees. It also provides better working conditions in industry.

♦ Social Security/welfare Another objective of labour law is to ensure social welfare of workers. These laws help the employees to improve their social status i.e. material and morale of the workers by providing adequate wages and safety measures, ensuring appropriate working hours and health facilities.

♦ National economy: National economy is another guiding principle of labour legislation. It ensures normal growth of industry for the development of nation. It increases the efficiency of workers and satisfies their needs. Thus efficient industry finally contributes a lot to improve national economy.

♦ International uniformity: ♦ In attaining international uniformity International Labour Organization (I.L.O.) has played an important part. ♦ It aims at securing minimum standard on uniform basis in respect of all labour matters. Uniformity of standards can be maintained only by enforcing various industrial laws.

**Adjudicatory Authorities:** Labour Court (Sec 7 ♦ Industrial Tribunal (Sec7-A) ♦ National Tribunal (Sec7-B)

**Non- Adjudicatory Authorities:** ♦ Works Committee (Sec 3) ♦ Conciliation Officers (Sec 4) ♦ Board of Conciliation (Sec 5) ♦ Court of Inquiry (Sec 6)

### JUDICIAL REVIEW

• Judicial review is the doctrine under which legislative and executive actions are subject to review (and possible invalidation) by the judiciary. • Judicial review is an example of the separation of powers in a modern governmental system (where the judiciary is one of three branches of government). • This principle is interpreted differently in different jurisdictions, which also have differing views on the different hierarchy of governmental norms.

- EXPANSION OF JUDICIAL REVIEW THROUGH JUDICIAL ACTIVISM • After the draconian exposition of power by the Executive and the Legislature during Emergency the expectations of the public soared high and the demands on the courts to improve the administration by giving appropriate directions for ensuring compliance with statutory and constitutional prescriptions. Likewise the judiciary has taken an activist view the Beginning with the Ratlam Municipality case 12the sweep of Social Action Litigation13 had encompassed a variety of causes14.
- SAL, a manifestation of judicial activism, has introduced a new dimension regarding judiciary's involvement in public administration16. The sanctity of locus standi and the procedural complexities are totally sidetracked in the causes brought before the courts

through SAL. In the beginning, the application of SAL was confined only to improving the lot of the disadvantaged sections of the society who by reason of their poverty and ignorance were not in a position to seek justice from the courts and, therefore, any member of the public was permitted to maintain an application for appropriate directions<sup>17</sup>.

- **ORIGIN OF THE TERM “JUDICIAL ACTIVISM”** • Arthur Schlesinger Jr. introduced the term "judicial activism" in a January 1947 Fortune magazine article titled "The Supreme Court: 1947." • Schlesinger's article profiled all nine Supreme Court justices on the Court at that time and explained the alliances and divisions among them • . An article by Craig Green, "An Intellectual History of Judicial Activism," is highly critical of Schlesinger's use of the term.
- **DEFINITION OF JUDICIAL ACTIVISM** • Black's Law Dictionary defines judicial activism as a "philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions.“ • David Strauss has argued that judicial activism can be narrowly defined as one or more of three possible actions: overturning laws as unconstitutional, overturning judicial precedent, and ruling against a preferred interpretation of the constitution.
- **Judicial activism in india** • Judicial activism is gaining prominence in the present days. In the form of Public Interest Litigation (PIL), citizens are getting access to justice. • Judiciary has become the centre of controversy, in the recent past, on account of the sudden (Me in the level of judicial intervention. The area of judicial intervention has been steadily expanding through the device of public interest litigation.
- The judiciary has shed its pro-status-quo approach and taken upon itself the duty to enforce the basic rights of the poor and vulnerable sections of society, by pro-gressive interpretation and positive action. • Judicial activism refers to the interference of the judiciary in the legislative and executive fields. It mainly occurs due to the non-activity of the other organs of the government. • Judicial activism is a way through which relief is provided to the disadvantaged and aggrieved citizens.
- **Areas of judicial activism** • During the past decade, many instances of judicial activism have gained prominence. • The areas in which judiciary has become active are health, child labour, political corruption, environment, education, etc. • Through various cases relating to Bandhua Mukti Morcha, Bihar Under trials, Punjab Police, etc he judiciary has shown its firm commitment to participa-tory justice, just standards of procedures, immediate access to justice, and preventing arbitrary state action.
- **Judicial activism in India acquired importance due to public interest litigation.** It is not defined in any statute or act. • In India, PIL initially was resorted to towards improving the lot of the disadvantaged sections of the society who due to poverty and ignorance were not in a position to seek justice from the courts.

### **Impact of liberalization and Globalization**

1. Globalization is the process of international integration arising from the interchange of world views, products, ideas, and other aspects of culture. Put in simple terms, globalization refers to processes that promote world-wide exchanges of national and



cultural resources. Advances in transportation and telecommunications infrastructure, including the rise of the Internet, are major factors in globalization.

2. In general, liberalization (or liberalisation) refers to a relaxation of previous government restrictions, usually in areas of social or economic policy. The word liberalisation is mainly used to denote that the Government is moving from licensing of commerce to de-licencing. Even though normally associated with Government ownership of Government in business entities, the real direction of liberalisation is moving away from planned economy to market economy. The growth of business is dictated more as per the demand and supply in the market than decided by Government in power.
3. 5. From independence till the later part of the 1980s, India economic approach was mainly based on government control and a centrally operated market. The economic liberalization policies were undertaken, it did not find much support and the country remained in its backward economic state. It was in the 1990s that the first initiation towards globalization and economic liberalization was undertaken by Dr. Manmohan Singh, who was the Finance Minister of India.
4. Globalization and liberalization has greatly influenced the Indian economy and made it a huge consumer market. Today, most of the economic changes in the country are based on the demand supply cycle and other economic factors.
5. One of the main aspects of globalization is foreign investment. India today has emerged as one of the perfect markets for foreign investors due to its vast market base. More and more foreign companies are investing in the Indian market to get more returns. Increased the number of jobs that were available to the people of the country.
6. Reduced the profit levels of the Indian pharmaceutical companies as a result of which many had to close down such as Hindustan Ciba Geigy, Park Davis. Competition increased in the Indian market between the foreign pharmaceutical companies and domestic companies.
7. Growth rate. A huge public sector emerged. State- owned enterprises made large losses. Tax Department. Infrastructure. License.

### **Labour policy in India**

- Labour policy is required to maintain for maintaining the industrial peace and welfare of the workers. ♦ Labour Policy Highlights: ♦ Recognition of the State as the custodian of the interests of the workers. ♦ Encouragement for mutual settlement, collective bargaining. ♦ Ensuring fair wage standards and provisions of social security. ♦ Adequate enforcement of legislation. ♦ To provide medical facilities for workers etc.
- After independence the national government paid a vital role to improve the conditions of the workers. ♦ The prosperity of the country depends upon the development and growth of the industry. ♦ Social justice and Social security has to be restored to the labourer. ♦ Our Constitution of India guarantees social justice to the people of India.

### **INTERNATIONAL LABOUR ORGANIZATION**

- The International Labour Organization (ILO) is a United Nations agency dealing with labour issues, particularly international labour standards and decent work for all. 185 of the 193 UN member states are members of the ILO In 1969, the organization received the Nobel Peace Prize for improving peace among classes, pursuing justice for workers, and providing technical assistance to other developing nations.
- HISTORY The ILO was founded in April 1919 primarily in response to humanitarian concern over the condition of workers who were being exploited with no consideration for their health, their family lives or their professional and social advancement.
- The ILO Constitution “WHERE AS UNIVERSAL AND LASTING PEACE CAN BE ESTABLISHED ONLY IF IT IS BASED UPON SOCIAL JUSTICE...
- Objectives of ILO → Full employment and raising of living. → Protection for the life and health of workers in all occupation. → Provision for child welfare and maternity protection. → Assurance of quality education.
- ILO Comprises STRUCTURE How the ILO works International Labour Conference Governing Body International Labour Office
- Employers Tripartite structure of the ILO The ILO has a tripartite structure unique in the United Nations system, in which employers’ and workers’ representatives – the “social partners” – have an equal voice with those of governments in shaping its policies and programmes. Workers Governments ILO
- ILO SPHERE OF ACTIVITY Governments ILO DECENT WORK Social justice TECHNICAL COOPERATION STANDARDS-RELATED ACTIVITIES RESEARCH – INFORMATION – MEETINGS
- Governing Body The Governing Body decides the agenda of the International Labour Conference, elects the director- general, requests information from member states concerning labour matters, appoints commissions of inquiry and supervises the work of the International Labour Office. Guy Ryder was the ILO's director-general since 2012. This guiding body is composed of 28 government representatives, 14 workers representatives, and 14 employers representatives. Ten of the government seats are held by member states that are nations of "chief industrial importance," as first considered by an "impartial committee." The nations are Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States.
- International Labour Conference →International Labour Conference also known as the parliament of Labour. →The ILO organizes the International Labour Conference in Geneva every year in June. →The conference also makes decisions about the ILO's general policy, work programme and budget. →Each member state has four representatives at the conference: two government delegates, an employer delegate and a worker delegate.
- In 1998, the 86th International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work. This declaration contains 4 fundamental policies: ●The right of workers to associate freely and bargain collectively; ●The end of forced and compulsory labour; ●The end of child labour; and ●The end of unfair discrimination among workers.

- These cover subjects considered to be fundamental principles and rights at work: The ILO's fundamental Conventions
- ILO Issues ILO fight against:
  - ⊖ Fight against forced labour
  - ⊖ To protect the right of labours for fixing minimum wage
  - ⊖ Rights of migrant workers Migrant workers refer to those who moves from place to place to do their job
- Securities of ILO Social securities:
  - ⊖ Workmen's Compensation
  - ⊖ Sickness insurance
  - ⊖ Old age insurance
 Employment for Women:
  - ⊖ Maternity protection
  - ⊖ Night work
  - ⊖ Equal process
- Subjects addressed by the ILO's ILS International labour standards respond to a growing number of needs and challenges experienced by workers and employers in the globalized economy. The following subjects are covered by international labour standards: Wages Working time Occupational safety and health Social security Maternity protection Social policy Migrant workers Seafarers Fishers Dock workers Indigenous and tribal peoples Other specific categories of workers STANDARDS-RELATED ACTIVITIES International labour standards (ILS) Freedom of association Collective bargaining Forced labour Child labour Equality of opportunity and treatment Tripartite consultation Labour administration Labour inspection Employment policy Employment promotion Vocational guidance and training Employment security
- How an international labour standard is adopted A problem is identified The Governing Body puts the subject on the agenda of the International Labour Conference The Office prepares a law and practice report with a questionnaire on the content of a possible new instrument The report is sent to governments, employers and workers for their comments The Office analyzes the comments and prepares its proposed conclusions WE G First discussion of the proposed conclusions at the Conference The Office prepares a report containing a summary of the discussion and the proposed instrument The report is sent to governments, employers and workers for their comments The Office prepares a revised draft of the instrument WE G Second discussion of the proposed instrument at the Conference The instrument is adopted by the Conference with a 2/3-majority vote

## Unit 2

### Legislation related to Labour

#### FACTORIESACT, 1948

1. INITIATION:—In great Britain, the second half of the 18th century, there was a rapid growth of industrial towns & factories.—As it was started without planning, they employed the women as well as their children in factories who needed to work for more than 12 hours a day.—Some of the employees took initiative to implement labour legislations, Factories Act came into existence in 1819.—After some modifications, the final amended of Factories Act took place in 1948.
2. FACTORIES ACT IN INDIA: In India, the First factories Act was passed in 1881. This Act was basically designed to protect children and to provide few measures for health and safety of the workers. This law was applicable to only those factories, which employed

100 or more workers. In 1891 another Factories Act was passed which extended to the factories employee 50 or more workers.

3. FACTORIES ACT INCLUDES:→Health→Safety→Welfare→Working Hours Of Adults→Annual Leave With wages
4. DEFINITIONS: “Factory” is defined in section 2(m) of the Act. It means any premises including the precincts thereof-a) Whereon 10 or more workers are working, or were working on any day of the preceding 12 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; orb) Whereon 20 or more workers are working, or were working on any day of the preceding 12 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. But does not include a mine subject to the operation of the Mines Act, 1952 or a mobile unit belonging to the Armed forces of the Union, a railway running shed or a hotel, restaurant or eating-place.
5. OTHER DEFINITIONS: “Manufacturing process” means any process for-a) Making, altering, repairing, ornamenting, finishing, packing , oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal ; orb) Pumping oil, water, sewage or any other substance; orc) Generating, transforming or transmitting power; ord) Composing types for printing by letter press, lithography, photogravure or other similar process or book binding) Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;
6. DAY: means a period of 24 hours beginning at midnight;→WEEK: means a period of 7 days beginning at midnight on Saturday night→CALENDAR YEAR: means the period of 12 months beginning with the first day of January in any year→POWER: means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency→PRIME MOVER: means any engine, motor or other appliance which generates or otherwise provides power;
7. OBJECTIVES: The main objective of Factories Act, 1948 is to ensure adequate safety measures and to promote the health and safety and welfare of the workers employed in factories. The act also makes provisions regarding employment of women and young persons(including children & adolescents), annual leave with wages etc. The Act extended to whole of India including Jammu &Kashmir and covers all manufacturing processes and establishments falling within the definitions of “factory” as defined u/s 2(m) of the act. Unless otherwise provided it is also applicable to factories belonging to Central/State Government (section 116)
8. PROVISIONS REGARDING HEALTH:1) Cleanliness2) Disposal of Wastes & Effluents3) Ventilations & Temperature4) Dust & Fumes5) Artificial Humidification6) Overcrowding7) Lighting8) Drinking Water9) Latrines & Urinals10) Spittoons
9. PROVISIONS REGARDING SAFETY:1) Fencing of Machinery2) Work on or near Machinery in motion3) Employment of Young Persons on Dangerous Machines4) Striking Gear and Devices for cutting off power5) Self Acting Machines6) Casing of New Machinery7) Prohibition of Employment of Women & Children near Cotton openers8) Hoists, lifts, Lifting Machines and others9) Revolving Machinery10) Pressure Plant
10. 1) Floors, Stairs & Means or Access2) Pits, Sumps, Opening in Floors and others3) Excessive Weights4) Protection of Eyes precautions against Dangerous Fumes, Gases &

- others5) Precautions Regarding use of portable electric light6) Explosive or Inflammable Dust, Gas7) Precautions in case of fire8) Specifications of Defective Parts or Tests of Stability9) Safety of Buildings and machines10) Safety officers
11. PROVISIONS REGARDING WELFARE OF WORKERS1) Washing Facilities2) Facilities for Storing & Drying clothing3) Facilities for Sitting4) First Aid facilities5) Canteens, Shelters, Rest Rooms & Lunch Rooms6) Creches7) Welfare Officers
  12. HAZARDOUS PROCESSES Provisions regarding Hazardous Process were instructed in the Act under a new chapter by the Factories (Amendment) Act, 1987. This Act instructed two new schedules: I. Listing the industries involving hazardous process I. Relating to permissible levels of certain chemical substances in work environment
  13. PROVISIONS REGARDING HAZARDOUS PROCESSES1) Constitution of Site Appraisal Committee2) Compulsory Disclosure of Information3) Special Responsibility of the occupier in relation to Hazardous processes:4) Maintaining accurate and up-to-date health and medical records of workers exposed to any chemical, toxic or any other harmful substances manufactured, stored, handled or transported5) Appointing qualified, experienced & competent persons in handling such substances to supervise handling and for protecting the workers from the hazard6) Providing for medical examination of every worker at intervals
  14. ∞ Appointment of Inquiry Committee∞ Emergency Standards∞ Permissible Limits of Exposure of chemical and toxic∞ Substances∞ Workers' participation in safety management∞ Right of workers to warn about imminent danger
  15. WORKING HOURS OF ADULTS:•Weekly Hours: < 48 hours Weekly Holidays : at least 1 holiday in a week, substitute holidays CompensatoryHolidays Daily Hours : < 9 hours Intervals for rest : at least half an hour Spread Over•Night Shifts
  16. Prohibition of Overlapping Shifts : not more than 2 continuous shift• Extra wages for overtime : wages at the rate of twice at his ordinary rate of wages for overtime• Notice of period of work
  17. RESTRICTION ON EMPLOYMENT OF WOMEN & CHILDREN:•Work between 6 a.m. to 7 p.m. only•Strictly restriction for women for employment between 10 p.m. to 5 a.m. Employment of women in night shift is permitted only in the case of fish-curing and fish-canning
  18. ANNUAL LEAVE WITH WAGES—Annual leave with wages— during leave period—Payment in advance in certain cases—Mode of Recovery of unpaid wages—Power to make rules
  19. OFFENCESA court can take cognizance of the offence only when the complaint is made within 3 months of the date on which the alleged commission of the offence came to the knowledge of the inspector, but where the offence consist of disobeying a written order made by an Inspector, complaint may be made within 6 months of the commission of the offence
  20. PENALTIES:—General penalties for offence—Penalty for the contravention of Provisions Relating to Hazardous process—Penalty for obstructing Inspector—Penalty for wrongfully Disclosing Results of Analysis—Penalty relating to casing of new machinery—Penalties for Offences by workers & Parents—Penalty for offence by a medical practitioner—Penalty for employing child labour

### **Tamilnadu Shop and Establishment Act**

The Tamilnadu Shop and Establishment Act is a state legislation governing the proper functioning and conduct of businesses, within the state of Tamilnadu. The Labour Department of the State is the department from which shop and establishment act registration is obtained. The shop and establishment act registration in the case of Small Scale Industry (SSI) or Micro, Small, Medium Enterprises (MSME) businesses in the unorganised sector, serve as a proof of existence of business. This is a detailed guide to Tamilnadu Shop and Establishment Act.

### Shop and Establishment Act

The Shop and Establishment Act has been enacted by various State Governments to regulate the conditions of work of employees in shops, commercial undertakings, restaurants, etc., All commercial establishments must abide by The Weekly Holiday Act, 1942 enacted by the Central Government which governs the grant of holidays. However, there is no specific Central Government Act which comprehensively governs hours of work, payment of wages, health and safety in commercial establishments. To bridge this gap, state Governments have enacted a Shop and Establishment Act. This is to help regulate the conduct of commercial establishments within their jurisdiction. To know more, read the article on [“Shops and Establishment Act in India”](#).

### Tamilnadu Shop and Establishment Act

The Tamilnadu Shop and Establishment Act, 1947 governs the conduct of shops and commercial establishments in Tamilnadu. The Tamilnadu Shop and Establishment Act defines an “establishment” as:

*“‘establishment’ means a shop. Commercial establishment, restaurant, eating house, theatre or any place of public amusement or entertainment and includes such establishment as the State Government for the purposes of this Act;”*

#### **A commercial establishment is defined in Tamilnadu Shop and Establishment Act as:**

*“‘commercial establishment’ means an establishment which is not a shop but which carries on the business of advertising, commission, forwarding or commercial agency, or which is a clerical department of a factory or industrial undertaking or which is an insurance company, joint stock company, bank, broker’s office or exchange and includes such other establishments as the state government by notification may by notification declare to be a commercial establishment for the purposes of this Act.”*

#### **A shop is defined in the TN Shop and Establishment Act as:**

*“‘shop’ means any premises where any trade or business is carried on or where services are rendered to customers and includes offices, store rooms, godowns and warehouses, whether in the same premises or otherwise, used in connection with such business but does not include a restaurant or commercial establishments.”*

### Tamilnadu Shop and Establishment Act Applicability

The Tamilnadu Shop and Establishment Act applies to all shops and commercial establishments as defined above. However, the following persons or types of establishments will NOT come under the purview of the Tamilnadu Shop and Establishment Act:

Persons employed in any establishment in a position of management

Persons whose work involves travelling and persons employed as canvassers and caretakers

Establishments under the Central and (State) Government, Local Authorities, the Reserve Bank of India, and Cantonment Authorities d) Establishments in mines and oil fields

The establishments in bazaars in places where fairs or festivals are held temporarily for a period not exceeding fifteen days at a time

Establishments which, not being factories within the meaning of the Factories Act, 1948 are in respect of matters dealt within this Act, governed by a separate law for the time being in force in the (State).

Further, the regulations relating to opening and closing hours of shops, and grant of holidays will not apply to hospitals, institutions for the treatment or care of the sick, chemists or druggists shops as specified by time to time by the State Government.

Major Aspects of Tamilnadu Shop and Establishment Act

The following are some of the major aspects of the Tamilnadu Shop and Establishment Act:

**Child Labour Prevention**

As per the Tamilnadu Shop and Establishment Act, no child can work in any establishment. A 'child' means a person who has not completed fourteen years.

Further, no young person can work in any establishment before 6 a.m. and after 7 p.m. Further, a young person can only work for seven hours in any day and forty- two hours in any week. 'Young person' means a person who is not a child and has not completed seventeen years.

**Opening and Closing of Shops and Commercial Establishments**

As per the Tamilnadu Shop and Establishment Act, no person employed in any shop or commercial establishment shall be required to work for more than eight hours in any day and forty eight hours in any week without overtime wages. Further, every person employed in any shop or commercial establishment should be allowed in each week a day holiday

**Health and Safety**

As per the Tamilnadu Shop and Establishment Act, the following aspects relating to health and safety must be maintained at all shops and commercial establishments:

**Cleanliness:** The premises of every establishment must be kept clean. It should be free from effluvia arising from any drain, privy or other nuisance. It should be cleaned at regular intervals.

**Ventilation:** The premises of every establishment must be well ventilated.

**Lighting:** The premises of every establishment must be sufficiently lighted during all working hours.

**Precautions against fire:** In every establishment, precautions must be taken against fire.

## Holidays

Person employed in any shop or establishment shall be entitled, after twelve months of continuous service with the establishment, to holidays with wages for a period of 12 days in the subsequent period of twelve months.

## Payment of Wages

Employers are responsible for the payment of wages to persons employed. All employer are required to fix a period in respect of which wages shall be payable. The wage periods shall exceed one month.

To **obtain Shop and Establishment Act License in Tamilnadu**, visit **IndiaFilings.com**

## The Plantations Labour Act 1951

1. CHAPTER I PRELIMINARY 1.Short title, extent, commencement and application- (2) It extends to the whole of India except the State of Jammu and Kashmir.
2. 1[(3)It applies to the following plantations, that it to say,- (a)To any land used or intended to be used for growing tea, coffee, rubber [, cinchona or cardamom]2 which admeasures [5]2 hectares or more and in which [fifteen]2 or more persons are employed or were employed on any day of the preceding twelve months-
3. 1[(3)It applies to the following plantations Contd... (b)To any land used or intended to be used for growing any other plant, which admeasures [5]2a hectares or more and in which 2a[fifteen] or more persons are employed or were employed on any day of the preceding twelve months, if after obtaining the approval of the Central Government, the State Government by notification in the Official Gazette, so directs. (5) The State Government may, ... not with standing that --- (a)It admeasures less than [5]2a hectares, or (b)The number of persons employed therein is less than [fifteen] 2a:
4. 2. Definitions. - In this Act, unless the context otherwise requires- (e)“Employer” when used in relation to a plantation, means the person who has the ultimate control over the affairs of the plantation, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person shall be deemed to be the employer in relation to that plantation 2[(ee) “Family”, when used in relation to a worker means- (i)His or her spouse, and (ii)The legitimate and adopted children of the worker dependent upon him or, who have not completed their eighteenth year And includes, where the worker is a male, his parents dependent upon him;
5. REGISTRATION OF PLANTATIONS 3-A.Appointment of registering officers. - 3-B. Registration of plantations. - 3-C.Appeals against orders of registering officer. - 3-D.Power to make rules. –
6. INSPECTING STAFF 4. Chief inspector and inspectors- 5.Powers and functions of inspectors. - 6.Facilities to be afforded to inspectors. - Every employer shall afford the



inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act. 7.Certifying surgeons. –

7. PROVISIONS AS TO HEALTH 8.Drinking water. at convenient places ... sufficient supply of wholesome drinking water 9.Conservancy. - (1) separately for males and females sufficient number of latrines and urinals of prescribed types (2) shall be maintained in a clean and sanitary condition. 10.Medical Facilities-
8. WELFARE 11.Canteens. — 150+ 12. Crèches. — 50+ (including women workers employed by any contractor) Explanation. - For the purposes of this sub-section and sub-section (1-A), “children” means persons who are below the age of six years.] (2)[The rooms referred to in sub-section (1) or sub-section 1- A] 1 shall- (a)Provide adequate accommodation; (b) Be adequately lighted and ventilated; (c)Be maintained in a clean and sanitary condition; and (d)Be under the charge of a woman trained in the care of children and infants.
9. WELFARE Contd... 13. Recreational facilities. -The State Government may make rules 14.Educational facilities. -Where the children between the ages of six and twelve of workers employed in any plantation exceed twenty-five in number, the State Government may make rules [15.Housing facilities. -- It shall be the duty of every employer to provide and maintain necessary housing accommodation- (a)For every worker (including his family) residing in the plantation; (b)For every worker (including his family) residing outside the plantation, who has put in six months of continuous service in such plantation and who has expressed a desire in writing to reside in the plantation
10. WELFARE Contd... 16.Power to make rules relating to housing. -The State Government may (a)The standard and specification of the accommodation to be provided; (b)The selection and preparation of sites for the construction of houses and the size of such plot; (c)The constitution of advisory boards consisting of representatives of the State Government, the employer and the workers for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified ; (d)The fixing of rent, if any, for the housing accommodation provided for workers; (e)The allotment to workers and their families of housing accommodation and suitable strips of vacant land adjoining such accommodation for the purposes of maintaining kitchen gardens, [\* \* \*]1a and for the eviction of workers and their families from such accommodation; (f)Access to the public to those parts of the plantation wherein the workers are housed.
11. 16-A. Liability of employer in respect of accidents resulting from collapse of houses provided by him. - (1)If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided under Section 15, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable to pay compensation. 16-B. Appointment of Commissioners. –
12. 16-C. Application for compensation. (1)An application for payment of compensation under Section 16-A may be made to the Commissioner- (a)By the person who has sustained the injury; or (b)By any agent duly authorised by the person who has sustained the injury; or (c)Where the person who has sustained the injury is a minor, by his guardian; or (d)Where death has resulted out of the collapse of the house, by any

dependant of the deceased or by any agent duly authorised by such dependent or, if such dependant is a minor, by his guardian. (2)Every application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed. (3)No application for compensation under this section shall be entertained unless it is made within six months of the collapse of the house: Provided that the Commissioner may, if he is satisfied

13. 16-D. Procedure and powers. - (1) the Commissioner may make an inquiry into the matter covered by the application. (2)In determining the amount of compensation payable (3) The Commissioner shall have all the powers of a civil court while trying a suit (4) Commissioner may, .. choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist him in holding the inquiry.
14. 16-E. Liability to pay compensation, etc., to be decided by commissioner. - 16-G. Power to make rules. (1)The State Government may, 17.Other facilities. -The State Government may make rules 18. Welfare officers. - (1)In every plantation wherein three hundred or more workers (2)The State Government may prescribe the duties, qualifications and conditions
15. HOURS AND LIMITATION OF EMPLOYMENT 19.Weekly hours. - 1a[(1)] [forty-eight hours] no adolescent for more than 2[twenty-seven hours] a week. 3[(2) more than forty-eight hours in any week, ...overtime work, be entitled (3) work done on any closed holiday in the plantation or on any day of rest,-overtime 20. Weekly holidays. - 21. Daily intervals for rest. -. .. no period shall exceed five hours at least half an hour. 22. Spread-over. -The period of work of an adult worker in a plantation shall be so ...shall not spread over more than twelve hours including the time spent in waiting for work on any day. 23.Notice of period of work. –
16. 25.Night work for women and children. Except with the permission of the State Government, ..... nothing in this section shall be deemed to apply to midwives and nurses employed as such in any plantation. 26.Non-adult workers to carry tokens. 27.Certificate of fitness. – (1)A certifying surgeon shall, ... his parent or guardian accompanied by a document signed by the employer or any, other person on his behalf .... (2)A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.... (3)Any fee payable for a certificate under this section shall be paid by the employer ...Jc Lohith Shetty
17. 28.Power to require medical examination. -An inspector may if he thinks 30.Annual leave with wages. – (a)If an adult, one day for every twenty days of work performed by, him, and (b)If a young person, one day for every fifteen days of work performed by him:1[\* \* \* \*] (b)Any day on which half or more than half a day's work is performed shall be counted as one day.] (3)A worker shall cease to earn any leave under this section when the earned leave due to him amounts to thirty days. 31.Wages during leave period. – ....
18. 1[32. Sickness and maternity benefits. – (1) Subject to any rules that may be made in this behalf, (a)In the case of sickness certified by a qualified medical practitioner, sickness allowance, and (b)If a woman, in the case of confinement or expected confinement, maternity allowance, At such rate, for such period and at such intervals as--may be prescribed. (2)The State Government may make rules regulating the payment of sickness

or maternity allowance and .... 1. On the enforcement of the Maternity Benefit Act, 1961 (53 of 1961) in a State in relation to establishment, in that State referred to in S. 1(3) thereof, S. 32 will stand amended

19. ACCIDENTS 1. Ins. by Act No. 58 of 1981 w.e.f. 26-1-1982. Amendments) 32-A. Notice of accident. – 32-B. Register of accidents. – PENALTIES AND PROCEDURE 33. Obstruction. –.... 34. Use of false certificate of fitness. .... 35. Contravention of provisions regarding employment of labour. 36. Other offences. 37. Enhanced penalty after previous conviction. ... 1[37A. Power of court to make orders. – (1) Where an employer is convicted 38. Exemption of employer from liability in certain cases.
20. MISCELLANEOUS 41. Power to give directions. -The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act. 42. Power to exempt. -The State Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act:

### **Inter-State Migrant Workmen Act, 1979:**

Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 seeks to regulate the employment of inter-State migrants and their conditions of service.

#### **Applicability:**

It is applicable to every establishment that employs five or more migrant workmen from other States; or if it had employed five or more such workmen on any day in the preceding 12 months.

It is also applicable to contractors who employed a similar number of inter-State workmen.

The Act would apply regardless of whether the five or more workmen were in addition to others employed in the establishment or by the contractors.

It envisages a system of registration of such establishments.

#### **Provisions:**

The principal employer is prohibited from employing inter-State workmen without a certificate of registration from the relevant authority.

The law also lays down that every contractor who recruits workmen from one State for deployment in another State should obtain a licence to do so.

The wage rates, holidays, hours of work and other conditions of service of an inter-State migrant workmen shall be the same as those extended to other workmen in the same establishment, if the nature of their work is similar.

In other cases, it would be as prescribed by the Appropriate Government.

In no case, shall the wages be lower than what is prescribed under the Minimum Wages Act.

#### **Beneficial Provisions for Inter-State Migrants:**

The provision for registration of establishments employing inter-State workers creates a system of accountability.

It acts as the first layer of formalising the utilisation of their labour.

It helps the government keep track of the number of workers employed and provides a legal basis for regulating their conditions of service.

As part of the licensing process, contractors are bound by certain conditions.

These include committing them to providing terms and conditions of the agreement or any other arrangement on the basis of which they recruit workers.

These terms include the remuneration payable, hours of work, fixation of wages and other essential amenities in respect of the inter-State migrant workmen.

### **The Contract Labor (Regulation And Abolition) Act**

1. The Contract Labor (Regulation And Abolition) Act was enacted in the year 1970 by the Indian Legislature. •
  2. The act applies to all the establishments where the number of workmen employed as contract labor are 20 or more .on any day of the preceding twelve months. it includes all the contracts of Governments and local authorities as well. • The act does not apply to establishments in which work of an intermittent or casual nature only is performed. But if such work was performed for more than one hundred and twenty days in the last one year or was of a seasonal character and was performed for more than sixty days in a year, then the act is applicable.
  3. OBJECTIVES • To regulate the employment of contract labor and to bring them at par with directly employed labor with regard to the working conditions and other benefits and also to provide for abolition of contract labor in certain circumstances.
  4. DEFINITION “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 labor or who supplies contract labor for any work of the establishment and includes a sub-contractor. “CONTRACT LABOR” 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. “PRINCIPAL EMPLOYER“ 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.
  5. 1)Registration Of Establishments Employing Contract Labour. 2) Licensing Of Contractors. 3)Welfare And Health Of Contract Labour. 4)Penalties And Procedure. 5) Miscellaneous.
- PROVISIONS OF CONTRACT LABOUR ACT 1970**

6. Registration Of Establishments Employing Contract Labour 1)Appointment of registering officers: The appropriate government may, by an order notified in the Official Gazette- (a) appoint such persons, being Gazette Officers of government, as it thinks fit to be registering

officers for the purpose of this chapter; and (b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act. 2)Registration of certain establishments: 1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate government may, by notification in the Official Gazette, fix in this behalf with respect to establishment generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment. .

7. 2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed. 3)Revocation of registration in certain cases: If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate government, revoke the registration.

8. Licensing Of Contractors. 1)Appointment of licensing officers The appropriate government may, by an order notified in the Official Gazette- • (a) appoint such person, being Gazetted Officers of government, as it thinks fit to be licensing officers for the purposes of this chapter; and • (b) define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act. 2)Licensing of contractors 1) With effect from such date as the appropriate government may, by notification in the Official Gazette, appoint no contractor to whom this Act applies, shall undertake or execute any work through contract labor except under and in accordance with a license issued in that behalf by the licensing officer. 2) Subject to the provisions of this Act, a license under sub-section may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labor as the appropriate government may deem fit to impose in accordance with the rules

9. 3)Grant of licenses 1) Every application for the grant of license under sub-section (1) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which contract labor is to be employed and such other particulars as may be prescribed. 2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed.

10. Welfare And Health Of Contract Labour. 1)Canteens : • a) wherein work requiring employment of contract labor is likely to continue for such period as may be prescribed, and • b) wherein contract labor numbering one hundred or more is ordinarily employed by a contractor, one or more canteens shall be provided and maintained by the contractor for the use of such contract labor. 2)Rest-rooms: (1) In every place where in contract labor is required to halt at night in connection within the work of an establishment- (a) to which this Act applies, and (b) in

which work requiring employment of contract labor is likely to continue for such period as may be prescribed, there shall be provided and maintained by the contractor for the use of the contract labor such number of rest-rooms or such other suitable alternative accommodation with such time as may be prescribed. (2) The rest-rooms or the alternative accommodation to be provided under subsection (1) shall be sufficiently lighted and ventilated and shall be maintained in clean and comfortable condition.

11. 3)First-aid facilities There shall be provided and maintained by the contractor so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labor is employed by him. 4)Other Facilities (a) a sufficient supply of wholesome drinking-water for the contract labor at convenient places; (b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labor in the establishment; and (c) washing facilities.

12. 5)Responsibility for payment of wages • (1) A contractor shall be responsible for payment of wages to each worker employed by him as contract labor and such wages shall be paid before the expiry of such period as may be prescribed. • (2) Every principal employer shall nominate a representative duly authorized by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed. • (3) It shall be the duty of the contractor or ensure the disbursement of wages in the presence of the authorized representative of the principal employer.

13. Penalties And Procedure. 1)Contravention of provisions regarding employment of contract labor: Whoever contravenes any provision of this Act or of any rules made there under prohibiting, restricting or regulating the employment of contract labor, or contravenes any condition of a license granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.. 2)Other offences If any person contravenes any of the provisions of this Act or of any rules made there under for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

14. 3)Offences by companies 1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

15. Miscellaneous. 1)Inspecting staff (1) The appropriate government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act. (2) Subject to any rules made in this behalf, an inspector may, within the local limits for which he is

appointed. 2)Registers and other records to be maintained (1) Every principal employer and every contractor shall maintain such register and records giving such particulars of contract labor employed, the nature of work performed by the contract labor, the rate of wages paid to the contract labor and such other particulars in such form as may be prescribed. (2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labor is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information

16. 3)Power to give directions The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

4)Power to remove difficulties If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

17. 5) Power to make rules • (1) The appropriate government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. • (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely • (a) the number of persons to be appointed members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies. • (b) the times and places of the meetings of any committee constituted under that Act, the procedure to be followed at such meeting including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee

### **Mines act 1952**

1. MINES ACT, 1952 An Act to amend and consolidate the law relating to the regulation of labour and safety in mines. The act include several welfare and safety measure provisions and to provide certain amenities to the workers employed therein. Structure of mines act: The act basically contain 10 chapters of provision and each section having certain number of section that dictate the interpretation of legislation. The chapters of act are as follows. → CHAPTER I – PRELIMINARY → CHAPTER II - INSPECTORS AND CERTIFYING SURGEONS → CHAPTER III - MINING BOARDS AND COMMITTEES → CHAPTER IV - MINING BOARDS AND COMMITTEES → CHAPTER V - PROVISIONS AS TO HEALTH AND SAFETY → CHAPTER VI - HOURS AND LIMITATION OF EMPLOYMENT → CHAPTER VII - LEAVE WITH WAGES → CHAPTER VIII - REGULATIONS, RULES AND BYE-LAWS → CHAPTER IX - PENALTIES AND PROCEDURE → CHAPTER X – MISCELLANEOUS FEATURES OF MINE ACT: → INSPECTORS AND CERTIFYING SURGEONS • Chief Inspector and Inspectors (Section 5) • Functions of Inspectors (Section 6) • Powers of Inspectors of Mines(Section 7) • Powers of Special Officer to enter, measure, etc. (Section 8) • Facilities to be provided for occupational health survey (Section 9) • Secrecy of information obtained (Section 10) • Certifying Surgeon (Section 11)

2. → COMMITTEES → MINING OPERATION AND MANAGEMENT OF MINES → PROVISIONS AS TO HEALTH AND SAFETY • Central Government is to constitute Committee for the purpose of the Act, consisting of (Section 12-) } A person, not being Chief Inspector, to act as Chairman } Chief Inspector of Mines } Two persons to represent the interest of miners appointed by Central Government } Two persons to represent the interest of miners appointed by Central Government } Two qualified mining engineers not directly employed in mining industry provided one person in (3rd ) and (4th ) point, represents the interest of workers in coal mines • Functions of the Committee (Section 13) • Powers etc. of the Committee (Section 14) • Recovery of expenses (Section 15) • Notice to be given of mining operations (Section 16(1)) • Duties and responsibilities of owners, agents and managers (Section 18) • Drinking water (Section 19) • Conservancy (Section 20) • Medical appliances (Section 21) • Powers of Inspectors when causes of danger not expressly provided against exists or when the employment of a person is dangerous. Inspector may give notice in writing to require it to be remedied (Section 22(1)) • Power to prohibit employment in certain cases (Section 22A(1)) • Notice to be given of accidents (Section 23) • Power of Government to appoint Court of Inquiry in accidents (Section 24)

3. → HOURS AND LIMITATION OF EMPLOYMENT → LEAVE WITH WAGES • Notice of certain diseases (Section 25) • Power to direct investigation of causes of disease (Section 26) • Publication of Reports (Section 27) • Weekly day of rest (Section 28) • Compensatory days of rest (Section 29) • Hours of work above ground (Section 30) • Hours of work below ground (Section 31) • Night shifts (Section 32) • Extra wages for overtime (Section 33) • Prohibition of employment of certain persons (Section 34) • Limitation of daily hours of work including overtime work (Section 35) • Notices regarding hours of work (Section 36) • Supervising staff (Section 37) • Exemption from provisions regarding employment (Section 38) • Power to make exempting rules (Section 39) • Employment of persons below eighteen years of age (Section 40) • Power to require medical examination (Section 43) • Prohibition of the presence of persons below eighteen years of age in a mine (Section 45) • Employment of women (Section 46) • Registers of persons employed (Section 48) • Application of Chapter (Section 49) • Leave defined (Section 50) • Calendar year defined (Section 51) • Annual leave with wages (Section 52) • Wages during leave period (Section 53) • Payment in advance in certain cases (Section 54) • Mode of recovery of unpaid wages (Section 55) • Power to exempt mines (Section 56)

### **The Motor Transport Workers Act 1961**

1. Short title, extent, commencement and application.- (1) This Act may be called the Motor Transport Workers Act, 1961. (2) It extends to the whole of India 2\*\*\*. (3) It shall come into force on such date, not being later than the 31st day of March, 1962, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States: 3\*[Provided that it shall come into force in the State of Jammu and Kashmir on the commencement of the Central Labour Laws (Extension to



Jammu and Kashmir) Act, 1970.] (4) ...every motor transport undertaking employing five or more motor transport workers: Provided that the State Government may, .... less than five motor transport workers.

2. Definitions (1) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work; (2) "subsidiary work" means work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular-- (i) work in connection with accounts, the paying in of cash, the signing of registers, the handing in 349 of service sheets, the checking of tickets and other similar work; (ii) the taking over and garaging of the transport vehicle; (iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off; (iv) work in connection with the upkeep and repair of the transport vehicle; and (v) the loading and unloading of the transport vehicle
3. Definitions (3) "period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule; (g) "motor transport undertaking" means a motor transport undertaking engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier; (h) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but except in section 8 does not include-- (i) any such person who is employed in a factory as defined in the Factories Act, 1948 (63 of 1948); (ii) any such person to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply Jc Lohith Shetty
4. CHAPTER II REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS 3. Registration of motor transport undertaking.- (1) Every employer ... this Act applies ... (2) An application for the registration .... such time as may be prescribed. (3) certificate of registration containing such particulars as may be prescribed. Jc Lohith Shetty
5. CHAPTER III INSPECTING STAFF 4. Chief inspector and inspectors.- (1) The State Government may, (2) The chief inspector may declare the local limits within which inspectors shall exercise their powers (3) The chief inspector and all inspectors ...public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860). Powers of the inspectors. 5. Powers of the inspectors.- (1) Subject to such conditions and restrictions as the State Government may by general or special order impose, the chief inspector or an inspector may-- (a) make such examination and inquiry as he thinks fit ....(b) with such assistance, ....(c) examine any motor transport worker employed .... (d) seize or take copy of such registers or documents or .... (e) exercise such other powers as

may be prescribed: Provided that .... incriminate himself. 352 (2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898.), .... warrant issued under section 98 of the said Code. Jc Lohith Shetty

6. Facilities to be afforded to inspectors. 7. Certifying surgeons.- (1) The State Government may appoint ... (2) The certifying surgeon shall perform such duties as may be prescribed in connection with-- (a) the examination and certification ... (b) the exercise of such medical supervision ... prescribed where ...
7. CHAPTER IV WELFARE AND HEALTH Canteens. 8. Canteens.- 100+ (2) Without prejudice to the generality of the foregoing power, such rules may provide for-- (3) The State Govt may.....delegate to the chief inspector the power to make rules Rest rooms. 9. Rest rooms.- (1) In every place wherein ..... required to halt at night, there shall be ... such number of rest rooms or such ... alternative accommodation, as may be prescribed. (2) ... sub-section (1) shall be sufficiently lighted / ventilated /maintained clean ... (3) The State Government may prescribe the standards ...
8. Uniforms. (1) The State Government may, ....such number and type of uniforms, raincoats or other like amenities for their protection from rain or cold .... (2) There shall be paid ....for washing of uniforms .... Provided that no such allowance ... adequate arrangements for the washing of uniforms at Employers cost. Medical facilities. 11. ... at such operating centres and halting stations as prescribed ... First-aid facilities. 12. First-aid facilities.- (1) There shall be provided and maintained by the employer so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents in every transport vehicle. (2) Nothing except the prescribed contents shall be kept in a first-aid box. (3) The first-aid box shall be kept in the charge of the driver or the conductor of the transport vehicle who shall be provided facilities for training in the use thereof.
9. WELFARE AND HEALTH
10. CHAPTER V - HOURS AND LIMITATIONS OF EMPLOYMENT 13. Hours of work for adult motor transport workers.- No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week: Provided that where any such motor transport worker is engaged in the running of any motor transport service on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty-eight hours in any week but in no case for more than ten hours in a day and fifty-four hours in a week, as the case may be: Provided further that in the case of a breakdown or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitations as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty-eight hours in any week. 14. Hours of work for adolescents employed as motor transport workers.- No adolescent shall be employed...(a) for more than six hours a day including rest interval of half-an-hour; (b) between the hours of 10 P.M. and 6 A.M
11. 15. Daily intervals for rest. (1) ...not more than five hours before he has had an interval for rest for at least half-an-hour: Provided that ...shall not apply to a motor transport worker who is not required to work for more than six hours on that day. (2) ... allowed a

- period of rest of at least nine consecutive hours between the termination of duty on any one day and the commencement of duty on the next following day.
12. 16. Spread-over. (1) .... they shall not spread-over more than twelve hours in any day. (2) ... shall not spread-over more than nine hours in any day. 17. Split duty.- ...not be split into more than two spells on any day. Notice of hours of work. 18. Notice of hours of work.- (1) ... displayed and correctly maintained by every employer ...may be prescribed showing clearly for every day the hours during which motor transport workers may be required to work. (2) Subject to the other provisions contained in this Act, no such motor transport worker shall be required or allowed to work otherwise than in accordance with the notice of hours of work so displayed. **Jc Lohith Shetty**
13. 19. Weekly rest.- (1) ...a day of rest in every period of seven days, (2) .... in order to prevent any dislocation of a motor transport service, ...any day of rest which is not a holiday so, however, more than ten days consecutively (3) Nothing contained in sub-section (1) .... whose total period of employment including any day spent on leave is less than six days.
14. CHAPTER VI - EMPLOYMENT OF YOUNG PERSONS 21. Prohibition of employment of children.- ... . Adolescents employed as motor transport workers to carry tokens.- ...(a) a certificate of fitness ...in the custody of the employer; and (b) such adolescent carries with him while he is at work a token giving a reference to such certificate. Certificate of fitness. 23. Certificate of fitness.- (1) A certifying surgeon shall, on the application ... (2) A certificate of fitness ... valid for a period of twelve months ... (3) Any fee payable for a certificate ... shall be paid by the employer ... 24. Power to require medical examination.- Where an inspector is of opinion ...serve on the employer a 357 notice requiring ... certifying surgeon ...
15. CHAPTER VII - WAGES AND LEAVE Act 4 of 1936 to apply to payment of wages to motor transport workers. 25. Act 4 of 1936 to apply to payment of wages to motor transport workers.- The Payment of Wages Act, 1936 (4 of 1936), 26. Extra wages for overtime.- (1) Where an adult ... more than eight hours on any day (4) For the purposes of this section, "ordinary rate of wages" in relation to a motor transport worker means his basic wages plus dearness allowance. 27. Annual leave with wages. (1) ... worked for a period of two hundred and forty days or more ...-- (a) if an adult, one day for every twenty days of work performed by him during the previous calendar year; and (b) if an adolescent, one day for every fifteen days of work performed by him during the previous calendar year. Jc Lohith Shetty
16. CHAPTER VII - WAGES AND LEAVE Contd... (2) ...whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down ... if he has worked for two-thirds days. (3) ... is discharged or dismissed ...he shall be entitled to leave (4) In calculating leave ... half a day or more - treated as one full day's leave, and fraction of less than half a day shall be omitted. (5) carried forward ... shall not exceed 30 adult or forty in the case of an adolescent. (6) "calendar year" = first day of January to last day of December. Wages during leave period. 28. Wages during leave period.- ... as mentioned in Factories Act
17. CHAPTER VIII - PENALTIES AND PROCEDURE Obstructions. 29. (1) Whoever obstructs an inspector in the discharge of his duties ... (2) Whoever wilfully refuses to produce on the demand ... 30. Use of false certificate of fitness.- ... 31. Contravention of provisions regarding employment of motor transport workers.- ... 32. Other offences.-

Whoever wilfully disobeys any direction lawfully given.... 33. Enhanced penalty after previous conviction. 34. Offences by companies.- .... 35. Cognizance of offences.- 36. Limitation of prosecutions.- No court shall take cognizance of an offence punishable under this Act

### **The dock workers act 1986**

2. Definitions :- In this Act, unless there is anything repugnant in the subject or context :- a) 'Board' means a Dock Labour Board established under Section 5A; a) (i) 'Cargo' includes anything carried or to be carried in a ship or other vessel; b) 'Dock Worker' means a person employed or to be employed in, or in the vicinity of any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving Port; c) 'Employer' in relation to a dock worker, means the person by whom he is employed or to be employed as aforesaid; d) 'Government' means in relation to any major port, the Central Government and, in relation to any other Port, the State Government; e) 'Scheme' means a Scheme made under this Act.

4. Scheme for ensuring regular employment of workers; - 1. Provision may be made by a scheme for the registration of dock workers and employers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers whether registered or not in a Port. 2. In particular, a scheme may provide- a) for the application of the scheme to such classes of dock workers and employers as may be specified therein; b) for defining the obligations of dock workers and employers-subject to the fulfillment of which the scheme may apply to them and the, circumstances in which the scheme shall cease to apply to any dock workers or employers; c) for regulating the recruitment and entry into the scheme of dock workers, and the registration of dock workers and employers, including the maintenance of registers, the removal either temporarily or permanently, of names from the registers and the imposition of fees for registration; d) for regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof;

5. e) for securing that, in respect of periods during which employment, or full employment' is not available for dock workers to whom the scheme applies and who are available for work, such workers will, subject to the conditions of the scheme, receive a minimum pay; f) for prohibiting, restricting or otherwise controlling the employment of dock workers to whom the scheme does not apply and the employment of dock workers by employers to whom the scheme does not apply; g) for creating such fund or funds as may be necessary or expedient for the purposes of the scheme and for the administration of such fund or funds; h) \_\_\_\_\_ (deleted) \_\_\_\_\_ i) for the welfare of the officers and other staff of the Board; h) \_\_\_\_\_ (deleted) \_\_\_\_\_ i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed; Contd.....

6. j) for constituting the authority to be responsible for the administration of the scheme; k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme. 3. A scheme may further provide that a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent

contravention, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid. Contd.....

7.4. Making, variation and revocation of schemes :- 1. The Government may, by notification in the Official Gazette and subject to the condition of previous publication, make one or more schemes for a port or group of ports, and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme made by it. 2. The provisions of section 23 of the General Clauses Act, 1897 (10 of 1897) shall apply to the exercise of a power given by subsection (1) as they apply to the exercise of a power given by a Central Act to make rules subject to the condition of previous publication. 3. The Government may direct the port authority of any port to prepare, in accordance with such instructions as may from time to time be given to it, one or more draft schemes for the port, and the port authority shall comply with such direction.

8.5. Advisory Committees :- 1. The Government may, or if it decides to make any scheme under section 4, shall constitute an Advisory Committee, to advise upon such matters arising out of the administration of this Act, or any Scheme made thereunder as the Government may refer to it for advice. 2. The members of the Advisory Committee shall be appointed by the Government and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act; Provided that the Advisory Committee shall include an equal number of members representing:- i) the Government; ii) the dock workers; and iii) the employers of dock workers and shipping companies. 3. The Chairman of the Advisory Committee shall be one of the members appointed to represent the Government and nominated in this behalf by the Government. 4. The Government shall publish in the Official Gazette the names of all members of the Advisory Committee.

9.5A). Dock Labour Boards :- 1. The Government may, by notification in the Official Gazette, establish a Dock Labour Board for a port or group of ports to be known by such name as may be specified in the notification. 2. Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by that name, sue and be sued. 3. Every such Board shall consist of a Chairman and such number of other members as may be appointed by the Government; Provided that every such Board shall include an equal number of members representing:- i) the Government, ii) the dock workers, and iii) the employers of dock workers and shipping companies. 4. The Chairman of a Board shall be one of the members appointed to represent the Government, and nominated in this behalf by the Government.

10.5B). Functions of a Board : - 1. A Board shall be responsible for administering the scheme for the port or group of ports for which it has been established and shall exercise such powers and perform such functions as may be conferred on it by the scheme. 2. In the exercise of its powers and the discharge of its functions, a Board shall be bound by such directions as the Government may, for reasons to be stated in writing, give to it from time to time. 5C). Accounts and Audit :- 1. Every Board shall maintain proper accounts and other relevant records and prepare an annual Statement of Accounts, including a Balance-Sheet in such form as may be prescribed by rules made under this Act. 2. The accounts of the Board shall be audited annually by the Comptroller and Auditor General of India or by such other auditors qualified to act as auditors of companies under the law for the time being in force relating to companies, as the Government may appoint.

11. 3. The auditors shall, at all reasonable times, have access to the books of accounts and other documents of the Board and may, for the purpose of the audit, call for such explanation and information as they may require or examine any member or officer of the Board. 4. The auditors shall forward to the Government a copy of their report together with an audited copy of the accounts of the Board. 5. The cost of the audit as determined by the Government shall be paid out of the funds of the Board. 5D). Annual Report : Every Board shall prepare, in such form and at such time in each financial year as may be specified by rules made under this Act, its annual report, giving full account of its activities during the previous financial year and submit a copy thereof to the Government.

12. 5E). Annual Report and Audited Accounts to be laid before Parliament or Legislature : The annual report and the audited accounts of the Board, together with auditor's report thereon and a review by the Government on the working of the Board, shall, within a period of nine months of the close of the financial year, be laid before each House of Parliament, if such report and accounts have been submitted to the Central Government and before the Legislature of the State, if such report and accounts have been submitted to the State Government. Provided that where such report, accounts and the review are not laid before Parliament or, as the case may be, before the Legislature of the State within the said period, the same shall be so laid thereafter along with the reasons for the delay.

13. 6. Inspectors : 1. The Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act at such ports as may be specified in the notification. 2. Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (45 of 1860). 3. An Inspector may, at any port for which he is appointed \_\_\_ a) enter with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed; b) require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document; c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are, or have been complied with. d) 4. The Government may, by notification in the Official Gazette, prescribe the manner in which and the persons by whom complaints regarding contravention of any provision of a scheme may be made to an inspector and the duties of the Inspector in relation to such complaints.

14. 6A) Power to order Inquiry : 1. The Government may, at any time, appoint any person to investigate or enquire into the working of a Board and submit a report to the Government. 2. The Board shall give to the person so appointed all facilities for the proper conduct of the investigation or inquiry and furnish to him such documents, accounts or information in the possession of the Board as he may require. 6B) Power to supersede a Board : 1. If, on consideration of the report under section 6 (A) or otherwise, the Government is of opinion :- a) that, on account of a grave emergency, a Board is unable to perform its functions, or b) that a Board has persistently made default in the discharge of its functions exceeded or abused its powers, the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification; Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

15. 2. Upon the publication of a notification under sub-section (1) :- a) all the members of the Board shall, as from the date of such publication, vacate their offices as such members b) all the

powers and functions which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such person as may be specified in the notification; c) c) all funds and other property vested in the Board shall, during the period of the supersession, vest in the Government. d) 3. On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may- e) a) extend the period of supersession for such further period as it may consider necessary; or b) reestablish the Board in the manner provided in section S (A).

16. 6C) Acts or proceedings of Board and Advisory Committee not to be invalidated : .No Act or proceeding of a Board or Advisory Committee shall be invalid merely by reason of- a) any vacancy in, or any defect in the constitution of the Board or Advisory Committee, or b) any defect in the appointment of a person acting as a member of the Board or the Advisory Committee, or c) any irregularity in the procedure of the Board or the Advisory Committee not affecting the merits of the case.

17. 7. Cognizance of offences : 1. No court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a report in writing of the facts constituting such offence or abetment made by an Inspector or by a person specially authorised in this behalf by the Government. 2. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898) an offence made punishable by a scheme or an abetment thereof shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

18. 8. Power to make rules :• 1. The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act. 2. In particular and without prejudice to the generality of the foregoing power, such rules may provide for :- a) the composition of the Advisory Committee and Boards and the manner in which members of the Advisory Committee and the Boards shall be chosen; b) the term of Office of and the manner of filling casual vacancies among the members of a Board or the Advisory Committee; c) the meetings of a Board and the Advisory Committee, the quorum for such meetings and the conduct of business thereat; d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of a Board; e) the allowances, if any, payable to the members of a Board or the Advisory Committee; \* f) the disqualifications for membership of a-Board; g) the form in which a Board shall prepare its annual Statement of Accounts and the Balance-Sheet.

19. 8A) Schemes and rules to be laid before Parliament : Every scheme and every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or rule or both Houses agree that the scheme or rule should not be made, the scheme or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or rule.

20. 9. Saving : Every Dock Labour Board established for a port or a group of ports before the commencement of the Dock Workers (Regulation of Employment) Amendment Act, 1962 (8 of 1962) under a scheme made under section 4, and functioning as such immediately before such commencement shall be deemed to be a Board established under section 5 (A) and, accordingly, all the provisions of this Act shall apply to every such Board.

## **The Manual Scavenging Act 1993**

Introduction :- Manual Scavenging & Constitution of India Article 14 - Right to Equality Article 17 – Untouchability Article 21 - Right to Life & Liberty Article 46 - Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections Article 47 - Duty of the State to raise the level of nutrition and the standard of living and to improve public health

Statistics on Manual Scavenging -Around 1.3 million manual scavengers in India -95% are women. -Around 10 billion dry latrines being cleaned manually.

Previous Laws on Manual Scavengers -Employment of Manual Scavengers and Constructions of Dry latrines (Prohibition) Act, 1993 -National Commission for Safai Karamcharis Act, 1993 - Finally new law.. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013

Manual Scavengers defined ...means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, .....for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly.

Prohibition on Manual Scavengers - No person, local authority or any agency shall construct an insanitary latrines or employ or engage manual scavengers (Section 5). For contravention upto 1 year Imprisonment or with fine upto 50,000 or both (Section 8). - Not engage a person for hazardous cleaning of a sewer or a septic tank. For contravention upto 2 year Imprisonment or with fine upto 2 Lakh or both (Section 9). - Complaint within 3 months of the alleged commission of the offence (Section 10) 12

Manual Scavengers & their Rehabilitation - Every municipality, Panchayat shall prepare list of manual scavengers. They will be given ID card having details of family members, dependents. - Children will be entitled for scholarship. - Allotment of residential plot and financial assistance for house construction or ready made house. - He or his one of family member will be given skill training and minimum Rs. 3000 will be given as stipend. - He or at least one adult member of his family shall be given subsidy and concessional loan for taking up an alternative occupation. 13

Authorities for rehabilitation & trial of cases - The District Magistrate of the district shall be responsible for rehabilitation of each manual scavengers. - All offences will be tried by Executive Magistrate u/s 21 of the Act. - Vigilance Committee for each district headed by



District Magistrate to advise District Magistrate/Sub-DM on the actions which need to be taken to oversee the economic and social rehabilitation of manual scavengers, to monitor registration of offences under the act and their investigation and prosecution (Section 25).

Monitoring Committee - Every state govt. shall constitute State Monitoring Committee which will monitor and advise the state govt. and local authorities for effective implementation of act (Section 26, 27) - Central Govt. will also Central Monitoring Committee which will advise central & state govt. (Section 30). - National Commission for Safai Karmacharis will monitor the implementation of this act and advise central & state govt. for effective implementation of the act and to take suo-moto notice of matter relating to non-implementation of the act (Section 31).

### Implementing Authorities



Recent Scenario of Manual Scavenging - Safai Karamchari Andolan v/s. Union of India (Writ petition filed in 2003 decided on March 27, 2014) for implementation of laws on manual scavenging. - National Commission of Safai Karamchari reported that act not being implemented. - CAG reported that National Scheme for Liberalization and Rehabilitation of Scavengers and their dependents (Started in 1992) has failed to achieve its objectives involving investment more than Rs. 600 crore even after ten years of implementation. Money was unspent & underutilized.

Recent Scenario of Manual Scavenging The High Court of Gujarat disposed of a suo-motu public interest litigation (PIL) with regard to manual scavenging after directing the state

government to strictly implement the law and take "all necessary steps" to abolish the practice. The bench also directed the government to strictly implement the law to abolish the practice (The New Indian Express). As per Union Minister of Social Justice "only few states furnishing information on manual scavenging" (Zee News). Madras HC directed state govt. to implement the act in response of PIL. District level vigilance committee and state level monitoring committee to be constituted (The Hindu).

Conclusion - Manual scavenging still prevalent in India. - Central & State Govt. have failed to implement the law on manual scavenging. - SC & Various HC directing states to implement the law.

Richard Abraham (2015), "HC directs strict implementation of law on manual scavenging", New Indian Express, February 10, 2015. Social Inclusion of Manual Scavengers, Report of National Round Table Discussion, New Delhi, December 21, 2012. Cleaning Human Waste, Manual Scavenging, Caste and Discrimination in India report prepared by Human Rights Watch, 2014. Constitution of India The Employment of Manual Scavengers and Constructions of Dry Latrines (Prohibition) Act, 1993 The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 National Commission for Safai Karamcharis Act, 1993 The Hindu Zee News Sewer men of Mumbai,

### Unit -3

#### Legislations related to Industrial Relations and Wages

#### The Trade Union Act 1926

1. The Trade Union Act was passed in 1926 under the title of the Indian Trade Union Act and was brought into effect from 1st June 1927 by a notification in the Official Gazette by the Central Government. The Act was amended in 1947, 1960 and 1962, Subsequently the word „Indian“ was deleted from the amended Act of 1964, which came into force from 1st April 1965. A comprehensive trade unions (Amendment) Act was passed in 1982.
2. OBJECTIVES OF THE ACT The Act enacted with the object of providing for the registration of trade unions and verification of the membership of trade unions so registered so that they might acquire a legal and corporate status. As soon as a trade union is registered, it is treated as an artificial person in the eyes of the law, capable of enjoying rights
3. TRADE UNION ACT DEFINITION Section 2 (h) of the Trade Union Act 1926 defines the term „Trade Union“ as “ any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relation between workmen and employers, 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”.
4. FUNCTIONS & ROLE OF TRADE UNIONS.
  - ⊗ To improve working and living conditions.
  - ⊗ To secure for workers fair wages.
  - ⊗ To enlarge opportunities for promotion and training.
  - ⊗ To

promote individual and collective welfare.  $\infty$  To provide for educational, cultural and recreational facilities.  $\infty$  To safeguard security of tenure and improve conditions of service.  $\infty$  To promote identity of interests of the workers with their industry .

**5. TRADE UNIONS IN INDIA** a) INTUC (Indian National Trade Union Congress) b) AITUC (All India Trade Union Congress) c) CITU (Centre of Indian Trade Unions) d) NLO (National Labour Organization) e) TUCC (Trade Union Congress Committee)

**6. PROVISIONS OF THE TRADE UNION ACT** a) Definitions. b) Formation and Registration. c) Duties and Liabilities. d) Rights and Privileges. e) Amalgamation and Dissolution. f) Submission of Return. g) Penalties and Fines. h) Power to Make Regulations.

**7. FORMATION AND REGISTRATION OF TRADE UNIONS** Sections 4 to 9 deals with the procedures for registration of Trade Unions. 1) Mode of Registration [Sec. 4 (1)]. Any seven or more members of Trade Union may apply for registration. All the members applying for registration must subscribe their names to the rules of the Trade Union 2) Application for Registration (Sec. 5). The application for registration should be made to the Registrar for Trade Union. It contains, a) The names, occupation and Address of the members . b) The name of the Trade Union and the Address its head office. c) The titles, names, ages, addresses and occupations of office bearers of the Trade Union.

**8. 3) Contents of the copy of rules (Sec. 6).** The application should also be accompanied with a copy of rules of the Trade Union, it contains. i. The name of the Trade Union. ii. The whole of the object for which the Trade Union has been established. iii. The whole of the purpose for which the general funds of a Trade Union shall be applicable. iv. The payment of a subscription by members of the Trade Union which shall not be less than a) one rupee per annum for rural workers b) three rupee per annum other organized sectors c) twelve rupees per annum for workers in any other case.

**9. 4) Power of the Registrar to call for further Particulars (Sec. 7).** When the application for registration is filed before Registrar, he has got the powers to call further particulars regarding the Trade Union. 5) Registration and Certificate (Sec. 8 & 9). If all the requirements of the Act have been complied with, the Registrar of Trade Union shall register the Trade Union and issue “certificate of Registration. Registered Trade Union [Sec. 2 (e)]. A “Trade Union” which is registered as per provisions under the Trade Union Act 1926 which has the certificate of registration is called Registered Trade Union.

**10. DUTIES AND LIABILITIES OF A REGISTERED TRADE UNION** 1) Change of registered office (Sec. 12). If any change in the address of the head office of a Trade Union takes place, notice of change must be given to the Registrar in writing within 14 days. 2) Objects on which general fund ay be spent (Sec. 15). The general funds of a registered Trade Union can be spent only the objects. 3) Constitution of a fund for political purposes (Sec. 16). A registered Trade Union may constitute a separate fund from which payments may be made for the promotion of the civic and political interests of its of its members. 4) Proportion of officers bearers be connected with the industry (Sec. 22).

**11. 5) Returns to be submitted (Sec. 28).** Every Registered Trade Unions is required by Section 28 to send annually to the Registrar on or before a prescribed date, a general audited statement of all receipts and expenditure during the year ending 31st day of Dec. 6) Account books and list of members. The account books of registered Trade Union and the list of members thereof is open to inspection by any office bearer or member of the Trade Union at such times as may be provided of in the rules. **TRADE UNION FUNDS** Registered Trade Union raise their fund through, a) General Funds. b) Separate Funds

12. a) GENERAL FUNDS Section 15 of the Act provides certain restraints against expenditure out of the general funds of the registered trade union. It lays down that the general fund of a registered trade union shall not be spent on any other objects than the following, namely: The payment of salaries, allowances and expenses to the officebearers of the Trade Union; The payment of expenses for the administration of the Trade Union including audit of accounts of general funds; The allowances and compensation of members for loss arising out of Trade Unions. The provisions of education, social or religious benefits for members or for the dependants of members.

13. b) SEPARATE FUNDS Sec. 16 of The Trade Union Act has made suitable provisions for the constitution of a separate fund for political purposes. The Act empowers a registered Trade Union to constitute a separate fund from contribution separately levied for that fund. Out of this fund payments maybe made for the promotion of the political interest of its members in order to promote the political objects. But the general funds should not be utilized for political purpose

### **Industrial Employment Standing Order Act 1946**

1. Introduction □ There was no uniformity in the conditions of service of workers until this act was brought □ The frequent causes of friction b/w management & workers in industrial undertaking in India were mainly, due to absence of clear cut employment condition known to the workers

2. □ This is why – The Labor investigation committee 1944-46 observed: “ An Industrial worker has the right to know the Terms & condition which he is expected to follow” □ And consensus of opinion in favor of separate central law making it obligatory on the part of employer in the country to frame & enforce with the approval of Govt - Defining the Employment condition.

3. Section wise content 1. Scope, Object & Applicability (Short title , extent & Application) 2. Definitions 3. Procedure of submission of draft standing order 4. Condition for certification of standing order 5. Procedure for adoption 6. Appeal 7. Date of operation of standing order 8. Register of standing order 9. Pasting of S.O 10. Duration & Modification of S.O 10 A. Payment of subsistence allowance 11. Certifying officer & Appellate authority to have power of civil court 12. Oral evidence in contradiction of Standing order 12 A. Temporary application of Model S.O 13. Penalties & Procedure 14. Power to Exempt & 14A Delegation of Power 15. Power to make rules

4. Object Scope & Applicability □ Object - To minimize Industrial conflict - To foster harmonious relation between employers & employee - To require workers to define the condition of workers □ Scope & Applicability - This Act apply to the whole of India - It applies to every industrial establishment wherein 100 or more workmen are employed or , were employed on any day of the preceding 12 Month 13-B. Act not apply to certain industrial establishments.— To which the provisions of Chapter7 of the Bombay Industrial Relation Act, 19746 or Madhya Pradesh Industrial Employment ( Standing Order) 1961 are applicable(Section 1)

5. Definitions □ Certifying officer It means labor Commissioner who is appointed by the appropriate Govt for the purpose of certifying the S.O □ Appellate Authority It refers to an authority which is appointed by the Govt for the purpose of seeing to & appeal provided by the employer or any of the workmen □ Standing Order The rules pertaining to working of establishment to be submitted by Employer

6. Procedure, certification , Modification , Appeal □ With in 6 months from the date on which this Act is applicable to an industrial establishment : the employer of an industrial establishment is required to submit to the certifying officer five copies of the draft standing orders proposed to be adopted by him in his industrial establishment together with the prescribed particulars( Form 1) of workmen, employed and name of trade union if any to which they belong. (Section 3)

7. □ On receipt of the draft, the certifying officer shall forward a( Form 2) copy thereof to the trade union, if any, of the workmen or to the workmen requiring objections if any, which the workmen may desire to make to the draft standing orders to be submitted by him within 15 days from the receipt of the notice. Then the certifying officer shall decide whether or not any modification or addition to the draft is necessary to render it certifiable under the Act and shall make an order in writing. □ The Certifying Officer shall there upon certify the draft standing orders and shall send within 7 days copies of the certified standing orders to the employer and to the trade union or representative of the workmen. (Section 5)

8. Appeal □ Any employer, workman, trade union aggrieved by the order of the certifying officer, may within 30 days appeal to the appellate authority, whose decision shall be final. (Section 6) □ The appellate authority shall within 7 days of its order send copies to the certifying officer, to the employer and to the trade union copies of the standing orders as certified by it and authenticated in the prescribed manner. (Section 6) □ The appellate authority has no power to set aside the order of the Certifying Officer. It can confirm or amend the Standing Orders.

9. Date of Operation of Standing Orders □ Standing orders, will unless an appeal is preferred, come into operation on the expiry of 30 days from the date on which the authenticated copies of the same are sent or where appeal is preferred, on the expiry of 7 days from the date on which copies of order of the appellate authority are sent (Section 7)

10. Register of S.O □ A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form( form 3) □ It shall furnish a copy of it to any person on payment of the prescribed fees. [Section 8] Pasting of S.O □ The text of the standing orders finally certified shall be prominently pasted by the employer in English and in language understood by the majority of the workmen on special board to be maintained for that purpose at or near the entrance through which the majority of workmen enter the industrial establishment (Section 9)

11. □ When the Standing Orders be Modified Under Section 10 (1) Standing orders finally certified under this Act shall not be modified until the expiry of six months from the date on which the standing order or the last modifications thereof come into operation, unless the agreement provide otherwise. □ Who may apply for modification An employer or workmen may apply to the Certifying Officer to have the standing orders modified. Such application must be accompanied by five copies of the modification proposed to be made.

12. Payment of Subsistence Allowance (Section 10-A) □ Where the employer suspend the workman pending investigation or inquiry into complaint or charges of misconduct against the workman the subsistence allowance shall be payable: □ At the rate of 50% of the wages which the workman was entitled to immediately preceding the date of such suspension for the first 90 days of suspension; and □ At the rate of 75% of such wages for the remaining period of suspension if the delay in completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman. □ If any dispute arises regarding the subsistence allowance payable to a workman, it may be referred to the Labour Court constituted under I.D. Act, 1947.

**13.** □ Every certifying officer shall have all the powers of a Civil Court (section 11) 1. receiving evidence 2. administering oaths 3. enforcing the attendance of witness 4. Compelling the discovery and production of documents it shall be deemed to be a Civil Court Section 12. Oral evidence in contradiction of Standing order Section 12 A. Temporary application of Model S.O

**14.** Penalties & Procedure (Section 13) □ An employer who fails to submit draft standing orders shall be punishable with fine which may extend to 5000 rupees and in case of a continuing offence with a further fine which may extend to 200 rupees for every day after the first, during which the offence continues. □ An employer, who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to 100 rupees, in case of continuing offence with a further fine which may extend to 25 rupees for every day after the first, during which the offence continues. Power to Exempt & Delegation of Power (section 14) □ The appropriate Government may by notification in the Official Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

**15.** Power to make Rules (Section 15) Section 15(1) of the Act empowers the appropriate Government to make rules to carry out the purposes of this Act after previous publication by Notification in the Official Gazette. a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition; b) set out model standing orders for the purposes of this Act; c) prescribe the procedure of Certifying Officers and appellate authorities; d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders; e) provide for any other matter, which is to be or may be prescribed.

## **Industrial Dispute Act 1947**

1. Meaning Of Industrial Dispute ♦ According to the Industrial Disputes Act, 1947, the term 'industrial dispute' means "any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or the terms of employment or with the conditions of labour, of any person“.

2. Objectives Of Industrial Dispute Act, 1947 1. To provide a suitable machinery for the just, equitable and peaceful settlement of industrial disputes. 2. To promote measures for securing and preserving amity and good relations between employers and employees. 3. To prevent illegal strikes and lockouts. 4. To provide relief to workers against layoffs, retrenchment, wrongful dismissal and victimisation. 5. To promote collective bargaining. 6. To ameliorate the conditions of workers. 7. To avoid unfair labour practices.

3. Reasons/Causes of Industrial Disputes 1) Demand for higher wages and allowances. 2) Demand for payment of bonus and determination of its rate thereof. 3) Demand for higher social security benefits. 4) Demand for good and safer working conditions, including length of a working day, the interval and frequency of leisure and physical work environment. 5) Demand for improved labour welfare and other benefits. For example, adequate canteen, rest, recreation and accommodation facility, arrangements for travel to and from distant place's, etc.

4. Methods For Settlement Of Industrial Disputes 1. Conciliation 2. Arbitration 3. Adjudication

5. **CONCILIATION** ♦ Conciliation is the “practice by which the services of a neutral party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement of agreed solution.” ♦ The Industrial Disputes Act, 1947 provides for “Conciliation Officer or A Board of Conciliation”.

6. **Conciliation Officer** ♦ A Conciliation Officer Is a Person appointed by the Government to conciliate between the parties to the industrial dispute. ♦ The Conciliation Officer is given the powers of a civil court, whereby he is authorised to call the witness the parties on oath.

7. **Roles of Conciliation Officer** 1. He shall, hold conciliation proceedings in the prescribed manner. 2. He shall investigate the dispute and all matters affecting it and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair settlement of the dispute.

8. If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate government together with a memorandum of the settlement signed by the parties to the dispute.

4. If no such settlement is arrived at , the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at. 5. If, on a consideration of the report referred to in sub-section (4), the appropriate government is satisfied that there is a case for reference to a Board, , it may make such reference. Where the appropriate government does not make such a reference it shall record and communicate to the parties concerned its reasons therefore. 6. A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate government.

9. **BOARD OF CONCILIATION** ♦ In case Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a Board of Conciliation. ♦ It consists of a chairman and two or four other members. ♦ The Board must submit its report to the government within two months of the date on which the dispute was referred to it. This period can be further extended by the government by two months.

10. **Arbitration** ♦ Arbitration is a process in which the conflicting parties agree to refer their dispute to a neutral third party known as ‘Arbitrator’. Arbitration differs from conciliation in the sense that in arbitration the arbitrator gives his judgment on a dispute while in conciliation, the conciliator disputing parties to reach at a decision.

11. **Types Of Arbitration** 1. **Voluntary Arbitration:** In voluntary arbitration both the conflicting parties appoint a neutral third party as arbitrator. The arbitrator acts only when the dispute is referred to him/her. With a view to promote voluntary arbitration, the Government of India has constituted a tripartite National Arbitration Promotion Board in July 1987, consisting of representatives of employees (trade employers and the Government. However, the voluntary arbitration could not be successful because the judgments given by it are not binding on the disputants. Yes, moral binding is exception to it. 2. **Compulsory Arbitration:** In compulsory arbitration, the government can force the disputing parties to go for compulsory arbitration. In other form, both the disputing parties can request the government to refer their dispute for arbitration. The judgment given by the arbitrator is binding on the parties of dispute.

12. **Adjudication** ♦ Adjudication: The ultimate legal remedy for the settlement of an unresolved dispute is its reference to adjudication by the government. The government can refer the dispute to adjudication with or without the consent of the disputing parties. When the dispute is referred

to adjudication with the consent of the disputing parties, it is called 'voluntary adjudication.' When the government herself refers the dispute to adjudication without consulting the concerned parties, it is known as 'compulsory adjudication.'

13. Three-tier machinery for the adjudication of industrial disputes: ♦ 1. Labour Court ♦ 2. Industrial Tribunal ♦ 3. National Tribunal

14. Labour Court ♦ Under Section 7 of the Industrial Disputes Act, 1947, the appropriate Government by notifying in the official Gazette, may constitute Labour Court for adjudication of the industrial disputes. ♦ The labour court consists of one independent person who is the presiding officer or has been a judge of a High Court, or has been a district judge or additional district judge for not less than 3 years, or has been a presiding officer of a labour court for not less than 5 years. ♦ The labour court deals with the matters specified in the second schedule of the Industrial Disputes Act, 1947.

15. Issues that come under Labour Court ♦ 1. The propriety or legality of an employer to pass an order under the standing orders. ♦ 2. The application and interpretation of standing orders. ♦ 3. Discharge or dismissal of workers including reinstatement or grant of relief to workmen wrongfully dismissed. ♦ 4. Withdrawal of any statutory concession or privilege. ♦ 5. Illegality or otherwise of a strike or lockout. ♦ 6. All matters other than those reserved for industrial tribunals.

16. INDUSTRIAL TRIBUNAL ♦ Under Section 7A of the Act, the appropriate Government may constitute one or more Industrial tribunals for the adjudication of industrial disputes. Compared to labour court, industrial tribunals have a wider jurisdiction. An industrial tribunal is also constituted for a limited period for a particular dispute on an adhoc basis.

17. Issues that come under Industrial Tribunal ♦ 1. Wages, including the period and mode of payment. ♦ 2. Compensatory and other allowances. ♦ 3. Hours of work and rest periods. ♦ 4. Leave with wages and holidays. ♦ 5. Bonus, profit sharing, provident fund, and gratuity. ♦ 6. Classification by grades. ♦ 7. Rules of discipline. ♦ 8. Rationalisation. ♦ 9. Retrenchment of employees and closure of an establishment or undertaking. ♦ 10. Any other matter that can be prescribed.

18. National Tribunal ♦ This is the third one man adjudicatory body appointed by the Central Government by notification in the Official Gazette for the adjudication of industrial disputes of national importance. The central Government may, if it thinks fit, appoint two persons as assessors to advise the National Tribunal. When a national tribunal has been referred to, no labour court or industrial tribunal shall have any jurisdiction to adjudicate upon such matter.

### **The Payment of Wages Act 1936**

1. To avoid unnecessary delay in the payment of wages} To prevent unauthorized deductions from wages
2. The Payment of Wages Act, 1936 extends to whole of India• Persons employed} in any factory} by railway administration or, either directly or through a sub-contractor} in an industrial or other establishments. • Act applies to employed persons drawing average wages not exceeding Rs. 10,000/- Per Month.
3. In this Act, unless there is anything repugnant in the subject or context, "EMPLOYED PERSON" include the legal representative of a deceased employed person; "EMPLOYER" includes the legal representatives of a deceased employer



4. "Wages" means all remunerations capable of being expressed in terms of money, which would if the terms of the contract of employment, expressed or implied, were fully filled, be payable to person employed irrespective of his employment or of work done in such employment and includes house rental allowances
5. Every employer shall be responsible for the payment to person employed by him of wages required to be paid under this Act: Provided that in case of persons employed (otherwise than by a contractor)— a) in factories, if a person has been named as the manager of the factory under section 7 of the Factories Act, b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or the industrial or other establishment
6. (C) upon railways (otherwise than in factories), if the railway administration and the railway administration has nominated a person in this behalf for the local area concerned; the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, [shall also be responsible ] for such payment
7. Fixation of wage-periods.—Y (1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable Y (2) No wage-period shall exceed one month Fixation of wage-periods [sec 4]
8. Time of payment of wages.— The wages of every person employed upon or in—(a) any railway, factory or [industrial or other establishment] upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day, (b) any other railway, factory or [industrial or other establishment], shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable. Time of payment of wages [sec 5]
9. Wages must be paid in current coin or currency notes or in both and not in kind. • Wages can be paid by cheque or by crediting them in the bank account if so authorized in writing by an employed person.
10. Sec 7(1) says that every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be deduction from wages.
11. General Rule - The wages of an employed person shall be paid to him without deductions of any kind except those authorized by or under this Act. • Fines • Deductions for absence from duty • Deductions for damage to or loss of goods of employed person • Deductions for house-accommodation supplied by the employer
12. Such absence being for the whole or any part of the period during which he is so required to work. 2. If 10 or more employed persons remains absent then such deduction may not exceed his wages for 8 days.
13. Such deduction shall not exceed the amount of the damage or loss caused to the employer. • Employee is given an opportunity of showing cause. • All such deduction shall be recorded in a register.
14. Sec 11. Deduction for services rendered
15. Recovery of advance given before employment began shall be made from the first payment. 2. Recovery of an advance given after employment began shall be subject to such conditions as the Appropriate Government may impose.
16. Sec 13. Deductions for payment to Co-op Societies
17. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the State

Government or of the prescribed authority, may have specified by notice under sub-section(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of person employed upon a railway (otherwise than in a factory), at the prescribed place or places .

18. No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines. The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to [three per cent.] of the wages payable to him in respect of that wage-period. (5) No fine shall be imposed on any employed person who is under the age of fifteen years
19. (1) Appointment : The Appropriate Government may, by notification in the Official Gazette, appoint :a) Presiding officer of any Labour Courtb) Presiding officer of any Industrial Tribunalc) Any Commissioner for Workmen's Compensationd) Any other officer with experience as a Judge of a Civil Court or as a Judicial Magistrate to be the 'Authority' to hear and decide the claims arising out of deductions from the wages, or delay in payment of the wages of employed persons.
20. (2) Application : Where payment of wages have been delayed or any deduction has been made from wages, the application can be made to the Authority by :a) The Person himself orb) Any legal practitioner orc) Any official of a registered trade union, duly authorized in writing. ord) Any Inspector under this Act ore) Any other person acting with the permission of the 'Authority'.
21. (3) Process :Y Authority shall hear the applicant and the employer or other person responsible for the payment of wages.Y The Authority may direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation.Y The compensation shall not exceed 10 times the amount deducted in the former case and not exceeding 3000 rupees but not less than 1500 rupees.
22. No compensation shall be made in the case of delayed wages, if the Authority is satisfied that : 1) The delay was due to bona fide error / dispute as to the amount payable to the employed person. 2) The person responsible was unable to make payment due to exceptional circumstances, even though exercised due diligence. 3) The delay was due to the failure of the employed person to apply for or accept payment .
23. An Appeal against an order of the Authority should be made within 30 days of the date of the said order / direction, before Court of Small Causes and elsewhere before the District Court.

### **The Minimum Wages Act 1948**

1. History of minimum wages. θ The initiative by Shri K.G.R.Choudhary in 1920 set up boards for determination of wages. θ The International Labour Conference adopted convention no.26 and 30 in 1928 relating to wage fixing machinery in trades or parts of trades.

2. A Minimum Wages Bill was introduced in the Central Legislative Assembly on 11.04.1946 and came into force with effect from 15.03.1948.

3. The Minimum wages. The minimum wages Act 1948, was to secure the welfare of unorganised workers in certain industries by fixing the minimum rates of wages. The Act contemplates that minimum wages rates must ensure for him not only his subsistence and that of his family but also preserve his efficiency as a workman. The Act empowers the appropriate Government for fixation of minimum wages in employments enumerated in the schedule to the Act. The fixation of minimum wages relates to the industries where sweated labour is most prevalent or where there is inevitable chance of exploitation. In prescribing the minimum wages rates, the capacity of the employers need to be considered as the State assumes that every employer must pay the minimum wages if he employs labour.

4. Objectives of the act. θTo provide minimum wages to the workers working in organized sector. θTo stop exploitation of the workers. θTo empower the government to take steps for fixing minimum wages and to revising it in a timely manner. θTo apply this law on most of the sections in organized sector.

5. Short title and extent (sec. 1) θThis Act, the Minimum Wages Act, 1948 extends to the whole of India. θThis Act may be called the Minimum Wages Act, 1948.

6. Interpretation/Definition (sec.2) θ (a) 'Adult', 'Adolescent' and 'Child' Adult- is who has completed his eighteen years of age. Adolescent – completed his fifteen years but not eighteen years of age. Child –who has not completed his fifteen years of age θ (b) Appropriate government India has federal form of Government at the centre and state level . The minimum wages act provide separate areas of jurisdiction for both centre and state government.

7. θ (e) Employer means any person who employs one or more employees in any schedule of employment. θ (h) Wages means all remuneration capable of being expressed in terms of money. θ (i) Employee means any person employed for hire or reward and includes an out –worker.

8. FIXATION AND REVISION OF MINIMUM WAGES fixing of minimum rates of wages (sec.3) θ The minimum rates of wages will be reviewed/ revised, for every five years, by the appropriate govt. θ Appropriate govt. can add any employment, to the schedule(part-I or part – II), wherein one thousand or more employees are found working θ Different minimum rates of wages may be fixed for different scheduled employments/ different classes of work /different localities

9. Minimum rates of wages (sec.4) 1. Basic + Special Allowance (Which varies with the cost of living index). 2. Basic + Cash value of concessional supply of materials like food, clothes, etc. 3. An all inclusive rate which includes Basic + Cost of living Allowance + Cash value of concessional supply of materials.

10. Procedure for fixation and revision of minimum rates of wages (sec.5) θ Publish its proposals in the official gazette asking comments from the affected parties. θ Constitute committees/sub committees for the purpose. θ The committees/sub-committees and advisory boards constituted

by the Government consist of equal number of members of : • Employers • Employees, and • Independent persons

11. 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 the Representatives Notification of Minimum wages

12. Central advisory board (sec.8) . To advise the Central and State Governments in fixation and revision of minimum rates of wages. . To co-ordinate the work of the Advisory Boards. . Appointed by appropriate government. . To co-ordinate the work of committees and sub committees appointed under Section 5.

13. Each of the committee, sub-committee and the Advisory Board shall consist of: a. persons to be nominated by the appropriate Government. b. representing the employers and employees in the scheduled employments who shall be equal in number and c. independent persons not exceeding one-third of its total number of members: one of such independent persons shall be appointed the Chairman by the appropriate Government. Composition of Committees, etc. (Sec. 9)

14. Wages in kind (sec. 11) • Minimum wages shall be paid in cash. • The appropriate govt. may authorize, where there has been a custom of payment in this manner, payment of minimum wages either wholly or partly in kind. • The appropriate govt. may authorize supply of essential commodities at concessional rates. PAYMENT OF MINIMUM WAGES

15. Payment of minimum rate of wages (sec. 12)  The Minimum Wages has to be paid without any deductions other than Statutory Deductions.  Payment of wages less than minimum wages on the ground of less performance or output is illegal.

16. Fixing hours of work (sec. 13) For an Adult Worker working in Factories: Number of Working Hours should not exceed 48 Hours in a week with a weekly Holiday. The Daily Hours should not exceed more than 9 Hours with 1 Hour Rest Interval. Provision of Compensatory Holiday/Overtime Wages if working on holiday.

17.  If the person has worked for more than 48 hours in a week then, the excess hours worked will be treated as Overtime.  Overtime wage rate will be twice of the normal wage rate . Overtime wages (sec. 14)

18. Wages for a person who has worked less than normal working hours (sec. 15) Employer could not provide the activities of the job then, the employee is entitled to receive full salary. Employee has not worked due to his unwillingness then, the employee is not entitled to receive full salary.

19. Records to be maintained (sec. 18) The Registers should contain the following particulars- (i) particulars of employed persons (ii) the work performed by them (iii) the wages paid to them (iv) the receipts given by them

20. A Labour Commissioner or any other appointed authority is authorized to hear claims regarding non-payment of minimum wages Any aggrieved person may apply to the authority for settling his claims within 6 months Claims (sec. 20)

21. Offence Punishment Payment of less than Minimum Wages to employee Imprisonment which may extend up to 6 Months or Fine which may extend up to Rs 500/- or Both Penalties (sec. 22)

22. Contracting out (Sec. 25) □ Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void so far as it purports to reduce the minimum rate of wages fixed under this Act.

23. Power of State Government to add schedule (sec.27) The State Government has to notify in the Official Gazette not less than three months of its intention to do so. The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State. Power of Central Government to give directions (sec.28)

### **The Payment of Bonus Act 1965**

1. Payment of Bonus Act – 1965 Objective of the Act:- An Act to Provide for the “Payment of Bonus” to Persons employed in certain Establishments on the basis of Profits or on the basis of Production or Productivity & for matters connected therewith. History of Bonus:- “Bonus” is really a Reward for Good work or Share of Profit of the unit where the Employee is working. The practice of Paying Bonus in India appears to have Originated during 1st World War when certain textile mills granted 10% of wages as War Bonus to their workers in 1917. In certain cases of Industrial Disputes Demand for Payment of Bonus was also included. In 1950, the Full Bench of the Labour Appellate evolved a formula for determination of bonus. Applicability of the Act: - The Act is applicable to any Factory employing 10 or More persons where any processing is carried out with Aid of Power & also to Other Establishments (established for purpose of profit) employing 20 or More persons. This Act extends to the whole of India, w.e.f – 1965. Eligibility for Bonus:- Every Employees drawing wages upto Rs:-10000/-, shall be entitled for Bonus with minimum 30 (Thirty) Days worked performed by Employee during the Accounting period. {Sec – 08}.
2. Guidelines @ Bonus Act Disqualification for Bonus:- An Employee shall be Disqualified from Receiving the Bonus under this Act, if he is Dismissed from service for “Fraud, Riotous or Violent Behaviour” while on the Premises of the Establishment; or Theft, Misappropriation or Sabotage of any Property of the Establishment. Payment Rate & Calculation of Bonus: Payment Rate @ Bonus : Minimum 8.33% & Maximum upto 20% of the salary or Rs.100 (on completion of 5 years after 1st Accounting year even if there is No profit). {Sec. 10.} For Calculation purposes Rs:- 3500/- per month maximum will be taken even if an Employee is drawing upto Rs:- 3500/- per month. (Sec. 12) Time Limit for Payment of Bonus: Within 08 Months from the Close of Accounting year. Mostly Organization paid the Bonus before the Diwali (Sec. 19) Computation of gross profits : For banking company, as per Schedule - I. Others, as per Second - II Set-off and

Set-on : As per Schedule IV. Sec. 15 Submission of Return : In Form D to the inspector within 30 days of the expiry of time limit under Section 19. Rule 5

3. Guidelines @ Bonus Act Maintenance of Registers: Maintain a Register showing the computation of the allocable Surplus referred to in clause (4) of section 2, in Form A. Maintain a Register showing the Set-on & Set-off of the allocable Surplus, under section 15, in Form B. Maintain a Register showing the Details of the Amount of Bonus due to each of the Employees, the deductions under section 17 & 18 and the amount actually disbursed, in Form C. Sec.26, Rule 4 Rights of Employee: Right to Claim Bonus Payable under the Act & to make an Application to the Government, for the recovery of Bonus due & unpaid by Employer, within one year. Employee has the Right to refer any Dispute to the Labour Court / Tribunal. Right to Seek Clarification & Obtain information from accounts of the Establishment. The Bonus Act is “Not Applicable” to certain Employees of LIC, General Insurance, Dock Yards, Red Cross, Universities & Educational Institutions, Chambers of Commerce, Social Welfare Institutions & Building Contractors, etc. {Sec.32}. Penalty under the Act:- For Contravention of the provisions of the Act or Rules the Penalty is Imprisonment upto 6 months, or fine up to Rs:- 1000, or both. For Failure to Comply with the directions or requisitions made the penalty is Imprisonment upto 6 months, or fine up to Rs:- 1000, or both.

## Unit-4

### Social Security Legislations

#### **Employees State Insurance Act – 1948**

1. Mission Statement:- To Provide for Certain Benefits to Employees in case of Sickness, Maternity and Employment Injury & to make the Provisions for Related Matters. Objective of the Act:- The ESI Scheme is an Integrated Measure of “Social Insurance” come to the Life through the “Employees' State Insurance Act – 1948”, and is Designed to complete the task of Protecting ‘Employees' as defined in the ESI Act – 1948, against the Hazards of Sickness, Maternity, Disablement or Death due to Employment Injury & to provide full Medical Care to Insured Persons (IP) & their Families. The ESI Act is applicable across the length and breadth of the India. Applicability of the Act : Under Section - 2(12) of The Act, ESI is applicable to the all Factories employing 10 (Ten) or More Persons irrespective of whether Power is used in process of Manufacturing or not. Under Section - 1(5) of The Act, the Scheme has been Extended to Shops, Hotels, Restaurants, Cinemas including Preview Theatre, Road Motor Transport undertakings & Newspaper Establishment employing 20 (Twenty) or More persons. Further, Under Section - 1(5) of the Act, the Scheme has been Extended to Private Medical &

Educational Institutions employing 20 (Twenty) or More persons in certain States . The Existing Wage-Limit for Coverage under the Act, is Rs. 15,000/- per month. (Excluding Remuneration for Overtime) w. e. f:- May 01, 2010. “At an Average the ESI Corporation makes 40 Lacs Individual Payments each year Amounting to about Rs. 300 crores through its wide spread network of branch Offices in the implemented areas”.

2. ESI Contribution Employer's contribution (4.75% of gross salary) Employee's contribution (1.75% of gross salary) Total Esi contribution (6.5% of gross salary) Due Date, Contribution & Benefit Period The Contribution's Amount (Employee's & Employer's Share) is to be Deposited at State Bank of India through Online Generated Challan from ESIC Website via Employer's ID, on or before 21st day of following month. “Employers” covered under the ESI Act, are required to Pay Contribution towards the scheme on a Monthly basis. There are Two Contribution Periods each of Six Months and Two Corresponding Benefit Periods also of Six Months duration linked with each other. Contribution Period Benefit Period 1st April to 30th Sep. 1st Jan to 30th June (of the following year) 1st Oct to 31st Mar. 1st July to 31st Dec. IP & his family will receive the Medical & Others Benefits of ESI as per his Contribution during the Contribution Period with total contribution days required for Specific Benefits.
3. Guidelines @ ESI Act Benefits of ESI :- Medical Benefit, Sickness Benefit, Maternity Benefit, Disablement Benefit, Dependents Benefit, Funeral Expenses & Others Benefits. Obligation of the Employers : Deduct & Deposit the ESI Contribution with Own Share Monthly. Generated the TIC & Handover to Employee for Smart Card. Submit the Accident Report in Form – 16 within 24 hours of the Accident. Grant Leave to Insured Employees on the basis of Sickness Certificates. Records Maintenance : Maintain the Register of Employees in Form -6 (under Reg.:- 32). Maintain the Accident Book in Form - 11 (under Reg.:- 66). Maintain the Inspection Book (under Reg.:- 102A). Maintain the Form – 32 of Contribution Details of Employees. File all the copies of Return of Contribution, Challans, etc. File all the General Correspondence & Copies of Accident Reports. Delay in Contribution Payment Rate of Damages on Due Amount i). Up to less than 2 months 05 % ii). 2 months and above but less than 4 months 10% iii). 4 months and above but less than 6 months 15% iv). 6 months and above 25%

### **Employees PF & MP Act, 1952**

1. Objectives& Mission Statement:- The Mission of EPFO, is to Extend the Reach and quality of publicly managed Old-age Income Security programs through consistent and ever-improving standards of compliance and benefit delivery in a manner that wins the approval and confidence of Indians. The EPF & MP Act, 1952 was enacted by Parliament and came into force w.e.f. 04th March, 1952. Presently, the following three schemes are in operation under the Act: Employees' Provident Fund Scheme, 1952., Employees' Deposit Linked Insurance Scheme, 1976. Employees' Pension Scheme, 1995. (replacing the Family Pension Scheme, 1971). \*\*The Employees' Provident Fund Organization, India, is one of the largest provident fund institutions in the world in terms of members and volume of financial transactions that it has been carrying on. Applicability of the Act:- Under Section-1(3), Every Factories or Establishments Employing 20 (Twenty) or More Persons from the Date of its Setup are covered under the Act. Cinema Theatres employing 05 (Five) or more Persons are covered under the Act. “Government of India”

after giving two-months notice may apply the provisions of this Act to Establishments where less than 20 (Twenty) persons are employed. This Act applies to the whole India, (except Jammu & Kashmir). Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act. \*\* The Current Wages Ceiling Limit for coverage under the Act is ₹: 15,000/- (Basic + DA) p/m month w.e.f: Sep' 2014, (Earlier it was ₹ : 6,500/- w. e. f: June, 2001, & before that it was ₹ : 5000/- p/m).

2. Guidelines @ EPF & MP Act “Employee’s Deposit Linked Insurance” is basically an “Life Insurance” for all covered employees under EPF & MP Act, 1952, Since Aug 01, 1976. Here deposit means Average Deposit in EPF A/c. When an employee dies while in service, his or her family will get some Compensation based on deposit in EPF Account. Since May 24, 2016, the Maximum benefit of life insurance set under EDLI is ₹: 6.0 Lacs (₹: 4.5+1.5 Lacs). It is based on Employee’s last 12 months average (Max ₹: 15000/-) Salary Multiplied by 30 times. Along with that ₹:1.5 Lacs is also payable as a bonus. Earlier it was ₹: 3.6 Lacs since Sep 2014 and before that it was ₹: 1.3 Lacs, since May 2010). Claim Amount Calculation: Average Salary ₹: 15000 \* 30 times = ₹: 4,50,000/- + ₹: 1,50,000/- = ₹: 6,00,000/- (Max Claim Amount). PF Contribution Submission: PF Total Amount of Monthly Contribution of (Employee’s & Employer’s share) is to be deposited through Online Generated Combined Challan in respective Ac.: 01, 2, 10, 21 & 22 from EPFO website, w.e.f. April 01, 2012. Payment of total Contribution will only via Online Payment (Retail / Corporate Banking) with 56 Banks of India w.e.f. May 01, 2015. Online payment of PF contribution make the process so simple to pay the dues to the EPFO in few minutes. Web-link: <https://www.onlinesbi.com/prelogin/epfoinputdisplay.htm> Benefits of EPF Scheme 1952:- Retirement, Medical Care, Housing, Family Obligations, Education of Children & Financing of Insurance Policy Benefits of Pension Scheme 1995:- Monthly Member’s Pension Scheme, Widow & Children Pension, Orphan Pension, Reduced Pension & Disablement Pension. Penalties under the Act: Less than 2 months :- @ 17% p.a. on total due Contribution. 02 months & above, but less than upto 04 months:- @ 22% p.a. 04 months & above, but less than upto 06 months:- @ 27% p.a. 06 months & above :- @ 37 % p.a. on total due contribution.
3. Employee’s Share (to EPF Fund) AC: 01 Employer’s Share (to EPF & Pen. fund) Ac : 01 & 10 @ 12 % of Basic + DA (Ac: 01) @ 8.33% of Basic + DA or Max ₹ 1250/- (Ac: 10) @ 3.67% of Basic + DA or (12% ₹ 1250) (Ac: 01) EPF Total in Ac. 01: @ 15.67% or ( @ 12% + (12% - ₹ : 1250/-) EPS Total in Ac. 10: @ 8.33% or Max ₹ : 1250/- Total Contribution to EPF & Pension Fund , Ac: 01 & 10 ( @ 15.67 + 8.33 ) = 24 % PF Administrative Charges in Ac: 02 ( @ 0.65 % of Basic + DA) (Minimum ₹ : 500/- functional & ₹ : 75/- for non functional Org.) Contribution to EDLI, Ac: 21 @ 0.5 % of Basic & DA or Max upto on ₹ : 15000/- (Minimum ₹ : 200/- functional & ₹ : 25/- for non functional Org.) Total Monthly Contribution in { Ac 01, 10, 02, 21 & 22 } W.e.f: April 01, 2017: (12%+12%+0.65%+0.50%+0.00%) = @ 25.15 % For EDLI Exempted Org. (EDLI Inspection Charge @ 0.005% of Basic & DA or Max upto on ₹ : 15000/-) Note: EPFO has Removed the EDLI Admin Charges @ 0.01% w.e.f “April 2017” PF Contribution Account-wise w.e.f “April 01, 2017”
4. Forms & DSC for Employer Establishment Registration: On the EPFO website web-link is available for New Registration of the Establishment. {<https://unifiedportal-emp.epfindia.gov.in/epfo/>} Digital Signature of Employer: DSC is must for Employer to



Approve all Required action via Online Process on EPFO Login. Form - 5A : Online Updation is Required for details of “Directors / Proprietors” of the Organization. Form - 9 : Details of all Covered Employees under the EPF & EPS should be maintain. New Form No - 11 {Declaration Form} Declaration Form to be filled by New Joinee with their UAN Details (if Any), which helps to find the PF Eligibility && Mapping proper UAN of New Joinee. Form - 2, Nomination Form with details of Employees, Nominee & PF A/c No. “Combined Online Generated Challan” for Submission of PF Contributioun. PF Dues payment via Online Banking. No Need to file Monthly & Annual Return to EPFO, as the process is Completely Online w.e.f March 2012. Forms for Employee Composite Claim Form: (AADHAR & NON - AADHAR): New PF Claim Form has been introduced by EPFO as Combined PF Claim {Form 19 (Pf Final Settlement) / 10c (Pension Withdrawal Benefits) / 31 (Pf Part Withdrawal)}. Note: If KYC Approved on EPFO Portal by Employer & UAN Activate, “No Need for Employer’s Signature” on the PF Claim Form Note: Employer need to Attest the Non-Aadhar PF Claim Forms. {In case of KYC not Approved on the EPFO Portal, then Employer’s Signature Required on Non-Aadhar Combined PF Claim Forms}. {[http://www.epfindia.com/site\\_en/WhichClaimForm.php](http://www.epfindia.com/site_en/WhichClaimForm.php)} Old PF Claim Forms: 19, 10C & 13 are Out of Order as Aadhar Based Combined Claim Forms introduced by EPFO from April 2017. Form - 20 :- Application Form for Provident Fund ( In case of Employee’s Death). Form - 10 D:- Application Form for Pension to Nominee. (In case of Employee’s Death). Form - 5 (IF) :- EDIL Claim Amount Form. ( In case of Employee’s Death). Form - ASR :- To Receive the Claim cheques again of Settle Account. (In case of first Cheque Rejected by Bank to EPFO)

### **Payment of Gratuity Act – 1972**

1. Objective of the Act:- An act to Provide for a Scheme for the Payment of Gratuity to Employees engaged in “Factories, Mines, Oilfields, Plantations, Ports, Railway Companies, Shops or Other Establishments” and for matters connected therewith or incidental thereto, so far as it Relates to “Ports & Plantations” it does not apply to the State of Jammu and Kashmir. This Act Extends to the whole of India. Applicability of the Act:- The Act shall apply to Every “Factory, Mine, Oilfield, Plantation, Port, Railway Companies, Every Shop or Establishment within the Meaning of any Law for the time being in force in Relation to Shops & Establishments in a State, in which Ten (10) or More persons are employed, or were employed, on any day of the preceding 01 year. The Act is applicable to “All Employees”, irrespective of the salary. Meaning of Gratuity:- The “Payment of Gratuity Act 1972” is a Social Security enactment. It is derived from the word “Gratuitous” which means ‘Gift’ or ‘Present’. “The Gratuity” is a Lump Sum Payment to Employee when he / she Retires or Leaves the Service. It is Basically a “Retirement Benefit” to an Employee so, that he / she can Live Life Comfortably after Retirement. However, under the “Gratuity Act”, gratuity is payable even to an employee

who Resigns after completing at least “5 years” of service. In case uninterrupted continuous service of ‘04 years & 240 days’ also be consider for Gratuity Payment.

2. Guidelines @ Gratuity Act Employees Eligible for Gratuity:- “Employee” means any Person (other than Apprentice) employed on wages in any Establishment, Factory, Mine, Oilfield, Plantation, Port, Railway Company or Shop, to do any Skilled, Semi-skilled or Unskilled, Manual, Supervisory, Technical or Clerical work, whether terms of such Employment are express or implied, and whether such Person is Employed in a Managerial or Administrative capacity. Time of Gratuity Payment:- Gratuity is Payable to a Person on (a) Resignation (b) Termination on account of Death or Disablement due to Accident or Disease (c) Retirement (d) Death. Normally, Gratuity is payable only after an Employee completes Five Years of Continuous service. “In case of Death and Disablement, the condition of minimum 5 years’ service is not applicable”. [Section 4(1)]. Amount of Gratuity Payable:- Gratuity is Payable @ 15 days wages for Every year of Completed service. In the last year of service, if the employee has completed more than 6 months, it will be treated as full year for purpose of gratuity. “In case of seasonal Establishment, Gratuity is Payable @ 7 days wages for each season.” [Section 4(2)]. “Wages” shall consist of Basic plus D.A, as per Last drawn salary. However, allowances like Bonus, Commission, HRA, Overtime etc. are not to be considered for calculations of Gratuity Payable Amount. [Section 2(s)].
3. Guidelines @ Gratuity Act Maximum Gratuity:- The Maximum Gratuity Limit as per Section 4(3) has been raised from “3.5 lakhs to 10 lakhs”. This will give advantage to both Private & Public sector employees. Compulsory Insurance for Gratuity Liability:- Every Employer has to Obtain an Insurance in the manner prescribed, for his Liability for payment towards the Gratuity under this Act, from the Life Insurance Corporation of India established under the LIC of India Act, 1956 (31 of 1956) or any Other prescribed Insurer of the Country. Nomination under the Act:- Each Employee who has completed one year of service is required to make a nomination for the purposes of gratuity in case of his death. There can be more than one nominee in – “Form F”. Nominees may be changed at any time by the employee, by giving a written notice to the employer. (Form H). Payment @ Gratuity:- Last Drawn Basic Salary + DA \* 15 \* Total Service Period 26 Days Forfeiture of Gratuity:- Gratuity can be forfeited {Sec 4(6)} where an employee has been terminated: (A) For any act, willful omission or negligence causing any damage or loss to or destruction of any property belonging to the employer. (B) For riotous or disorderly conduct or any act of violence on his part. (C) For any act which constitutes an offence involving moral turpitude, provided the offence has been committed by him in the course of his employment.

### **The Maternity Benefit Act – 1961**

1. “An act to Regulate the Employment of Women in certain Establishment for certain period before and after Child-Birth & to provide for Maternity Benefit & Certain other benefits”. Objective of the Act:- The Maternity Leave & Benefit Act is to Protect the Dignity of Motherhood by providing the Complete & Healthy Care to the Women & Her Child, when she is not able to perform her duty due to her health condition. In the morden world, as the participation of Women Employees is growing in Every Industry, so the need of the Maternity Leave & other Benefits are becoming increasingly common. Applicability of the Act:- The Act extends to whole of India. In the first instance, to every

establishment being a Factory, Mine or Plantation in which 10 or More persons are or were employed on any day of the preceding (12) Twelve months. (including any such establishment belonging to Government & to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances. except employees covered under the “ESI Act 1948”. Right of Maternity Benefit:- Every Pregnant working women in any Establishment are Eligible for Maternity Benefit, provided they have Served in the Establishment for at least 80 days in (12) Twelve months before the expected date of delivery. However, if a woman is earning less than Rs:- 15,000/- she may be offered ESI scheme by her employer & she will receive the Maternity Benefit under ESI Scheme.

2. Guidelines @ Maternity Act Notice to the Employer:- Ten (10) weeks before the date of her expected delivery, she may ask the Employer to give her light work for a Month. She should give written Notice to the Employer about Seven (07) weeks before the date of her delivery that she will be on Maternity Leave for Six weeks before & after her delivery. Benefits under the Act:- Leave with Average Pay for Twenty Six (26) Weeks, up-to 02 Children's. In Case of more than 02 Children's ML Benefit will be (12) Weeks Only. Employee Can avail ML 08 weeks Before the Delivery or She can avail 26 weeks together immediate proceeding for delivery. Female employee shall be eligible for 12 of weeks of leave with wages in case she adopts a child who is below the age of [03] Three Months. {From the Date of Adoption}. A “Commissioning Mother” shall be eligible for leave with wages of 12 weeks immediately from the date the child is handed over to the commissioning mother. {Refer the Notification for Details} She can take the Pay for the first Eight (08) weeks before start of Maternity leave. In case of Miscarriage, Six (06) weeks leave with average pay w.e.f :- Date of Miscarriage. For Tubectomy Operation : Leave with wages @ of maternity benefit for a period of 2 weeks. No deduction from Normal & Usual Daily wages of a woman entitled to maternity benefit. Light work for Ten (10) weeks before the date of her expected delivery, if she asks for it. Two Nursing breaks until the child will become (15) fifteen months old. No Discharge or Dismissal while she is on Maternity Leave. (Section 5) No charge to her Disadvantage in any conditions of her employment.
3. Guidelines @ Maternity Act Under this Act, “No Employer” can knowingly employ a woman in his establishment during the Six weeks following the day of her delivery or her miscarriage. Dismissal during Absence of Pregnancy:- When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her Employer to “Discharge or Dismiss” her during or on account of such absence. Forfeiture of Maternity Benefit:- In case of Gross Misconduct the Employer in written can communicate about depriving such benefit. Within 60 days from date of deprivation of maternity benefit, Women can appeal to the authority prescribed by law. Abstract of Act & Rules:- An Abstract of the Provisions of this Act & Rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the Employer in Establishment in which women are employed. Records Management:- Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed under the Maternity Act. Penalty for Contravention of Act:- If any Employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, the employer shall be punishable with

imprisonment which shall not be less than (03) three months but which may extend to (01) one year and with fine which shall not be less than Rs:- 2000/-, which may extend to Rs:- 5000/-.

### **Workmen's' Compensation Act -1923**

1. Object of the Act: - This is an Act to provide for the payment by certain classes of Employers to their workmen (Employee) of compensation for injury by accident during the course of Employment. The Act is applicable all over the India & came into force w.e.f. 01st July 1924. Coverage of Employees:- All Employees of Any Categories / Capacity Irrespective of their Status or Salaries either Directly or hired through Contractor or a person recruited to work abroad for the Orgazition. Employer's Liability @ Compensation: In case of Death or Personal injury resulting into Total or Partial Disablment or Occupational Disease caused to a workman / Employee by accident arising out of and during the course of his employment, his Employer shall be liable to pay compensation under the Act.
2. Guidelines @ Compensation Act Employer Shall not be so Liable: In Respect of Any Injury which does not Result in the Total or Partial Disablement of the Workman for a Period Exceeding Three (03) days. In Respect of Any injury, not resulting in Death or Permanent Total Disablement (PTD), caused by an Accident which is directly attributable to; (i) The Workman having been at the time thereof under the Influence of Drink or Drugs. (ii) The Wilful Disobedience of Workman to an order expressly given, or avoiding safty guidilines. (iii) The Wilful Removal or Disregard by the workman of any safety guard during On-Duty. Payment of Compensation Amount: In Case of Death of a Workman Results from the Injury during the Employment. Minimum Compensation for Death under the Act is Rs:- 120000/- or an amount equal to 50% (Fifty per cent) of the Monthly wages of the Workman's multiplied by the relevant factor, whichever is higher. (Subject to Max. Rs:- 8000/- per month w.e.f. 31st May 2010 or as per the Minimum Rates of wages of the State.). In Case of Permanent Total Disablement (PTD) of a Workman Results from the Injury. Minimum Compensation for PTD under the Act is Rs:- 140000/- or an amount equal to 60% (Sixty per cent) of the Monthly wages of the Injured workman's multiplied by the relevant factor, whichever is higher.
3. Guidelines @ Compensation Act Calculation @ Compensation Amount:- Completely Depends on the Age:- Higher the Age – Lower the Compensation Amount. Find out the Relevant factor specified in Schedule IV giving slabs depending upon the age of the concerned workman. Example : In case of Death. Monthly Wages @ Rs:- 7700/-, Age of Workman:- 35 Yrs., Relevant Factor is:- 197.06, Then Compensation Amt Rs:- (50% of Rs:- 7700/- \* 197.06) = Rs:- 758681/- As its higher then Min. Compensation Rs:- 120000/-, so Compensation Amt. Rs:- 758681/-. In case of Total Disablement (PTD) = (60% of Rs:- 7700/- \* 197.06) = Rs:- 910417/- Permanent Partial Disablement = (% as per Schedule II of 7700/- \* Relevant Factor) Temporary Disablement = A Half Monthly Payment, equal to 25% of Monthly wages. Funeral Expenses :- Employer shall Deposit Rs:- 2500/- to the Commissioner for the payment to Eldest Dependand of the Workman. Report of Accident under Rule 11 Form EE - Report of Fatal Accident and Serious Injury within 7 days to the Commissioner (not application when ESI Act applies). {Sec-10B}

Penalty to Employer:- In case of Employer found defaulter then Employer has to pay 50% of the Compensation Amount + Interest to the Workman or his Dependents as the case may be. {Sec-4A}

## Labour Welfare Funds 1972

1. It Provide Social security to workers in unorganized sector and improve employees working conditions. □ Ministry of Labours administer 5 different Welfare funds. □ Beedi Workers Welfare Cess Act,1976 □ Cine Workers Welfare Cess Act,1981 □ The Iron Ore, Manganese Ore & Chrome Ore Mines Labour Welfare Cess Act ,1976 □ The Limestone and Mines Labour Welfare Fund Act, 1972 □ Mica Mines Labour Welfare Fund Act, 1946 LABOUR WELFARE FUNDS

2. Public health and sanitation □ Housing □ Recreation □ Social Security □ Educational Facilities □ Water Supply □ Transportation □ Medical facilities □ Family Welfare ASSISTANCE UNDER WELFARE FUND

3. Constituted a labour welfare fund for financing the activities to promote the welfare of workers employed in Mica Mining Industry. □ Tax rate levied on all Mica exports must not exceed 6.25% and differ from time to time. □ This tax will be credited to Mica mines Labor welfare fund which will help to empower Mica industry labours. Mica Mines Labour Fund

4. GOI appointed working group in 1956,that enquires the working conditions of iron ore employees □ Except Coal Mines other mines representatives on 1961 agreed to the proposal of setting up a statutory funds of iron ore miners. □ Central Government enacted Iron Ore Miners Labour Welfare Cess Act in 1961 which came into existence on 1963 Iron, Manganese, Chrome Ore Mines

5. □□ This act provides Levy and collection of cess That will be utilized for the following purpose: □ Improve of public health and sanitation □ Prevention of diseases and the provision of medical facilities □ Provision of water supplies for washing □ Provision of educational facilities □ Improvement of Housing Facility □ Provision of Transport from and to the place

6. This act was passed in 1972 for the welfare of limestone and Dolomite mining employees. □ These minerals are used in iron and steel plant, cement factories □ A tax is levied on these mines and the amount of tax varies with time to time as per central government rules. Limestone and Dolomite Mines Fund

7. A cess is collected which will be useful for the following purposes: □ Medical Facilities for both fatal and serious accident schemes □ Education purpose through Scholarships, tournaments, film shows, radio sets. □ Water supply in form of digging o wells. □ Housing Facility and low-cost housing scheme.

8. The act came into force on 1977. □ The provisions of the enactment shall be applicable to the entire Indian Territory including the State of Jammu and Kashmir. □ The Act has included the imposition and collection of tax for the production of beedis. □ This can be collected on

production of beedis at the rate fixed by the Act. Such tax shall be between 10 and 50 paise for each 1000 production of beedis. Beedi Workers Welfare Fund

9. Cleanliness □ Drinking water □ First Aid □ Canteens □ Wages for over time work □ Interval for rest □ Weekly holidays Provision made for workers under Act

10. The Cine-Workers Welfare Fund Act, 1981 was enacted by the Indian Parliament for the purpose of financing promotional activities □ The Act sought to benefits to the Cine- workers who are either employed or under a contract of employment □ If have served for at least 5 productions of featured films as an artiste or any performed any skilled, unskilled, manual, etc. □ If have received remuneration not more than Rs. 1600 Per month's wages □ If such remuneration was paid to those workers in the form of lump sum amount then Rs. 8000 CINE WELFARE FUND ACT

11. Till May, 2012 the Cine- Workers who were covered under the Act and were extended benefit □ Monthly salary was extended to Rs 8,000 □ Lump sum remuneration extended to Rs 1,00,000.

12. The Tamilnadu Labour Welfare Board was constituted by the Government of Tamilnadu in the year 1971 □ The Statutory Labour Welfare Board was formed with effect from 1.4.1975 with organization structure as: □ Minister In-charge of Labour as Chairman. □ five representatives of employees, □ five representatives of employers, □ three members of State Legislative Assembly, □ four Official members □ two Non-Official members. Tamilnadu Labour Welfare Board

13. The Tamil Nadu Labour Welfare Board is implementing various welfare schemes for the benefit of the workers who contribute to Labour Welfare Fund. □ The maximum salary limit for availing the schemes is Rs.15,000/- p.m. LABOUR WELFARE SCHEMES IN TN

14. Labour Welfare Centres □ Educational Incentive □ Assistance for Basic Computer Training □ Typewriting /Shorthand Assistance □ Hearing Aid, Artificial Limbs and Three Wheelers □ Holiday Homes □ Jawaharlal Nehru Illam □ Singaravelar Illam □ Thiru-vi-ka Illam

### **Equal Remuneration Act, 1976**

1. Introduction • The Doctrine of 'Equal pay for equal work' is not a fundamental right but a constitutional right. • Equal Remuneration for men and women is the right of an employee without any qualification. • The act of equal remuneration, 1976 was enacted to company with the provisions of Directive Principle Of State Policy (DPSP) under Article 39.
2. Objectives of The Act The equal remuneration act,1976 aims: 1. To pay equal remuneration to men and women workers. 2. To prevent discrimination, on the grounds of sex, against women in the matter of employment. 3. To provide increasing opportunity to women. 4. To set-up advisory committees to promote employment opportunities for women.
3. Short title, extend and commencement. [Sec.-1] 1. This Act may be called the Equal Remuneration Act, 1976. 2. It extends to the whole of India. 3. It shall come into force on

such date, not being later than three years from the passing of this Act, as the Central Government may, by notification, appoint and different dates may be appointed for different establishments or employments

4. Definitions 1. “appropriate Government”[Sec-2(1)(a)] means – (i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government, and (ii) in relation to any other employment, the State Government.
5. Definitions 2. “Remuneration”[Section 2 (1)(g)] means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled.
6. Definitions 3. “Same work or work of a similar nature” [Sec.- 2(1)(h)] means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment.
4. “Worker”[Sec. 2 (i)] means a worker in any establishment or employment in respect of which this Act has come into force;
7. Act to have overriding effect[Section 3] • The provisions of this Act shall have effect notwithstanding, anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.
8. Payment of remuneration at equal rates to men and women workers a. Duty of employer to pay equal remuneration (Sec.- 4) 1. No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work of a similar nature. 2. No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.
9. Continue... 3. Where, in an establishment or employment, the rates of remuneration payable before the commencement of this Act for men and women workers for the same work of a similar nature are different only on the ground of sex, then the higher (in case where there are only two rates), or as the case may be, the highest (in cases where there are more than two rates), or such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers. Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.
10. Continue... b. No discrimination to be made while recruiting men and women workers [Section 5] On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature,[or in any condition of service subsequent to recruitment such as promotions, training or transfer], make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force: Provided that the

provisions of this section shall not affect any priority or reservation for scheduled castes or scheduled tribes, ex-servicemen, retrenched employees of any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

11. Advisory Committee. [Section 6] 1. For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extend to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf. 2. Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women. 3. The Advisory Committee shall regulate its own procedure.
12. Advisory Committee. [Section 6] 4. In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment, and such other relevant factors as the Committee may think fit. 5. The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.
13. Authorities For Hearing And Deciding Claims And Complaints.[Section 7] 1. The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding. – (a) Complaints with regard to the contravention of any provision of this Act; (b) Claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, and may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction
14. Authorities For Hearing And Deciding Claims And Complaints.[Section 7] 2. Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed. 3. If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1). 4. Every authority appointed under sub-section (1) shall have all the powers of a civil court under the Code of Civil Procedure, 1978 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for all the purposes of Sec. 195 and Chapter XXVI of the Code of. Criminal Procedure, 1973.
15. Authorities For Hearing And Deciding Claims And Complaints.[Section 7] 5. Where a complaint or claim is made to the authority appointed under sub-section (1), it may, after giving the applicant and the employer an opportunity, of being heard, and after and such inquiry as it may consider necessary, direct, - (i) In the case of a claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid; (ii) In the case of complaint, the



adequate steps are taken by the employer so as to ensure that there is no contravention of any provision of this Act.

16. Authorities For Hearing And Deciding Claims And Complaints.[Section 7] 6. Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may within thirty days from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal, shall lie against the order made by such authority.
17. Authorities For Hearing And Deciding Claims And Complaints.[Section 7] 7. The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter. 8. The provisions of sub-section (1) of Sec. 33-C of the Industrial Disputes Act, 1947 shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

### **Sexual Harassment at Workplace Act 2013**

1. The Protection of Women from Sexual Harassment at Workplace Act seeks to protect women employees from unwelcome sexually determined behaviour (whether directly or by implication).• This bill covers women employees in the government as well as private sector. • This bill holds validity all over India. What is the Act?
2. Implied or overt promise of preferential treatment in her employment. • Implied or overt threat of detrimental treatment in her employment. • Implied or overt threat about her present or future employment status. • Conduct of any person which interferes with her work or creates an intimidating or offensive or hostile work environment for her. • Humiliating conduct constituting health and safety problems for her. What Does the Act Outlaw? No woman shall be subjected to sexual harassment at any workplace which may include, but is not limited to -
3. How Does the Bill Define Sexual Harassment? • Physical contact and advances. • A demand or request for sexual favours. • Sexually coloured remarks. • Showing pornography. • Any other unwelcome physical, verbal or on-verbal conduct of sexual nature.
4. What are the Channels for Redressed? • Every employer who heads an organisation with more than 10 employees is required to set up an Internal Complaints Committee, headed by a woman. • For employers with less than 10 employees and other organisations that do not fall under the above classification, a Local Complaints Committee will be setup in each city ward and rural area. • Any complaint which is submitted to the committee in writing must finish inquiry within 90 days.
5. What is the Complainant Entitled to? (I) During the period of inquiry into a written complaint, the complainant's employer may be required to: • Transfer the aggrieved woman or the respondent to any other workplace, or • Grant such other relief to the aggrieved woman as may be prescribed. The leave granted to the aggrieved woman under

this section shall be in addition to the leave she would be entitled to otherwise if the case is proved.

6. If the charge of sexual harassment is proved by the investigating committee, then the employer or District Officer must, upon their recommendation:
  - Take action against the respondent (person being complained against) and penalise them appropriately as per the organisation's service rules.
  - Deduct a sum of compensation from the salary of the respondent. This is to be paid to the aggrieved woman or her legal heirs. What is the Complainant Entitled to? (II) The employer or the District Officer must act upon the investigating committee's recommendation within sixty days of receiving it.
7. The compensation paid to the aggrieved woman is determined on the basis of:
  - The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman.
  - The loss in the career opportunity due to the incident of sexual harassment.
  - Medical expenses incurred by the victim for physical or psychiatric treatment.
  - The income and financial status of the respondent and feasibility of such payment in lump sum or instalments. How is the Compensation Decided?
8. Every employer must -
  - Provide a safe working environment
  - Display the order constituting the Internal Committee in a prominent place.
  - Regularly undertake workshops to sensitise the employees regarding the provisions of this Act.
  - Provide necessary facilities to the Internal Committee or the Local Committee, for dealing with the complaint and conducting inquiry. What are the Duties of the Employer? (I)
9. Every employer must also:
  - Assist in securing the attendance of respondent and witnesses before the investigating committee.
  - Make relevant information about the complaint available to the committee.
  - Provide assistance to the woman if she chooses to file a complaint under the Indian Penal Code or any other law for the time being in force.
  - Take action against the perpetrator after conclusion of the inquiry. What are the Duties of the Employer? (II)
10. If the investigating committee concludes that the complaint is false, it may recommend to the employer or the District Officer to take action against the woman or the person who has made the complaint.
  - A mere inability to substantiate complaint or provide adequate proof need not be treated as a false complaint.
  - The malicious intent or falsehood on part of the complainant must be established after a proper inquiry before any action is recommended. What if the Complaint is False?

### **Legal protection and social security in unorganized sector with special references in India”**

1. θ Introduction • An Unorganized Sector can be defined as the sector where the elements of the Organized Sector are absent.
  - It consists of all private enterprises operating on a partnership basis which having less than ten workers .
  - Informal labour is who does not governed either by state regulations or by collective agreements between workers and employers.
  - India's workforce comprises nearly 93% in the unorganized segment, with the entire farm sector falling under the informal category, while only 1/5 of the non-farm workers are found in the organized segment.
  - The labour in India consists of 487 million workers of which over 94% work in unorganized enterprises.
  - The growth of formal

employment in the country is indicating a faster growth of employment in the informal sector.

2. The Merger Characteristics of the Unorganized workers • There is no formal employer – employee relationship • In rural areas, the unorganized labour force is highly stratified on caste and community considerations and in urban areas while such considerations are much less. • Workers in the unorganized sector are usually subject to bondage as their meager income cannot meet with their livelihood needs, the unorganized workers are subject to exploitation significantly by the rest of the society. • They receive poor working conditions especially their wages are much below than in the formal sector, even for same jobs.
3. • The unorganized workers do not receive sufficient attention from the Trade Unions. • Lack of implementation of Health and Safety legislation. • The women workers may encounter to poor low wages, fraudulent contractors and disease causing environments. *Balaram Sahu and ORS Vs. State of Orissa and ORS* The casual workers in Rengali Power Project of state of Orissa in their appeal claimed that they were entitled to equal wages on the same basis as paid to regular employees as they were discharging the same duties and function. Therefore, it can be recommended that all organized including those who go in and out of the formal and informal of the economy must be brought under the ambit of law regarding to effective protection of unorganized labourers. Problems of Unorganized Sector are included; 90% of workforce in vast informal sector, little awareness of workplace hazards, living areas close to work areas, extended work hours, exploitation, no concept of occupational safety services.
4. *Bandha Mukti Morcha Vs Union of India & ORS* Constitution stops employment of children. But in carpet industry of in the state of Uttar Pradesh, children below 14 years were employed. The main contention of the petitioner group is that employment of the children in any industry or hazardous industry is violation of article 24 of the constitution As the matter of fact, the central and state governments have formulated certain specific schemes to support unorganized workers which fail in meeting with the real needs and requirements of the unorganized sector labour, such as Food, Nutrition, Health, Housing, Employment, Income, accident and old age which remain as a dream in India. while Article 24 of India's constitution prohibits child labour, but only in factories, mines or hazardous employment. child labour is observed in almost all unorganized, small scale, informal sectors of the Indian economy.
5. Occupation Small and marginal farmers, landless agricultural labourers, fishermen, those engaged in animal husbandry etc. Nature of Employment Attached agricultural labourers, bonded labourers, migrant workers , etc Distress Toddy tappers,, Carriers of head loads, Drivers of animal driven vehicles, etc. Service Midwives, Domestic workers, Fishermen, Barbers, Vegetable and fruit vendors, News paper vendors etc.
6. Social Security System of Self-Sufficient Village Economy Caste System & Joint Family System Organizations of Charity India is a good example of having non-institutional form of social security measures in the world. India had its own: Which are protected in joint family set up and the caste system for the hardship due to unemployment, economic difficulties, old age and widowhood. To protect the working class to contributes the welfare of the society against hazards. India is a country where economic resources are less and needs are more. To protect entire family's financial security and health care of workman Ideas behind social security

7. Constitution of India Direct Concern to Labour Right Article 19(1)(c) Gives specific right "to form associations or unions Article 23 Prohibition of all trafficking and forced labour. Article 24 Prohibits child labour under 14 years old Article 14 everyone should be equal before the law Article 16 Equal opportunity for employment or appointment under the state. Article 15 State should not discriminate against citizens.
8. Article 43(A) Creates a constitutional right to Code-Termination by requiring the state to legislate to "secure the participation of workers in the management of undertakings". Article 43 States that workers should have the right to a living wage and "conditions of work ensuring a decent standard of life". Article 42 Requires the state to "make provision for securing just and human conditions of work and for maternity relief". Article 38(1) States that in general the state should "strive to promote the welfare of the people" with a "social order in justice, social, economic and political, it shall inform all the institutions of national life. Article 41 Creates a "right to work ", which the Rural Employment National Guarantee Act 2005 attempts to put into practice. Article 38(2) States that the state should "minimize the Inequalities " and based on all other statuses in income .  
Different Acts in Indian Constitution
9. Articles 38-39, and 41-43A, like all rights listed in Part IV of the Constitution are not enforceable by courts, rather than creating an inspirational "duty of the State to apply these principles in making laws". The original justification for leaving such principles unenforceable by the courts was that democratically accountable institutions ought to be left with discretion, given the demands they could create on the state for funding from general taxation,
10. Social security in the form of Acts Industrial Disputes Act (1947) Employees State Insurance Act (1948) Workmen's Compensation Act (1923) Minimum Wages Act (1948) etc . Therefore, these Acts are very negligible to the unorganized workers. It is not much has been done in providing social security regarding to rural poor and unorganized labour section. .
11. Act does not recognize social security as a right The act is only an advisory body and not an empowered body This Act does not provide any security as expected to unorganized sector. Unorganized Sector Workers' Social Security Act, 2008 Primary aim is providing social security and welfare of unorganized sector workers The state government may formulate suitable welfare schemes including Provident fund Employment injury Benefit Housing Educational schemes for children It may be wholly funded either by central government or shared by central and state government or along with contribution from employers
12. In a nut shell, labour laws and standards relating to the unorganized sectors are Inadequate and ineffective and the present social security system in India is suffered mainly by multiplicity of laws, shortage of coverage, and lack of policy and security of implementation mechanism. Moreover, the law has failed to indicate clearly in providing social security and welfare and the Unorganized Sector Workers. Social Security Act, 2008 suffers from a serious lack of legislative policy and intent as well. Therefore, Understanding about how the legal system works in other countries will definitely help government of India in granting unorganized workers basic rights and social protection to be needed.

## Unit-5 Enforcement Authorities

1. Authorities • Works Committee (Sec 3)• Conciliation Officers (Sec 4)• Board of Conciliation (Sec 5)• Court of Inquiry (Sec 6)• Labour Court (Sec 7)• Industrial Tribunal (Sec7-A)• National Tribunal (Sec7-B)
2. WORKS COMMITTEE (Sec-3)• Constituted based on appropriate Government order• Applicable to industrial establishment in which 100 or more workmen are employed on any day in the preceding 12 months• Consists of representatives of employees and workmen engaged in the establishment. • Number of workmen representatives shall not be less than the number of employer's representatives• Representatives of workmen are selected in

### DUTIES

To promote measures for securing and preserving amity and good relations between the employer and the workmen  
To comment upon matters of their common interest or concern

3. CONCILIATION OFFICERS (Sec 4)– The appropriate government, by notification in the official Gazette appoints a specific number of persons as it think fit to be as conciliation officers– Conciliation officer may be appointed for a specified area or for specified industries in specified area either as permanent or for a limited period– A conciliation officer shall be deemed to be as a public servant as per Sec. 21 of Indian penal code 1860

DUTIES When any industrial disputes exist, the conciliation officer should hold conciliation proceedings in prescribed manner without delay to have right settlement.2. Whether settlement is reached or not, the conciliation officer must submit the report within 14 days of the commencement of the conciliation proceedings or within the date fixed by the appropriate government3. If the report submitted is satisfied to the appropriate Government, it may or may not refer the dispute to any authority under the Act. If the Government is not making any reference, it should record and communicate the reason to the contending parties4. The duty of a conciliation officer is administrative and not judicial

4. BOARD OF CONCILIATION (Sec5)– The appropriate Government by a notification in the official Gazette constitutes a Board of Conciliation for promoting the settlement of an industrial dispute– The Board consists of a Chairman and two or four other members, as the appropriate government thinks fit– The Chairman shall be an independent person; unconnected with the dispute– The other members shall be persons appointed in equal number to represent the parties to the dispute– The person appointed to represent a party shall be appointed on the recommendation of the party– The appropriate Government appoints a fit person as it thinks, if any party fails to make a recommendation within prescribed period– A Board of Conciliation can act only when a dispute is referred to it by the Government

DUTIES1. When a dispute has been referred to a Board, it will investigate the matter affecting the merits and right settlement of the dispute without delay2. Whether

settlement is reached or not, the Board must submit the report within two months of the date on which the dispute was referred to it<sup>3</sup>. If no settlement is arrived, the Government may refer the dispute to the labour court, Industrial Tribunal or National Tribunal.<sup>4</sup> The time for submission of report may be extended by such period as may be agreed to in writing by all the parties to the disputes

The report of the Board shall be in writing and shall be signed by all the members of the Board.<sup>6</sup> The report submitted shall be published by the appropriate Government within 30 days from the receipt<sup>7</sup>. A Board of Conciliation can only try to bring about a settlement. It has no power to impose settlement on the parties to the dispute

5. COURT OF INQUIRY (Sec 6)• The appropriate Government, by notification in the official Gazette, constitutes a Court of Inquiry in to any matter relevant to an Industrial dispute• A Court of Inquiry consists of one independent person or of number of independent persons as the appropriate Government may think fit• Court of Inquiry consists of two or more members, one of them shall be appointed as Chairman• The Court of Inquiry can act under a prescribed quorum; even at the absence of Chairman• If the service of the chairman is ceased by the Government through notification, the court shall not act until a new chairman has been appointed

• All members of the court shall be deemed to be public servants under Sec 21 of the Indian penal code 1860• Every inquiry by a court shall be deemed to be judicial proceeding• A Court of Inquiry has same powers as a civil court under the Code of Civil Procedure 1908• The court has the right to appoint one or more persons having special knowledge of the matter of the dispute as an advisor

DUTIES• A Court shall inquire into the matters referred to it and report to the appropriate government within a period of 6 months from the commencement of the inquiry• The report of the court shall be in writing and signed by all the members of the court. Members are free to record their dissent• The report submitted shall be published within a period of 30 days of its receipt by the Government

6. LABOUR COURT (Sec 7)1.A labour court consists of one person only to be appointed by the appropriate Government2.A person shall not be qualified for appointments presiding officer of a labour court unless) He is / has been a Judge of a High Court) He has been as a District Judge /Additional District Judge for a period not less than three years) He has held any judicial office in India for not less than seven years

DUTIES1. Adjudicate upon the industrial disputes relating to any matter specified in the SecondSchedule2. 2. When an industrial dispute has been referred to a labour Court for adjudication, within the specified period, it should submit award to the appropriate Government3.It shall be published in such manner as the appropriate Government thinks fit within period of 30 days from the date of its receipt by the appropriate Government

7. INDUSTRIAL TRIBUNAL (Sec7-A)• The appropriate Government by notification in the official Gazette , constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter specified in Second or Third Schedule• The

Tribunal consists of one person to be appointed by the appropriate Government• A person shall not be qualified for appointment as the presiding officer of an Industrial Tribunal unless) He is/ has been a Judge of a High Court) He has been a District Judge / Additional District Judge for a period of three years

• No person shall be appointed to or continue in office of a presiding officer if• He is not an independent person. • He has attained the age of 65 years.

DUTIES• It shall submit its award to the appropriate Government within a specified period if an industrial dispute is referred to an Industrial Tribunal• The award shall be in writing and shall be signed by its presiding officer• The award shall be published by the appropriate government within a period of 30 days in a manner as the appropriate government thinks fit• As it is a quasi – judicial body, it must serve notice upon the parties to the reference by name before making any award

8. NATIONAL TRIBUNAL (Sec7-B)• The Central government ,by notification in the official Gazette constitute one or more National Industrial Tribunals for the adjudication of industrial disputes :1.Involving questions of national importance2.Which are of such a nature that industries are more than one state are likely to be interested in, or affected by, such disputes3.Matters appearing in Second and Third schedule• A National Tribunal consists of one person to be appointed by Central Government• A person shall not be qualified for appointment as presiding officer of a National Tribunal unless he is /has been a Judge of High Court

No person shall be appointed to ,or continue in the office of the presiding officer of a National Tribunal if• He is not an independent person• He has attained the age of 65 years

DUTIES• When an industrial dispute is referred to the National Tribunal for adjudication, it shall submit its award to the appropriate government• The award shall be in writing and shall be signed by the presiding officer of the National Tribunal• It shall publish the award within a period of 30days from the date of its receipt by Central Government

## **Role of ministry of labour and employment**

1. INTRODUCTION It is primarily concerned with labour welfare affairs and administration of social policy. It is the institutional framework within which NATIONAL LABOUR POLICY is developed , implemented, co-ordinated , checked , Preparation and enforcement of labour laws and regulations.
2. NATIONAL LABOUR POLICY Normally covers:- •Employment and vocational training. •Labour protection. •Labour inspection. •Labour relations.
3. MEETING The meeting of experts on labour administration held in GENEVA in oct, 1973 felt that a deal with the major programmes of labour administration and national labour policy.
4. scope Labour administration covers the following activities of different fields: 1. Labour. 2. Employment. 3. Informational and research. 4. Labour management relations.

5. 1 LABOUR Activities related to labour are as followed. •Working condition. •Wages. •Employment condition. •Safety and health at work. • Labour inspection. •The working environment.
6. 2. EMPLOYMENT Activities related to employment are as follows. 1. National employment policy. 2. Unemployment insurance scheme. 3. Vocational guidance. 4. Employment service.
7. 3. INFORMATION AND RESEARCH Activities related to information and research are as follows. 1. Collection of information. 2. Surveys. 3. Forecasts.
8. 4.LABOUR MNGT RELATION Activities related to labour mngt relation are as follows. 1. Definition of the framework and rules for the representation of labour and management. 2. Collective bargaining. 3. Settlement of collective disputes.
9. AGENCIES OF LABOUR ADMINISTRATION Central level State level Plant level
10. At the center, the Ministry of Labour is responsible for labour administration in INDIA. Ministry of labour and employment of the central govt is the main agency for policy formation and administration an all labour matters. The ministry presently consist of the 1. main ministry. 2. 4 attached office. 3. 10 subordinated offices. 4. 4 autonomous org. 5. 1 adjudication body. 1.AGENCIES AT CENTRAL LEVEL
11. MINISTRY OF FINANCE • IT IS THE “CENTRAL ADMINISTRATION MACHINERY”. • For the formulation of labour policy. • Enforcement of labour laws and for the promotion of labour welfare. • It guides control and co-ordinates the activities of all org.
12. OFFICE OF CHIEF LABOUR COMMISSIONER. ALSO KNOWN AS (CIRM). CIRM came into being in the year 1945 on the recommendation of the ROYAL COMMISSION ON LABOUR. 2.ATTACHED OFFICES
13. Subordinate offices The subordinate offices under ministry of labour are- the directorate general of mines safety and nine offices of welfare commissioners. The directorate general of mines and safety is located in DHANBAD. The org also enforces the Indian electricity act,1910 as applicable to mines and oil-fields and maternity benefit act,1961 in mines.
14. 4. AUTONOMOUS ORG ♣EMPLOYEES STATE INSURANCE CORPORATION. ♣EMPLOYEE PROVIDEND FUND ORG. ♣CENTRAL BOARD OF WORKERS EDUCATION. ♣V.V GIRI NATIONAL LABOUR INSTITUTION.
15. CGIT(central govt industrial tribunal-cum labour courts} set up under the industrial dispute act,1947 were functioning in the country. of these , 2 are located in Mumbai and dhanbad. one each 1. asansol. 2. Bengaluru. 3. Bhubaneswar. 4. Chandigarh. 5. Chennai. 6. Hyderabad. 7. Kanpur. 8. Kolkata. 9. lucknow. 10. Jabalpur. 11. Jaipur. 12. New Delhi. 13 5.adjudication bodies.