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Business Law For Managers

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Module-7

Lecture 31 : Social Securities

BUSINESS LAW FOR MANAGERS

Introduction

In the present time, insecurities of life has increased to great extent and the need to safeguard the individual and the society from these uncertainties has been largely emerged.

It is security that society furnishes through appropriate organizations, against certain risks to which its member are exposed. It varies from country to country according to prevailing social legislations and traditions.

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KEY POINTS

- Backgrounds
- Concept and definition of social securities
- Elements and features of social securities
- Social securities in organised sector
- Social securities in unorganised sector

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Social Securities

Background

International Labour Organization (ILO) in different conventions have been giving due emphasis on social security, subsequently various laws were added and existing were being amended.

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ILO has suggested various methods of organizing, establishing and financing various social schemes. Social security are different in developed, underdeveloped and developing countries. In underdeveloped countries there only very few social security schemes with having a fairly low level of benefits.

Social Securities

Concept of social securities

- Social security is a system under which a government pays money regularly to certain groups of people, for example people who are sick, are unemployed, or those who have no other income.
- Social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, survivors and disability insurance benefits to the workers and their families.

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Social Securities

Definition of Social Securities

"Social Security is a program of protection provided by society against the contingencies of modern life like-sickness, unemployment, old age, industrial accident against which the individual cannot be expected to protect himself and his family by his own ability and foresightedness."

-----Friedlander

"Social security is a controversial and dynamic subject with various facets, philosophical, theoretical, humanitarian, financial, administrative, social, economic, political, statistical, medical and legal."

-----Weber and Cohen

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Social Securities

Elements of social securities

It was ILO and his experts whose joint efforts invited government of India for introducing important elements of social security like:

- Organization of health Insurance scheme.
- Revision of Workmen's Compensation Act.
- Central Law of Maternity Benefits.
- Extension of these schemes to other classes of workers.

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Social Securities

Features of Social Security

From various definitions we may find the following features of social security:

(i) Social security in some countries is applied to all governmental programmes and in some countries it is applied only to Social Insurance programme.

(ii) It covers wide variety of health and welfare schemes, the coverage of social security is very wide meeting the different contingencies of an employee member.

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Social Securities

Features of Social Security

(iii) Social Security is a dynamic concept and its coverage changes with social, economic and political system prevailing in a given country at a given time.

(iv) A comprehensive scheme of social security consist of “Social Insurance and social assistance".

(v) The modern social security scheme is the integration of its two important elements of social insurance and social assistance and covering of all social risks.

(vi) Social security must provide protection against all the ordinary risks of life and as well as special risks of employment.

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Social Securities

Features of Social Security

(vii) It should bring under protection all member workers by hand and brain who live solely by their mere earnings.

(viii) All social security programme although differ from country to country but they aims at providing some form of cash payments to individuals to replace at least a part of the lost income that occurred due to any such contingencies.

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Social Securities

Features of Social Security

(ix) It provides financial helps in case of contingencies such as unemployment, maternity, work injury, industrial disease, old age, widowhood and orphan hood etc.

(x) Under social security the members of a particular category are offered safeguards and benefits such as medical and financial and to injured and financial help to widows, orphans and educational assistance in the form of scholarship and free ships to the needy students.

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Social Securities

Objectives

Some of the important objectives of social security are as follows:

(i) Access to social security is a fundamental human right to which every individual is entitled as a member of the society.

(ii) Its main objective is to give individual that confidence through which they must be sure that their level of living and quality of life will not be adversely affected due to any mishaps and contingencies.

(iii) The aim of social security has been widened to include the complete quality of working and living life in each aspect.

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Social Securities

Objectives

iv) Society security is a wise investment which motivate the employees and boost their morale. Enabling higher quality production.

v) It is basic instrument of social and economic justice among members of the society.

vi) Social security leads to adoption of the schemes of unemployment, insurance and creation of new employment through a drive for rational planning and industrial development.

vii) Social Security emphasis covering more different types of risks like sickness and employment injuries.

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Social Securities

Social security in organised sector

Existing framework

The social security schemes in India cover only a very small segment of the organised work force, which may be defined as workers who are having a direct regular employer-employee relationship within a organization and who are having the benefit of formal social security protection.

There are two broad categories of social security laws to control over such as the contributory and the non-contributory laws

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Social Securities

Social Security in organised sector

Existing framework and contributory laws

The contributory laws are those which provide for financing of the social security programmes by contributions paid by workers and employers.

The important contributory schemes include-

- the Employees State Insurance Act and
- the Provident Fund, Pension and Deposit Linked Insurance Schemes framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1948.

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Social Securities

Social Security in organised sector

Existing framework and non-contributory laws

The three major non-contributory laws are

- the Workmen's Compensation Act, 1923,
- the Maternity Benefit Act, 1961 and
- the Payment of Gratuity Act, 1972.

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Social Securities

Social Security in unorganised sector

The existing social security arrangements in the unorganised sector can be broadly classified into four groups as follows:

i) Centrally funded social assistance programmes;

ii) Social insurance schemes;

iii) Social assistance through welfare funds of Central and State Governments; and

iv) Public initiatives

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CONCLUSION

This lecture has covered backgrounds, concept and definition of social securities, elements and features of social securities, social securities in organised sector, and social securities in unorganised sector. The learners can learn and enhance their knowledge and capacity on all these aspects.

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Lecture 32 : Social securities in unorganised sector

BUSINESS LAW FOR MANAGERS

India, being a welfare State, has taken upon itself the responsibilities of extending various benefits of Social Security and Social Assistance to its citizens. The social security legislations in India derive their strength and spirit from the Directive Principles of the State Policy as contained in the Constitution of India.

Several attempts have been made to address the problem of Indian workers through legislative as well programme initiatives.

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KEY POINTS

- Characteristics of unorganised sector
- Categories of labour in unorganised sector
- Categories of social securities arrangement
- Public initiatives for social security

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Social Securities in Unorganised Sector

Characteristics of Unorganized Sector

The unorganised workforce is characterised by the following:

- **Scattered and fragmented areas of employment**
- **Seasonal nature of employment**
- **Lack of job security**
- **Low legislative protection**
- **Lack of awareness and high unemployment level**
- **Primitive production technologies**

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Social Securities in Unorganised Sector

Categories of unorganized labour

The unorganised Labour can be categorised broadly into four categories as follows:-

a) Occupation-based: Small and marginal farmers, landless agricultural labourers, share croppers, fishermen, those engaged in animal husbandry, in beedi rolling beedi labelling and beedi packing, workers in building and construction, etc.

b) Nature of Employment-based: Attached agricultural labourers, bonded labourers, migrant workers, contract and casual labourers come under this category.

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Social Securities in Unorganised Sector

Categories of unorganized labour

c) Specially distressed categories : Toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders belong to this category.

d) Service categories : Midwives, domestic workers, fishermen and women, barbers, vegetable and fruit vendors, newspaper vendors etc. come under this category.

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Social Securities in Unorganised Sector

Categories of social security arrangement

The existing social security arrangements in the unorganised sector can be broadly classified into four groups as follows:

i) Centrally funded social assistance programmes;

ii) Social insurance schemes;

iii) Social assistance through welfare funds of Central and State Governments; and

iv) Public initiatives.

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Social Securities in Unorganised Sector

Centrally funded social assistance programmes

The centrally funded social assisted programmes include schemes for both rural and urban areas under the National Social Assistance Programme (NSAP), which has three components viz.,

- National Old Age Pension Scheme (NOAPS),
- National Family Benefit Scheme (NFBS) and
- National Maternity Benefit Scheme (NMBS).

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Social Securities in Unorganised Sector

Centrally funded social assistance programmes

- **National Old Age Pension Scheme (NOAPS):**

The destitute old age persons having little or no regular means of subsistence from his/her own source of income or through financial support from the family members or other sources is eligible to get old age pension

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Social Securities in Unorganised Sector

Centrally funded social assistance programmes

- **National Family Benefit Scheme (NFBS):**

In case of natural or accidental death of a primary bread winner member of the household qualifying to be below poverty line and contributing substantially to the total household income between the age group of 18 to 65, is given a financial support to the family of the deceased under NFBS.

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Social Securities in Unorganised Sector

Centrally funded social assistance programmes

- **National Maternity Benefit Scheme (NMBS):**
  - **Under the NMBS, cash assistance is provided to the women of household below poverty line and 19 years of age and above, up to the first two live births.**

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Social Securities in Unorganised Sector

Centrally funded social assistance programmes

In addition to NSAP, other important scheme implemented by the Govt. to ensure creation of adequate employment opportunities to provide social security to the people in the unorganised sector are :

- **Mahatma Gandhi National Rural Employment Guarantee Scheme**
- **National Rural Livelihood Mission**
- **National Urban livelihood Mission**
- **Group Insurance Scheme for Beedi Workers**
- **Welfare fund for Building and Other Construction Workers**

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Social Securities in Unorganised Sector

Centrally funded social assistance programmes

Welfare funds

The Central Government through the Ministry of Labour, also operates at present Five Welfare Funds for

- **Beedi workers**
- **Limestone & Dolomite Mine Workers**
- **Iron ore, Chrome ore & Manganese ore Mine workers**
- **Mica Mine workers & Cine workers.**

Source of funding of these Funds is collection through cess on mica export, export of iron ore, internal consumption of iron ore, manganese ore and chrome ore as well as limestone and dolomite.

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Social Securities in Unorganised Sector

Public initiatives for social security

In addition to Governmental efforts, several public institutions and agencies are also providing various kinds of social security benefits to selected groups of workers. Two of the outstanding examples are those of

- Self-Employed Women's Association (SEWA) and
- the Mathadi Workers Boards in Maharashtra.

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Social Securities in Unorganised Sector

Public initiatives for social security

Self-Employed Women's Association (SEWA)

The social security experiments of SEWA started in 1975 with a demand from members

- For a maternal protection scheme followed by health care and child care.
- This was followed by starting of an insurance programme in collaboration with insurance companies.
- The insurance scheme started by the SEWA Bank was based on a realistic estimate of the capacity of the members to pay the premium.

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Social Securities in Unorganised Sector

Public initiatives for social security

The Mathadi Workers Boards in Maharashtra:

A mathadi is a worker who carries a load on his head, back, neck or shoulders. Normally his work consists of loading, unloading, carrying, shifting, weighing, tapping, banding and stacking goods.

The Mathadi Labour Market is regulated by Mathadi Tripartite Boards set up since 1969. There are about 50,000 registered employers and 1,50,000 workers registered under 30 different Boards in the State.

Each Board is headed by a Chairman appointed by the Government of Maharashtra and there are equal number of representatives from the unions and the employers associations.

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CONCLUSION

This lecture session has covered various issues relating to social security arrangements in unorganised sectors including the characteristics of unorganised sector, categories of labour in unorganised sector, categories of social securities arrangement, public initiatives for social security. Learning on all of these aspects will be useful to learners for application in their professional lives.

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Module-7

Lecture 33 : The Employees' Provident Fund Act

KEY POINTS

- Backgrounds
- Meaning & Objectives of PF
- Types of PF
- EPF & GPF
- Membership of the fund
- Eligibility ad entitlements
- Contributions
- Board of Trustees, Executive Committee

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The Employees' Provident Fund Act

Background

This act has been enacted in order to give better future to employees on their retirement or to his dependents in case of his death during employment. It is the compulsory contributory fund for the future of an employee after retirement or for his dependents in case of early death.

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The Employees' Provident Fund Act

Meaning of Provident Fund

A provident fund is a government-managed, mandatory retirement savings scheme used in India. A worker gives a portion of his/her salary to the provident fund, and an employer should make a contribution on behalf of the employees.

The money in the fund is then kept and handled by the government and ultimately withdrawn by the retirees or their surviving families.

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The Employees' Provident Fund Act

Purpose

EPF Act is a Social Security legislation with the intention to provide; Post Retirement benefit to the employees and their dependents. By means of

- **One time fund**
- **Pension Scheme**
- **Employee Insurance Scheme**

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The Employees' Provident Fund Act

Where Does This Act Apply ?

This Act applies to every establishment, which is a Factory, and to any other establishment employing 20 or more employees, which the Central Government may by notification in the Official Gazette, specify in this behalf

Central Government is empowered to apply this provisions of this act to any establishment Employing less than 20 persons By giving notification at least 2 months before it intends to do so

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The Employees' Provident Fund Act

Where this Act Does not Apply ?

Establishments registered under Cooperatives Societies Act 1912, where employing < 50 persons operating without the aid of power.

Central/State Government organizations, where there exist a Pension Scheme (Old/New Pension Scheme) or any other Social Security Schemes in practice.

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The Employees' Provident Fund Act

How Can an Establishment not Covered under this Act, Avail This?

Submit an Application to the Central Provident Fund Commissioner Stating that employer and the majority of the employees of this establishment agree to the applicability of this Act to the Establishment.

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The Employees' Provident Fund Act

What Does This Act Include

This Act includes the following:

1. **Employees' Provident Fund Scheme**
2. **Employees' Pension Scheme**
3. **Employees' Deposit-Linked Insurance Scheme**

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The Employees' Provident Fund Act

Eligibility

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment.

Whose wage ceiling at Rs. 15000/Month.

There is no wage ceiling (₹ 15,000) for international workers.

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The Employees' Provident Fund Scheme

Employees' Provident Fund (EPF) is a retirement benefits scheme where the employee contributes 12% of his basic salary and dearness allowance every month.

The employer also contributes an equivalent amount (8.33% towards EPS and 3.67% towards EPF) in the employee's account.

The employee can withdraw the accumulated corpus at the time of retirement and also during the service period for specific purposes.

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The Employees' Provident Fund Scheme

EPF Contribution consists of two parts depending on the entity that makes the contribution – Employee's contribution and Employer's contribution.

The employee makes a contribution of 12% of basic salary + dearness allowance towards his EPF account.

The employee has to make a lower 10% contribution in case the establishment has less than 20 employees or for industries such as (a) Jute (b) Beedi (c) Brick (d) Coir and (e) Guar gum Factories.

Employer contribute 3.67% towards Employee Provident Fund.

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The Employees' Provident Fund Scheme

Contributions

EPFO Scheme	Employee's Contribution	Employer's Contribution
EPF	12 % of Basic + DA	3.67% of Basic + DA
EPS	N/A	8.33 % of Basic + DA
EDLI	N/A	0.5% (subject to a maximum of ₹ 75)

- EPF Administration charges: 1.10%
- EDLIS Administration charges: 0.01%

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The Employees' Provident Fund Scheme

EPF Rate of Interest

The EPF interest rate is reviewed every year by EPFO's Central Board of Trustees after consultation with the Ministry of Finance.

The review of the EPF interest rate for a financial year is set at the end of the financial year (most probably in February but may go up to April or May).

The EPF interest rate;

2017-2018 was set at 8.55%
2018-2019 was set at 8.65%
2019-2020 was set at 8.50%

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The Employees' Provident Fund Scheme

How Do We Calculate EPF Rate of Interest

EPF interest is calculated every month but is deposited in the account at the end of the financial year.

Example of Interest Calculation

Basic + DA = ?

Employee's Contribution at 12% = ?

Employer's Contribution at 3.67% = ?

The Interest Rate for 2018-2019 was set at 8.65% - Monthly Interest rate at ?

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The Employees' Provident Fund Scheme

How Do We Calculate EPF Rate of Interest

Assume an Employee joined the service in April 2019. His contribution begins from April 2019

Total EPF contribution for April 2019 = ?

Interest for EPF contribution for April 2019 = NIL
(No interest for first month contribution)

Contribution for May 2019 = ?

Total EPF contribution = ?

Interest for EPF contribution in May 2020 = ?

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The Employees Pension Scheme

Employer contributes 8. 33% of Basic + DA.

For Employee to avail the pension benefits, he/she should complete 10 years of service.

The employer is not required to make the contribution when the employee reaches 58 years of age and is still in service.

The employer need not pay EPS contribution when the pensioner is drawing a reduced pension and re-joins as an employee.

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The Employees Deposit Linked Insurance Scheme (EDLI)

It is an insurance cover provided by the Employees' Provident Fund Organization (EPFO).

A nominee or legal heir of an active member of EPFO gets a lump sum payment of up to ₹ 6 Lakhs in case of death of the member during the service period.

All organizations covered under EPF and Miscellaneous Provisions Act, 1952 get enrolled for EDLI automatically. This scheme works in combination with EPF and EPS.

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The Employees' Provident Fund Scheme

Types of Provident Fund

Employees' provident fund is classified into four categories:

- **Statutory Provident Fund,**
- **Recognized Provident Fund,**
- **Unrecognized Provident Fund and**
- **Public Provident Fund.**

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The Employees' Provident Fund Scheme

Types of Provident Fund

- **Statutory Provident Fund:**
  - The local authorities, government and semi government agencies, railways, universities, educational institutions.
  - Employers may not have tax on their contributions, while employee contributions are taxable under 80c.
  - There are no tax implications for the interest provided as this is not considered part of the income.

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The Employees' Provident Fund Scheme

Types of Provident Fund

- **Recognized Provident Fund**
  - Any establishment which is recognized by the Commissioner of Income Tax is called as recognized provident fund and such an organization of 20 or more members shall invest funds as per the guidelines of PF Act, 1952.
  - If the employee's contribution is more than 12%, it will be taxed for the year in which the contribution was made.
  - Tax is deducted under Section 80B for the share of employee contributions.
  - The total amount at the time of redemption is exempt from tax only if the employee has worked continuously for five years.

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The Employees' Provident Fund Scheme

Types of Provident Fund

- **Unrecognized Provident Fund**
  - The Commissioner of Income Tax, (CTI) does not recognize these funds.
  - With this insurance fund, contributions made during the financial year are not subject to tax.
  - No tax breaks are made for employees either, i.e. Section 80B is not implied.
  - No need to pay interest tax.
  - This amount is taxable as "salary income" at the time of withdrawal.

However, employee contributions are not taxed under this section, but other taxes are assumed for them.

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The Employees' Provident Fund Scheme

Types of Provident Fund

- **Public Provident Fund**
  - This scheme of public provident funds is generally available for everyone, regardless of whether they are employed or unemployed.
  - The minimum rate should be Rs. 500, and the maximum amount extends up to Rs 1.5 lacs.
  - This amount is paid after 15 years.
  - It is one of the most profitable programs for future savings and investment.
  - Interest on the amount paid is also tax-free.

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The Employees' Provident Fund Scheme

EPF and GPF

Employees' PF	General PF
EPF is a compulsory retirement saving option that is available to salaried people in the organised sector. In this case, contributions are made by both the employee and the employer.	GPF account, on the other hand, is a provident fund account available only for government employees.
EPF matures when the subscriber reaches the age of 58 years.	GPF, maturity comes at the time of retirement.
premature closure can happen only after two months of unemployment	for GPF, it can happen only on leaving government service

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The Employees' Provident Fund Scheme

Benefits of EPF

- employees can take advances/withdrawal the PF in case of retirement, medical care, housing, for the education of children, etc.
- up to 90% of amount can be withdrawn at the age of 54 years or before one year of actual retirement.
- PF amount of deceased person is payable to his nominees/legal heirs
- equal contribution by the employer
- present interest rate 8.6%
- PF a/c can be transferred if employee changed from one establishment to other where PF facility is available

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The Employees' Provident Fund Scheme

Regulatory Bodies

- Central Board
- Executive Committee
- Central Provident Fund Commissioner
- Chief Accounts Officer
- EPF Appellate Tribunal
- Inspectors

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The Employees' Provident Fund Scheme

Universal Account Number (UAN)

Universal Account Number (UAN) is a 12 digit number which is provided to each member of the Employees' Provident Fund Organization (EPFO) through which he can manage his PF accounts.

This number is issued by the Ministry of Employment and Labour under the Government of India.

It helps the person to get all Provided Fund (PF) information in one place irrespective of the organization he works for.

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The Employees' Provident Fund Scheme

Advantages of UAN for Employees

Less Employer Involvement in withdrawals of PF: With UAN, the employer involvement has been reduced as the PF of the old organization will be transferred to the new PF account once KYC verification is complete.

Fund Transfer Not Required: The employee needs to give his UAN details and KYC to the new employer and the old PF is transferred to the new PF account once the verification is done.

Easily Managed by SMS alerts: Employees receive SMS whenever a contribution is made by the employer after registering at the UAN portal.

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CONCLUSION

This lecture session has been made to give learners an idea about various aspects of provident fund including the backgrounds, meaning & objectives of PF, types of PF, EPF & GPF, membership of the fund, eligibility ad entitlements, contributions, Board of Trustees, Executive Committee and regional committee.

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Lecture 34 : Payment of Gratuity Act 1972

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BUSINESS LAW FOR MANAGERS

Gratuity is the monetary amount which is payable to the employee of an organisation under the Payment of Gratuity Act 1972. It is generally a token amount paid by the company showing gratitude towards the employee for their services towards the organisation.

It is important to know what are the eligibility and the amount of gratuity that an employee will receive.

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KEY POINTS

- Introduction
- Applicability
- Salient Features
- Payment of Gratuity
- Calculation of Gratuity
- Duty of Employer

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Payment of Gratuity Act 1972

Introduction

- The Payment of Gratuity Act 1972 is a social security enactment. 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.
- It is a sort of financial assistance to tide over post retiral hardships and inconveniences.
- The significance of this legislation lies in the acceptance of the principle of gratuity as a compulsory statutory retiral benefit.

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Payment of Gratuity Act 1972

Important Definitions

- **Continuous service**

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

- **Completed years of service : "Completed year of service" means continuous service for one year.**

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Payment of Gratuity Act 1972

Scope of the Act

The payment of Gratuity Act is a social security enactment.

It is derived from the word 'Gratuitous', which means 'Gift' or 'present'.

Gratuity is a payment made to an employee by the employer either at the time of retirement or when he is leaving the job.

The main purpose and concept of gratuity are to help the workman after retirement/resignation.

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Payment of Gratuity Act 1972

To whom it is applicable

- It is mandatory for any employer in the **private sector or public sector who has 10 or more employees** to pay gratuity to all employees.

- Any shop or establishment shall continue to be governed by the Act even if the **no. of its employees comes below 10 persons at any time in the future**.

- **Public charitable and religious trusts** are also covered by this Act, provided that they are shops or establishments within the meaning of the Shops and Establishment Act.

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Payment of Gratuity Act 1972

Who are Eligible for Gratuity?

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

(a) on his superannuation, or

(b) on his resignation, or

(c) on his death or disablement (five-year service not required) due to accident or disease

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Payment of Gratuity Act 1972

Gratuity Rules

- Employees who have completed **5 years of continuous years of service** with the employer are eligible for gratuity.
- If an employee works below the ground (e.g. mine), every year in which the **employee works for more than 190 days in a year**, is considered as 1 year.
- If the employee works above the ground, **240 working days** in a year is taken as 1 year for gratuity calculation.

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Payment of Gratuity Act 1972

Payment of Gratuity

- For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned.
- For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced

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Payment of Gratuity Act 1972

Salient Features

- The Act provides both executive and quasi-judicial machinery for matters pertaining to nomination, determination and recovery of gratuity.
- The executive machinery pertains to maintenance of records regarding opening, change or closure of establishments, display of notices and maintenance of records by the controlling authority.
- The machinery provided for recovery rests with the Controlling Authority.
- The orders of the Controlling Authority for payment or determination of gratuity are applicable before the appropriate government or the appellate authority.

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Payment of Gratuity Act 1972

Nominations fort Payment of Gratuity

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. (Sec 6)

There can be more than one nominee

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Payment of Gratuity Act 1972

Calculation of Gratuity

- Gratuity calculation formula is based on salary and number of years of service.
- For salaried employees, the law states that one should get gratuity equal to 15 days of monthly salary for every completed year of service.

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Gratuity Amount = Salary*Tenure*15/26

Salary (Last Drawn) = Basic + DA + Allowances

Tenure = No. of years of service

Payment of Gratuity Act 1972

Calculation of Gratuity

How do we determine the salary for **Piece Rate Employees**:

Gratuity Amount = **Average Wage * 15 * Tenure**

Average wage = *Average daily wage of the labourers for the last 90 days.*

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Payment of Gratuity Act 1972

Calculation of Gratuity

How do we determine the salary for Seasonal Employees:

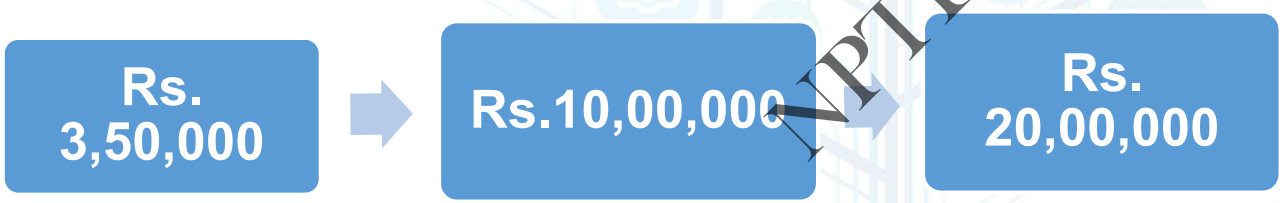
Gratuity Amount = Daily wage* 7 * Tenure

7 = 7 days of wage of the Season

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Payment of Gratuity Act 1972

The Ceiling Limit of Gratuity



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The Payment of Gratuity (Amendment) Act 2018

Payment of Gratuity Act 1972

Forfeiture of Gratuity

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

b) The gratuity payable to an employee may be wholly or partially forfeited-

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

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

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Payment of Gratuity Act 1972

Employer To Initiate Calculation And Notice of Payment

Any person eligible to receive gratuity shall make an application to the employer for payment of the same within the prescribed time (Not more than 30 days).

Whether an application is made or not the employer shall determine the amount payable and give notice to the eligible person/s.

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Provident Fund	Gratuity
Contributions from both employer and employee	Contribution only from employer
Employee becomes eligible for PF from the day of joining.	Eligible only after 5 years in a single organization
The PF act applies to any company having 20 employees or more	The payment of Gratuity Act applies to any company having 10 employees or more
PF is transferable to new company	Gratuity is not transferable.

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CONCLUSION

- This lecture has covered issues relating to Payment of Gratuity Act include- introduction, applicability of the act, salient features, payment of gratuity, calculation of gratuity, duty of employer and inspector. Learning all about these may be very much helpful to all learners.

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Business Law For Managers

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Module-7

Lecture 35 : Employee State Insurance (ESI)

BUSINESS LAW FOR MANAGERS

Introduction

Employee's State Insurance (abbreviated as ESI) is a self-financing social security and health insurance scheme for Indian workers. This fund is managed by the Employees' State Insurance Corporation (ESIC) according to rules and regulations stipulated in the ESI Act 1948. ESIC is an autonomous corporation by a statutory creation under Ministry of Labour and Employment, Government of India.

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KEY POINTS

- Backgrounds
- Important definition
- Contributions
- Benefits
- ESI Corporation
- Constitution of ESI corporation

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Employees' State Insurance Act 1948

Background

The ESI Act was initially intended for factory workers but later became applicable to all establishments having 10 or more workers. ESI scheme is a type of social security scheme for employees in the organised sector.

The ESI Corporation established by ESI Act, it can set up hospitals either independently or in collaboration with state government or other private entities, but most of the dispensaries and hospitals are run by concerned state governments.

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Employees' State Insurance Act 1948

Important definitions

➢ Employee

Employee " means any person -

i. who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment,

ii. who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work

iii. whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service

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Employees' State Insurance Act 1948

Important definitions

- **Family**

Family means all or any of the following relatives of an insured person : —
(i) a spouse ;
(ii) a minor legitimate or adopted child dependent upon the insured person ;
(iii) a child who is wholly dependent on the earnings of the insured person and who is —
(a) receiving education, till he/she attains the age of twenty-one years,
(b) an unmarried daughter ;
(iv) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the insured person, so long as the infirmity continues ;

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Employees' State Insurance Act 1948

Important definitions

- **Family**

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

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

- **Insured person**

means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is, by reason thereof, entitled to any of the benefits provided by this Act

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Employees' State Insurance Act 1948

Important definitions

- **Permanent partial disablement**

"Permanent partial disablement " means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident

- **Permanent total disablement**

"Permanent total disablement " means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident

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Employees' State Insurance Act 1948

Important definitions

- **Sickness**

" Sickness " means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds.

- **Employment injury**

Employment injury means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment

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Employees' State Insurance Act 1948

Important definitions

- **Dependent**

Relatives of deceased insured person as noted below:

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

(ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of 4[twenty-five] and who is infirm

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Employees' State Insurance Act 1948

Important definitions

- **Dependent**

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

(a) a parent other than a widowed mother,

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

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

(d) a widowed daughter-in-law,

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Employees' State Insurance Act 1948

Contributions

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

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

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

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Employees' State Insurance Act 1948

Contributions

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

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

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Employees' State Insurance Act 1948

Contributions

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

Provided that higher interest specified in the regulations shall not exceed the lending rate of interest charged by any scheduled bank.

(b) Any interest recoverable under clause (a) may be recovered as an arrear of land revenue

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Employees' State Insurance Act 1948

Benefits

The insured persons, their dependents or the persons hereinafter mentioned shall be entitled to the following benefits : —

(a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner hereinafter referred to as sickness benefit.

(b) periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments.

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Employees' State Insurance Act 1948

Benefits

(c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained and certified to be eligible for such payments.

(d) periodical payments to such dependents of an insured person who dies as a result of an employment injury sustained are entitled to compensation

(e) medical treatment for and attendance on insured persons hereinafter referred to as medical benefit.

(f) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral

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Employees' State Insurance Act 1948

ESI Corporation

- With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provision of this act a Corporation to be known as Employees State Insurance Corporation
- The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

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Employees' State Insurance Act 1948

Constitution of ESI Corporation

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

(a) a Chairman to be 2[appointed] by the Central Government.

(b) a Vice-Chairman to be appointed by the Central Government.

(c) not more than five persons to be appointed by the Central Government.

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

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

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

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Employees' State Insurance Act 1948

Constitution of ESI Corporation

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

(a) ten persons representing employees to be appointed by the Central Government in consultation with such organisations of employees.

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

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

(j) the Director-General of the Corporation, *ex*

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CONCLUSION

This lecture has given an idea about some definitions, contributions, benefits, employees state insurance corporation and the constitution of ESI Corporation. Leaners attending the lecture will hve thorough knowledge and learning lessons on all about ESI.

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THANK YOU !