CHAPTER - II

LABOUR LAWS: - EVOLUTION, GROWTH & DEVELOPMENT

HISTORICAL PERSPECTIVE:

Human history, since settlements began, is replete with frictions, violent clashes, wars between groups, communities, countries, races etc. and a constant endeavor to maintain dominance of the strong over the weak, wealthy over the poor resourceful over the needy etc. This system prevailed in the human society for centuries together and was maintained through a systematic exploitation of the vulnerable groups in the society. One of the examples of such exploitation was the system of slavery. The main cause for slavery or forced labour was war and economic dominance on one community or race over the other. The mention of slavery is found to be in almost all the early scripts and religious texts of almost all major religions of the world. Slavery is nothing but holding of vulnerable persons or groups in slavery or servitude or subjecting them to a forced labour. The history of early civilizations of Mesopotamia, Egypt, Greek, Rome, England, the Middle East, etc. has mention about the rampant practice and use of slavery or forced labour by the rulers. This also evolved a system of exchange of slaves under treaties between winning and losing armies in the wars of the rulers at that time. This was further carried on in peace times through sale and purchase of slaves (bonded labours) under Slave Trade.

The first stage was a stage of slavery when a worker was born into slavery, or was later subjected to it. His civil rights were considered to be no greater than those possessed by other chattel property as an ox or a horse. This was the status under the Roman law and the legal status of
slaves in America until the ratification of the Thirteenth Amendment to the Federation Constitution in 1865.\textsuperscript{18}

The second stage is that of ‘forced contract’ which has existed from the feudal days of the serf and lord in Europe through ‘indentured servitude’ in the American colonies to the contemporary forms in Western Hemisphere known as peonage, pardon and contract labour system.

The third stage that of ‘indentured servant’ as commonly know in the American colonies from the 17\textsuperscript{th} century to the early part of the 19\textsuperscript{th} century represents an institution of servitude ranging all the way from the status of a slave to that of a servant. There is a little difference between ‘peonage’ and the institution of ‘indentured servitude’\textsuperscript{19}.

The evolution of the labour laws can be traced to the first declaration of a few human rights to his subjects by the British Monarch under the ‘Great Charter ‘called Magna Carta.\textsuperscript{20}

On June 15th, 1215 King John I was forced by his barons to sign the “Great Charter” in Runnymede near Windsor. This moved him from an absolutist monarchy, to be obliged to work under a framework of laws.

Since then onwards there has been a lot added to this magna carta and the same has been enhanced by subsequent laws, but let us be quite clear that one aspect which remains the guiding principle of magna carta is that “No free man shall be arrested, imprisoned, dispossessed, outlawed, exiled or in any way victimized, attacked or exploited (as in case of bonded labours) except by the lawful judgment of his peers or by the law of the land.”

\textsuperscript{18} Henry Wilson – history of Rise and Fall of the Slave Power in America, p. 15
\textsuperscript{19} A. G. Taylor’s Labour Problems and Labour Law (Second Edn) Chapter – 18
\textsuperscript{20} The Great Charter of the Liberties of England, June 1215
Summary arrest and imprisonment by the state and exploitation of labour by the capitalists and the state has now become a thing of the past. Magna Carta was and has been a huge influence on the 1689 Bill of Rights which guaranteed freedom of speech, a free press, and that no excessive bail or “cruel and unusual” punishments shall be incurred. The Bill of Rights\textsuperscript{21} was to be an inspiration for the American Constitution of 1789.

Inspired by the magna carta, Britain and America have encouraged free enterprise, democracy and free speech like no others.

Although the slave trade was abolished centuries ago, modern day slavery persists with many workers, often migrants, forced into performing compulsory work for little or no wages in conditions where they are effectively prevented from escaping. There are reasons for this modern slavery that we fine today in our society and the y can be briefly summarized as under:

a) Recent population explosion has tripled the number of people in the world, with most growth taking place in poor countries the developing world.

b) Rapid social and economic change, have displaced many to urban centers and their outskirts, where people have no ‘safety net’ and no job security.

c) Government corruption around the world, allows slavery to go unpunished, purely for the economic gains even though it is illegal everywhere.

\textsuperscript{21} Act of the Parliament of England passed on 16 December 1689.
In this way, millions have become vulnerable to slave holders and human traffickers looking to profit through the theft of people’s lives. This new slavery has two prime characteristics: slaves (bonded or migrant workers) today are cheap and they are disposable. Today, millions of economically and socially vulnerable people around the world are potential slaves. This “supply” makes slaves today cheaper than they have ever been. Since they are so cheap, they are today, not considered a major investment worth maintaining. If slaves get sick, are injured, outlive their usefulness, or become troublesome to the slaveholder, they are dumped or killed.

The world has changed since the civil war in 1863, in America during the presidency of Abraham Lincoln, wherein the slavery was totally abolished. Since then on, almost all countries have made legislations to ban slavery.

In Europe, the labour movement began during the industrial revolution, when agricultural jobs declined and employment moved to more industrial areas. The idea met with great resistance. In the 18th century and early 19th century, groups such as the Tolpuddle Martyrs of Dorset were punished and transported for forming unions, which was against the laws of the time.

The labour movement was active in the early to mid 19th century and various labour parties and trade unions were formed throughout the industrialised world.

The International Workingmen's Association, the first attempt at international coordination, was founded in London in 1864. The key points were the right of the workers to organize themselves, the right to
an 8 hour working day etc. In 1871 the workers in France rebelled and the Paris Commune was formed.

Throughout the world, action by the labour movement has led to reforms and workers' rights, such as the two-day weekend, minimum wage, paid holidays, and the achievement of the eight-hour day for many workers. There have been many important labour activists in modern history who have caused changes that were revolutionary at the time and are now regarded as basic.

Albert Einstein has rightly said that “Everything that is really great and inspiring is always created by the individual who can labour in freedom”.  

In 1919 The International Labor Organization (ILO) was founded to establish a code of international labor standards. With its Headquartered in Geneva, Switzerland, the ILO brings together government, labor, and management to solve problems and to make recommendations concerning pay, working conditions, trade union rights, safety, woman and child labor, and social security. The ILO has been brought into relationship with the United Nations in 1946.

As such the State was and is under an obligation to ensure laws are in place to protect people from slavery, servitude and forced labour, including by having anti-trafficking legislation and making it an offence to subject such people who are involved in such practices.

It is with these objectives that we find the evolution and growth of the modern labour laws.

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22 The Great Quotations by George Seldes.
With India set to be the dominant forces of the 21st century, the historical **Magna Carta**, has been a source of inspiration for India and also throughout the world, and as an affirmation of the values of Freedom, Democracy and the Rule of Law which the People of India cherish and have enshrined in their Constitution.

The history of labour legislation in India starts with the landing and establishment of the East India Company of Britain in India and is naturally interwoven with the history of British colonialism. The industrial/labour legislations enacted by the British were primarily intended to protect the interests of the East India Company or British employers. Considerations of British political economy were naturally paramount in shaping some of these early laws.

The labour laws of India originated and express the socio-political views of the Indian leaders from pre-1947 independence movement struggle. These laws were expanded in part after debates in Constituent Assemblies and in part from international conventions and recommendations such as of International Labour Organisation. The earliest Indian statute to regulate the relationship between employer and his workmen was the Trade Dispute Act, 1929.\(^\text{23}\) 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

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\(^{23}\) (Act 7 of 1929)
working conditions and in return capital would receive the fullest cooperation 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.

The current mosaic of Indian laws on Labour and employment are thus a combination of India's history during its colonial heritage, India's experiments with socialism, important human rights and the conventions and standards that have emerged from the United Nations. The laws cover the right to work of one’s choice, right against discrimination, prohibition of child labour, fair and humane conditions of work, social security, protection of wages, redress of grievances, right to organise and form trade unions, collective bargaining and participation in management.

Industrial relations embrace a complex of relationships between the workers, employers and government, basically concerned with the determination of the terms of employment and conditions of labour of the workers. Escalating expectations of the workers, the hopes extended by Welfare State, uncertainties caused by tremendous structural developments in industry, the decline of authority, the waning attraction of the work ethics and political activism in the industrial field, all seem to have played some role.

**Constitution and Labour Laws:**

All the labour laws in India derive their origin, authority, legality and strength from the provisions of the Constitution of India.
The Indian Constitution itself begins with the Preamble, wherein we find that a duty is placed upon the state to deliver Justice – Social, Political and Economic to the people of India along with Liberty and Equality. The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in chapter – III (Art – 14, 16 19 23 and 24.) and Chapter – IV (Art – 39,41,42,43 43A and 54) of the constitution of India keeping in line with the Fundamental Rights and the Directive Principles of the state policy.

Labour reforms are an ongoing and continuous process and the Government has been introducing new laws and amending the existing ones in response to the emerging needs of the workers in a constantly dynamic economic environment.

Indian labour laws are considered to be very highly regulated and rigid as compared to those of other countries in the world. The intensity of these laws have been criticised as the cause of low employment growth, large unorganised sectors, underground economy and low per capita income. These have led many to demand reforms for Labour market flexibility in India. India is a federal form of government. Labour is a subject in the concurrent list of the Indian Constitution and therefore 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. India has over 50 major Acts enacted by the Central Government and about 54 enacted by the state of Maharashtra

The Indian Labour Laws so enacted can be classified into four major heads like:

A. Labour Laws Governing the Industrial Relations.
Trade Unions Act 1926

Industrial Employment Standing Order Acts 1946

Industrial Dispute Act 1947.

B. **Labour Laws Governing the Wages of the workers etc.**

Payment of Wages Act 1936.

Minimum Wages Act 1948.

Payment of Bonus Act 1965.

Working of Journalists (Fixation of Rates of Wages Act, 1958)

C. **Labour Laws governing Social Security & Labour Welfare Laws.**

Workmens Compensation Act, 1923.

Employees Liability Act, 1938.

Employees State Insurance Act (ESI), 1948.

Employyess Provident Fund and Miscellaneous Act, 1952.

Fatal Accidents Act, 1855.


Child Labour (Prohibition and Regulation) Act, 1986


Payment of Gratuity Act, 1972.
D. Labour Laws governing Working Conditions of Service and Employment.

Factories Act, 1948.

Plantation Act, 1951.

Mines Act, 1952.


Dock Workers Act, 1986.

Building and Other Construction Act, 1996.

Dangerous Machines (Regulations) Act, 1983.

Industrial Employment Standing Orders Act, 1946.


A distinguishing feature of Indian Labour and Employment Laws are that in India there are three main categories of employees: government employees, employees in government controlled corporate bodies known as Public Sector Undertakings (PSUs) and private sector employees.

The rules and regulations governing the employment of government employees stem from the Constitution of India. Accordingly, government employees enjoy protection of tenure, statutory service contentions and automatic annually salary increases.

Public sector employees are governed by their own service regulations, which either have statutory force, in the case of statutory corporations, or are based on statutory orders.

In the private sector, employees can be classified into two broad categories namely management staff and workman. For Managerial,
administrative or supervisory employees there are no statutory provisions relating to their employment and accordingly in case of managerial and supervisory staff/employee the conditions of employment are governed by respective contracts of employment and their services can be discharged in terms of their contract of employment. Workmen categories are covered under the provisions of the Industrial Disputes Act.

SOME OF THE MAJOR LABOUR LAWS IN INDIA ARE AS UNDER:

WORKMEN’S COMPENSATION ACT OF 1923

This Act was the first towards social security of workmen. The main objective of this Act is the financial protection to workmen and their dependants in case of accidental injury by means of payments of compensation by the employers. It also covers industrial accidents and occupational diseases arising out of or in the course of employment resulting in death or disablement of the workers. This Act has been amended in 2009 for compensating the workers with the increased rates of compensation as per the present grade of remuneration/wages paid to the worker. The Workmen’s Compensation Act compensates a workman for any injury suffered during the course of his employment or to his dependents in the case of his death. The Act provides for the rate at which compensation shall be paid to an employee. This is one of many social security laws in India. The passing of the Workmen’s Compensation Act renamed as Employees’ Compensation Act, 1923 was the first step towards social security of workmen. It aims at providing financial protection to workmen and their dependants in case of accidental injury by means of payment of compensation by the employers. The Employees’ Compensation Act, 1923 provides for payment of
compensation to the employees’ and their dependents in the case of injury by industrial accidents including certain occupational diseases arising out of and in the course of employment resulting in death or disablement. This Act applies to certain railway servants and persons employed in hazardous employments such as factories, mines, plantations mechanically propelled vehicles, construction work etc. The Workmen's Compensation Act, 1923 has been renamed as the Employees’ Compensation Act, 1923. For the words “workman” and “employee” and “employees” have been substituted respectively for making the Act gender neutral. The amendment has been brought about by the

Workmen's Compensation (Amendment) Act, 2009 came into force on January 18, 2010. For the purpose of calculation of compensation under the Employees’ Compensation Act, 1923 monthly wages has been increased by the Government and minimum rates of compensation for permanent total disablement and death are increased from `80,000/- and `90,000/- to 1,20,000/- and 1,40,000/- respectively.

The Employee’s Compensation Act, 1923 is one of the important social security legislations. It imposes statutory liability upon an employer to discharge his moral obligation towards his employees when they suffer from physical disabilities and diseases during the course of employment in hazardous working conditions.

The Act provides for cheaper and quicker mode of disposal of disputes relating to compensation through special proceedings than possible under the civil law.
The Act provides for employers' liability for compensation in case of occupational disease or personal injuries and prescribes the manner in which his liability can be ascertained.

Amount of compensation is payable in the event of an employee meeting an accident resulting into temporary or permanent disability or disease as stated in Schedule II and III in terms of Section 4 of the Act, read with Schedule IV. Compensation shall be paid as soon as it falls due.

Where an employer is in default in paying compensation, he would be liable to pay interest thereon and also a further sum not exceeding fifty percent of such amount of compensation as penalty. The interest and the penalty stated above, is to be paid to the employee or his dependent as the case may be.

Under the Act, the State Governments are empowered to appoint Commissioners for Employee’s Compensation for (i) settlement of disputed claims, (ii) disposal of cases of injuries involving death, and (iii) revision of periodical payments.

The Act prescribes penalties for the contravention of the provisions of the Act which include fine up to Rs. 5,000.

**TRADE UNIONS ACT OF 1926:***

Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen or employers or between workmen and workmen, 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. The trade union is a voluntary organisation of
workers pertaining to particular trade, industry or a company and formed to promote and protect their interest and welfare by collective actions. This Act enacted the rules and protections granted to Trade Unions in India. Trade unions are the most suitable organisations for balancing and improving the relations between the employer and the employees. They are formed not only to cater to the workers demand but also for inculcating in them the sense discipline and responsibility. This law was amended in 2001.

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

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

Any seven or more members of a Trade Union may by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of the Act with respect to registration, apply for registration of the Trade Union.
Every application for registration of a Trade Union shall be made to the Registrar and shall be accompanied by a copy of the rules of the Trade Union and a statement of the specified particulars.

The Registrar, on being satisfied that the Trade Union has complied with all the requirements of the Act in regard to registration, shall register the Trade Union and issue a certificate of registration.

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

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

**CONTRACT LABOUR (REGULATION AND ABOLITION) ACT-1970:**

Contract labour is a significant and growing form of employment. It is prevalent in almost all industries and related operations including service sector in India. It generally refers to workers engaged by a contractor for user enterprise. Contract labour have very little bargaining power, have little or no social security and are often engaged in hazardous occupations endangering their health and safety. The exploitation of workers under
the contract labour system has been a matter of deep concern for the government and therefore this Act was brought into force on 10\textsuperscript{th} February 1971. The Act applies to every establishments/contractors in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour. Every establishments and contractor to whom the Act applies, have to register themselves or obtain a license for execution of contract worker. Under this Act the interest of contract workers are protected in terms of wages, hours of work, welfare, health and social security. Amenities to be provided to contract labour include canteen, rest rooms, first aid facilities and other basic necessities at the work place like drinking water etc. Under this Act the liability to ensure payment of wages and other benefits is primarily that of the contractor in case of default that of the principle employer.

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

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

(b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen.

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

The Act empowers the Central or State Governments to prohibit the employment of contract labour in any process or operation.
It applies to every establishment or contractor wherein 20 or more workmen are or were employed on any day of the preceding 12 months as contract labour.

The appropriate government is empowered to extend the application of the Act to any establishment or contractor employing even less than 20 workers as contract labour.

The Act is not applicable to an establishment in which work is only of an intermittent or casual nature. Work performed in an establishment for more than 120 days in the preceding 12 months or work of a seasonal nature and performed for more than 60 days in a year, shall not be deemed to be work of an intermittent nature.

The Act provides for constitution of Contract Labour Advisory Board to advise the Government on such matters arising out of the administration of this Act as may be referred to it, and to carry out other functions assigned under the Act.

The Act provides for grant of licence to the contractors and registration to the Principal Employers.

The penalty provided for violation of the provisions of the Act and Rules made thereunder, is the fine, which may extend to Rs. 1000/- or imprisonment for a term which may extend to three months or with both.

**PAYMENT OF WAGES ACT OF 1936 :**

The Payment of Wages Act regulates by when wages shall be distributed to employees by the employers. The law also provides the tax withholdings the employer must deduct and pay to the central or state government before distributing the wages. In order to bring the law in
uniformity with other labour laws and to make it more effective and practicable the payment of wages Act was last amended in 2005 for enhancing the wage ceiling per month with a view to covering more employed persons and strengthening the compensation to the workers. The penal provisions in this Act have been made more stringent by enhancing the quantum of punishment to the employer. The Payment of Wages Act, 1936 is a central legislation which has been enacted to regulate the payment of wages to workers employed in certain specified industries and to ensure a speedy and effective remedy to them against unauthorized deductions and/or unjustified delay caused in paying wages to them. It applies to the persons employed in a factory, industrial or other establishment or in a railway, whether directly or indirectly, through a sub-contractor. In order to bring the law in uniformity with other labour laws and to make it more effective and practicable, the payment of wages Act was last amended in 2005. The amendment enhancing the wage ceiling per Month with a view to covering more employed persons and substitute the expressions “the Central Government” or “a State Government” by the expression “appropriate Government”. Amendment also strengthening compensation and penal provisions made more stringent by enhancing the quantum of penalties by amending of the Act. The Central Government is responsible for enforcement of the Act in railways, mines, oilfields and air transport services, while the State Governments are responsible for it in factories and other industrial establishments.

OBJECT AND SCOPE:

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

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

Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under the Act and every person responsible for the payment of wages shall fix wage-periods in respect of which such wages shall be payable. No wage-period shall exceed one month.

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

All wages shall be paid in current coin or currency notes or in both. However, the employer may, after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.
EQUAL REMUNERATION ACT-1976:

In today's globalised liberalised scenario, women form an integral part of the Indian workforce. In such an environment, the quality of women’s employment is very important and depends upon several factors. The foremost being equals access to education and other opportunities for skill development. This requires empowerment of women as well as creation of awareness among them about their legal rights and duties. In order to ensure this, the Government of India has taken several steps for creating a congenial work environment for women workers. A number of protective provisions have been incorporated in the various Labour Laws. To give effect to the Constitutional provisions and also ensure the enforcement of ILO Convention the Equal Remuneration Act, 1976 enacted by the Parliament.

The implementation of the Equal Remuneration Act, 1976 is done at two levels. In Central Sphere the Act is being implemented by the Central Government and in State Sphere, the implementation rests with the State Governments.

OBJECT AND SCOPE:

The Equal Remuneration Act, 1976 provides for payment of equal remuneration to men and women workers for same work or work of similar nature without any discrimination and also prevents discrimination against women employees while making recruitment for the same work or work of similar nature, or in any condition of service subsequent to recruitment. The provisions of the Act have been extended to all categories of employment. The Act extends to whole of India.
Equal Remuneration Act, 1976 provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

Same work or Work of a similar nature 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.

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.

The Act provides that 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 or work of a similar nature and employer shall not reduce the rate of remuneration of any worker.

Employer 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, shall not 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. It is the duty of every employer required to maintain registers and other documents in relation to the workers employed by him in the prescribed manner.

If any employer:— (i) makes any recruitment in contravention of the provisions of this Act; or (ii) makes any payment of remuneration at unequal rates to men and women workers for the same work or work of a similar nature; or (iii) makes any discrimination between men and women workers in contravention of the provisions of this Act; or (iv) omits or fails to carry out any direction made by the appropriate Government, then he/she shall be punishable with fine or with imprisonment or with both.

**EMPLOYEES STATE INSURANCE ACT-1948:**

This is the first major legislation on social security in India. The Employees’ State Insurance Act, 1948 provides for certain benefits to employees in case of sickness, maternity and employment injury and also makes provisions for certain other matters in relation thereto. The Act has been amended by the Employees’ State Insurance (Amendment) Act, 2010 for enhancing the Social Security Coverage, streamlining the procedure for assessment of dues and for providing better services to the beneficiaries. The Act extends to the whole of India. The Central Government is empowered to enforce the provisions of the Act by notification in the Official Gazette, to enforce different provisions of the Act on different dates and for different States or for different parts thereof [Section 1(3)]. The Act applies in the first instance to all factories (including factories belonging to the Government) other than seasonal factories [Section 1(4)]. According to the proviso to Section 1(4) of the Act, nothing contained in sub-section (4) of Section 1 shall apply to a
factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under the Act. Section 1(5) of the Act empowers the appropriate Government to extend any of the provisions of the Act to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise after giving one month’s notice in the Official Gazette. Under these enacting provisions, the Act has been extended by many State Governments to shops, hotels, restaurants, cinemas, including preview theatres, newspaper establishments, road transport undertakings etc. employing 20 or more persons.

According to the proviso to sub-section (5) of Section 1 where the provisions of the Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishment within that part, if the provisions have already been extended to similar establishment or class of establishments in another part of that State.

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

The coverage under the Act is at present restricted to employees drawing wages not exceeding `15,000 per month. The law relating to employees’ State Insurance is governed by the Employees’ State Insurance Act, 1948.
The objective of the act is to provide for certain benefits to employees in case of sickness, maternity and employment injury and to provide for certain other matters in relation there to.

The Act is applicable to all factories including factories belonging to the Government other than seasonal factories. The appropriate Government may after giving a notice of not less than one month and by notification in the official Gazette, extend the application of the Act or an of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise. Once the Act becomes applicable, the Act shall continue to apply irrespective of the reduction in number of employees or cessation of manufacturing process with the aid of power.

Every factory or establishment to which this Act applies has to be registered within the specified time and the regulations made in this behalf.

All the employees in factories or establishments to which this Act applies shall be insured in prescribed manner. Such insured persons shall pay contributions towards Insurance Fund through their employers who will also pay their own contribution.

The ESI Act authorises Central Government to establish Employees State Insurance Corporation for administration of the Employees State Insurance Scheme. Such Corporation shall be body corporate having perpetual succession and a common seal and shall sue and be sued by the said name.

All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a Fund called the Employees
State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

The insured persons, their dependants are entitled to various benefits on prescribed scale. Right to receive benefits is not transferable or assignable. When a person receives benefits under this Act, he is not entitled to receive benefits under any other enactment.

The Act empowers State Government to constitute an Employees Insurance Court. The Employees Insurance Court has jurisdiction to adjudicate disputes, namely, whether any person is an employee under the Act, rate of wages/contribution, as to who is or was the principal employer, right of a person to any benefit under the Act.

The EI Court also has jurisdiction to decide claims for recovery of contribution from principal employer or immediate employer, action for failure or negligence to pay contribution, claim for recovery of any benefit admissible under the Act.

INDUSTRIAL EMPLOYMENT (STANDNG ORDERS) ACT OF 1946:

‘Standing Orders’ defines the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc., go a long way towards minimising friction between the management and workers in industrial undertakings. The Industrial Employment (Standing Orders) Act requires employers in industrial establishments to clearly define the conditions of employment by issuing standing orders duly certified. It applies to every industrial establishment wherein 100 or more workmen are employed or were employed on any day during the preceding twelve months. Model standing orders issued under the Act deal with classification of workmen,
holidays, shifts, payment of wages, leaves, termination etc. The text of the Standing Orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

**OBJECT AND SCOPE OF THE ACT:**

The objects of the Act are: Firstly, to enforce uniformity in the conditions of services under different employers in different industrial establishments. Secondly, the employer, once having made the conditions of employment known to his employed workmen cannot change them to their detriment or to the prejudice of their rights and interests. Thirdly, with the express or written conditions of employment, it is open for the prospective worker to accept them and join the industrial establishment. Fourthly, for maintaining industrial peace and continued productivity, the significance of the express written conditions of employment cannot be minimised or exaggerated.

The object of the Act is to have uniform standing orders in respect of matters enumerated in the Schedule to the Act, applicable to all workers irrespective of their time of appointment.\(^{24}\)

The Act extends to the whole of India and applies to every industrial establishment wherein 100 or more workmen are employed or were employed on any day during the preceding twelve months. Further, the appropriate Government may, after giving not less than 2 months notice

of its intention to do so, by notification in the Official Gazette, extend the provisions of this Act to any industrial establishment employing such number of persons less than 100 as may be specified in the notification.

**Fairness or reasonableness of Standing Orders:**

It is further provided in Section 4 that it shall be the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of the Standing Orders.

The Act, has imposed a duty on the Certifying Officer, to consider the reasonableness and fairness of the Standing Orders before certifying the same. The Certifying Officer is under a legal duty to consider that the Standing Orders are in conformity with the Act.

The Act requires the employers in industrial establishment to define with sufficient precision the conditions of employment under them and make the said conditions known to workmen employed by them.

It applies to every industrial establishment wherein 100 or more workmen are employed or were employed on any day during the preceding twelve months.

The appropriate Government may, after giving not less than 2 months notice of its intention to do so, by notification in the Official Gazette, extend the provisions of this Act to any industrial establishment employing such number of persons less than 100 as may be specified in the notification.

Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer of that establishment shall
submit to the Certifying Officer five copies of the draft Standing Orders proposed by him for adoption in that establishment.

Such draft Standing Orders shall be in conformity with the Model Standing Orders if any, and, shall contain every matter set out in the Schedule which may be applicable to the industrial establishment.

On receipt of the draft Standing Order from the employer, the Certifying Officer shall forward a copy thereof to the trade union of the workmen or where there is no trade union, then to the workmen in the prescribed manner together with a notice requiring objections, if any, which the workmen may desire to make in the draft Standing Orders.

These objections are required to be submitted to him within 15 days from the receipt of the notice.

On receipt of such objections, he shall provide an opportunity of being heard to the workmen or the employer and will make amendments, if any, required to be made therein and this will render the draft Standing Orders certifiable under the Act and he will certify the same.

A copy of the certified Standing Orders will be sent by him to both the employer and the employees association within seven days of the certification.

The Certifying Officer has been empowered to file a copy of all the Standing Orders as certified by him in a register maintained for the purpose in the prescribed form. He shall furnish a copy of the same to any person applying therefor on payment of the prescribed fee.

Standing Orders shall come into operation on the expiry of 30 days from the date on which the authenticated copies are sent to employer and
workers representatives or where an appeal has been preferred, they will become effective on the expiry of 7 days from the date on which copies of the order of the appellate authority are sent to employer and workers representatives.

**INDUSTRIAL DISPUTES ACT OF 1947:**

Industrial disputes are nothing but disagreements in Industrial relations involving various aspects of interactions between the employer and the employees. These arise out of the clash of interest and result in dissatisfaction for either of the parties and hence lead to Industrial disputes or conflicts. Industrial disputes are reflected through protests, strikes, demonstrations, lockouts, retrenchment, dismissal of workers, closure of factory, artificial labour problems etc. IDA 1947 provides a missionary for peaceful resolutions of disputes and to promote harmonious relation between and employers and workers. This is a protective measure which seeks to pre-empt industrial tensions so that the energies of partners in production may not be wastes in counterproductive battles leading to industrial disputes and industrial violence. Under this Act various authorities are established like works committee, conciliation officers, boards of conciliation, court of enquiry, labour tribunals, industrial tribunals and national tribunals for the purpose of investigation and settlement of industrial disputes. The Industrial Disputes act 1947 regulates how employers may address industrial disputes such as lockouts, layoffs, retrenchment etc. It controls the lawful processes for reconciliation, adjudication of labour disputes.

The Act also regulates what rules and conditions employers must comply before the termination or layoff of a workman who has been in continuous service for more than one year with the employer. The
employer is required to give notice of termination to the employee with a copy of the notice to appropriate government office seeking government's permission, explain valid reasons for termination, and wait for one month before the employment can be lawfully terminated. The employer may pay full compensation for one month in lieu of the notice. Furthermore, employer must pay an equivalent to 15 days average pay for each completed year of employees continuous service. Thus, an employee who has worked for 4 years in addition to various notices and due process, must be paid a minimum of the employee's wage equivalent to 60 days before retrenchment, if the government grants the employer a permission to layoff.

OBJECT AND SIGNIFICANCE OF THE ACT:

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

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

The Industrial Disputes Act, 1947 is an Act to make provision for the investigation and settlement of industrial disputes and for certain other purposes.

The Industrial Disputes Act applies to all industries. “Industry” for the purpose of Industrial Disputes Act is defined under the Act.

The industrial dispute connotes a real and substantial difference between employers and employers or between employers and workmen or between workmen and workmen, having some elements of persistency and continuity till resolved and likely to endanger industrial peace of the undertaking or the community.

An individual dispute espoused by the union becomes an industrial dispute. The disputes regarding modification of standing orders, contract labour, lock out in disguise of closure have been held to be industrial disputes.

The Act provides for a special machinery of Conciliation Officers, Work Committees, Courts of Inquiry, Labour Courts, Industrial Tribunals and National Tribunals, defining their powers, functions and duties and also the procedure to be followed by them.

It also enumerates the contingencies when a strike or lock-out can be lawfully resorted to, when they can be declared illegal or unlawful, conditions for laying off, retrenching, discharging or dismissing a workman, circumstances under which an industrial establishment can be
closed down and several other matters related to industrial employees and employers.

MINIMUM WAGES ACT OF 1948:

The Minimum Wages Act was enacted primarily to safeguard the interests of the workers engaged in the unorganized sector. The Act provides for fixation and revision of minimum wages of the workers engaged in the scheduled employments. Under the Act, both central and State Governments are responsible, in respect of scheduled employments within their jurisdictions to fix and revise the minimum wages and enforce payment of minimum wages. In case of Central sphere, any Scheduled employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a mine, oil-field or major port, or any corporation established by a Central Act, the Central Government is the appropriate Government while in relation to any other Scheduled employment, the State Government is the appropriate Government. The Act is applicable only for those employments, which are notified and included in the schedule of the Act by the appropriate Governments. According to the Act, the appropriate Governments review/revise the minimum wages in the scheduled employments under their respective jurisdictions at an interval not exceeding five years. However, there is large scale variation of minimum wages both within the country and internationally owing to differences in prices of essential commodities, paying capacity, productivity, local conditions, items of the commodity basket, differences in exchange rates etc.
OBJECT AND SCOPE OF THE LEGISLATION:

The Minimum Wages Act was passed in 1948 and it came into force on 15th March, 1948. The National Commission on Labour has described the passing of the Act as landmark in the history of labour legislation in the country. The philosophy of the Minimum Wages Act and its significance in the context of conditions in India, has been explained by the Supreme Court in *Unichoyi v. State of Kerala*\(^\text{25}\) as follows:

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

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

The Minimum Wages Act empowers the Government to fix minimum wages for employees working in specified employments. It provides for

review and revision of minimum wages already fixed after suitable intervals not exceeding five years.

It extends to the whole of India and applies to scheduled employments in respect of which minimum rates of wages have been fixed under this Act.

The appropriate government shall fix the minimum rates of wages payable to employees employed in a scheduled employment.

It may review at such intervals not exceeding five years the minimum rates of wages so fixed, and revise the minimum rates if necessary.

The employer shall pay to every employee in a scheduled employment under him wages at the rate not less than the minimum rates of wages fixed under the Act.

The Act also provides for regulation or working hours, overtime, weekly holidays and overtime wages. Period and payment of wages, and deductions from wages are also regulated.

The Act provides for appointment the authorities to hear and decide all claims arising out of payment less than the minimum rates of wages or any other monetary payments due under the Act. The presiding officers of the Labour court and Deputy Labour Commissioners are the authorities appointed.

THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT OF 1986:

Child labour is a concrete manifestation of violations of a range of rights of children and is recognised as a serious social problem in India. Working children are denied their right to survival and development,
education, leisure and play, and adequate standard of living, opportunity for developing personality, talents, mental and physical abilities, and protection from abuse and neglect. Even though there is increase in the enrolment of children in elementary schools and increase in literacy rates, child labour continues to be a significant phenomenon in India. As per Article 24 of the Constitution, no child below the age of 14 years is to be employed in any factory, mine or any hazardous employment. Further, Article 39 requires the States to direct its policy towards ensuring that the tender age of children is not abused and that they are not forced by economic necessity to enter avocations unsuited to their age or strength. Recently, with the insertion of Article 21A, the State has been entrusted with the task of providing free and compulsory education to all the children in the age group of 6-14 years. Consistent with the Constitutional provisions, Child Labour (Prohibition and Regulation) Act was enacted in 1986. The Act regulates employment of children in non-hazardous occupations and processes. There are at present 18 hazardous occupation and 65 processes, where employment of children is prohibited.

As per Article 24 of the Constitution of India, no child below the age of 14 years is to be employed in any factory, mine or any hazardous employment. Further, Article 39 requires the States to direct its policy towards ensuring that the tender age of children is not abused and that they are not forced by economic necessity to enter avocations unsuited to their age or strength.

No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on. However, prohibition of employment of children is not applicable to
any workshop wherein any process is carried on by the occupier with the aid of his family, or to any school established by, or receiving assistance or recognition from Government.

A child shall not permit to work in any establishment in excess of such number of hours, as may be prescribed for such establishment or class of establishments.

Every child employed in an establishment is entitled in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

Every occupier in relation to an establishment who employs, or permits to work, any child shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice.

Every occupier in respect of children employed or permitted to work in any establishment, maintained a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment.

Contravention of the provisions of Section 3 of the Act shall be punishable with imprisonment for a term which shall not be less than, three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.
FACTORIES ACT 1948:

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

In the case of *Ravi Shankar Sharma v. State of Rajasthan*, Court held that Factories Act is a social legislation and it provides for the health, safety, welfare and other aspects of the workers in the factories. In short, the Act is meant to provide protection to the workers from being exploited by the greedy business establishments and it also provides for the improvement of working conditions within the factory premises. An adequate machinery of instructions and strict observance of the directions are provided in the Act. Hence, a beneficial construction should be given and the provisions of the Act should be so construed/ interpreted so as to achieve its object i.e. the welfare of the workers and their protection from exploitation and unhygienic working conditions in the factory premises. The Factories Act has been enacted primarily with the object of protecting workers employed in factories against industrial and occupational hazards. For that purpose, it seeks to impose upon the owner or the occupier certain obligations to protect the workers and to secure for them employment in conditions conductive to their health and safety.

OBJECT AND SCOPE OF THE ACT:

The main object of the Factories Act, 1948 is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. The Act also makes provisions regarding employment of

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26 AIR 1993 Raj 117,
women and young persons (including children and adolescents), annual leave with wages etc.

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

The law relating to factories is governed under the Factories Act, 1948.

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

It applies to factories covered under the Factories Act, 1948. The industries in which ten (10) or more than ten workers are employed on any day of the preceding twelve months and are engaged in manufacturing process being carried out with the aid of power or twenty or more than twenty workers are employed in manufacturing process being carried out without the aid of power, are covered under the provisions of this Act.

The State Governments assume the main responsibility for administration of the Act and its various provisions by utilizing the powers vested in them.

The State Governments carry out the administration of the Act through Inspecting Staff; Certifying Surgeons; welfare Officers; Safety Officers.
The Act stipulates measures to be taken by factories for health, safety and welfare of the workers, that apart it also lays down the provisions relating to working hours of adult workers, both male and female. However, certain additional restrictions have been imposed on the working hours of female workers.

If there is any contravention of any of the provisions of this Act or any rules or order made there under, the occupier and manager shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. One lakh or with both and if the contravention is continued after conviction, with a further fine of Rs. One thousand for each, day till contravention continues.

**Employees Provident Fund and Miscellaneous Provisions Act of 1952:**

The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 is a social welfare legislation to provide for the institution of Provident Fund, Pension Fund and Deposit Linked Insurance Fund for employees working in factories and other establishments. The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress. Accordingly, three schemes are in operation under the Act. These schemes taken together provide to the employees an old age and survivorship benefits, a long term protection and security to the employee and after his death to his family members, and timely advances including advances during sickness and for the purchase/ construction of a dwelling house during the period of membership. The Act is administered by the Government of India through the Employees’ Provident Fund Organisation (EPFO).
EPFO is one of the largest provident fund institutions in the world in terms of members and volume of financial transactions that it has been carrying on. The Central Government has been constituted Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such by Employees’ Provident Funds and Miscellaneous Provisions Act, 1952. The Tribunal consists of one person only and appointed by the Central Government.

This is a social welfare legislation to provide for the institution of provident fund, pension fund and deposit linked insurance fund for employees working in factories and other establishments. The purpose of the Act is to provide social security and timely monetary assistance to Industrial employees and their families when they are in distress. The schemes under this Act include old age and survivorship benefits, long term protection and security to employees and to his family after the death of employee and also timely advances for his legitimate needs such as: purchase of house, education of children, marriage etc. This Act seeks to ensure the financial security of the employees in an establishment by providing for a system of compulsory savings. The Act provides for establishments of a contributory Provident Fund in which employees’ contribution shall be at least equal to the contribution payable by the employer. Minimum contribution by the employees shall be 10-12% of the wages. This amount is payable to the employee after retirement and could also be withdrawn partly for certain specified purposes.

The Act is now applicable to employees drawing pay not exceeding Rs. 6,500/- per month. The Act extends to whole of India except Jammu and Kashmir. The term pay includes basic wages with dearness allowance, retaining allowance (if any), and cash value of food concession.
The following three schemes have been framed under the Act by the Central Government:

(a) The Employees’ Provident Fund Schemes, 1952;

(b) The Employees’ Pension Scheme, 1995; and

(c) The Employees’ Deposit-Linked Insurance Scheme; 1976.

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

The Employee’s Provident Funds and Miscellaneous Provisions Act, 1952 is a welfare legislation enacted for the purpose of instituting a Provident Fund for employees working in factories and other establishments.

The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress and/or unable to meet family and social obligations and to protect them in old age, disablement, early death of the bread winner and in some other contingencies.

Presently, the following three Schemes are in operation under the Act: Employees’ Provident Funds Scheme, 1952; Employees’ Deposit Linked; Insurance Scheme, 1976; Employees’ Pension Scheme, 1995.

The Act is applicable to factories and other classes of establishments engaged in specific industries, classes of establishments employing 20 or more persons.
The Central Government is empowered to apply the provisions of this Act to any establishment employing less than 20 persons after giving not less than two months notice of its intent to do so by a notification in the official gazette.

Once the Act has been made applicable, it does not cease to be applicable even if the number of employees falls below 20. An establishment/factory, which is not otherwise coverable under the Act, can be covered voluntarily with mutual consent of the employers and the majority of the employees under Section 1(4) of the Act.

Thus, membership of the fund is compulsory for employees drawing a pay not exceeding Rs. 6500 per month (at the time of joining). Every employee employed in or in connection with the work of a factory or establishment shall be entitled and required to become a member of the fund from the date of joining the factory or establishment.

The employees drawing more than Rs.6500/- per month at the time of joining may become member on a joint option of the employer and employee.

Statutory protection is provided to the amount of contribution to Provident Fund under Section 10 from attachment to any Court decree. The Act authorises the appropriate Government to grant exemptions to certain establishments or persons from the operation of all or any of the provisions of the Scheme.

**Maternity Benefit Act of 1961:**

Article 42 of the Constitution of India directs the government to make provisions for securing just and humane conditions of work and maternity
relief for women workers. It regulates the employment of women in factories, mines, circus industry, plantation and shops and establishments employing 10 or more persons. The Maternity Benefit Act regulates the employment of the women and maternity benefits mandated by law. Any woman employee, who worked in any establishment for a period of at least 80 days during the 12 months immediately preceding the date of her expected delivery, is entitled to receive maternity benefits under the Act. The employer is required to pay maternity benefits, medical allowance, maternity leave and nursing breaks. Under the Maternity Benefit Act, 1961, women employees are entitled to maternity benefit at the rate of average daily wage for the period of their actual absence up to 12 weeks due to the delivery. In cases of illness arising due to pregnancy, etc., they are entitled to additional leave with wages for a period of one month. They are also entitled to six weeks maternity benefit in case of miscarriage. The Maternity Benefit Act, 1961 provides that every woman entitled to maternity benefit shall also be entitled to receive from her employer medical bonus. The Maternity Benefit Act, 1961 also makes certain other provisions to safeguard the interest of pregnant women workers.

The Maternity Benefit Act, 1961 regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. Such benefits are aimed to protect the dignity of motherhood by providing for the full and healthy maintenance of women and her child when she is not working.

Maternity benefit means the payment referred to in sub-section (1) of section 5.
Employer shall not knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

Every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.

Any woman employed in an establishment and entitled to maternity benefit under the provisions of the Act may give notice in writing in prescribed form, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under the Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

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

Every employer shall prepare and maintain such registers, records and muster-rolls and in prescribed manner under the Act.
PAYMENT OF BONUS ACT OF 1965:

The term “bonus” is not defined in the Payment of Bonus Act, 1965. Webster International Dictionary defines bonus as “something given in addition to what is ordinarily received by or strictly due to the recipient”. The Oxford Concise Dictionary defines it as “something to the good into the bargain (and as an example) gratuity to workmen beyond their wages”. The purpose of payment of bonus is to bridge the gap between wages paid and ideal of a living wage. The Payment of Bonus Act, 1965 applies to every factory as defined under the Factories Act, 1948; and every other establishment in which twenty or more persons are employed on any day during an accounting year. However, the Government may, after giving two months' notification in the Official Gazette, make the Act applicable to any factory or establishment employing less than twenty but not less than ten persons. An employee is entitled to be paid by his employer a bonus in an accounting year subjected to the condition that he/she has worked for not less than 30 working days of that year. An employer shall pay minimum bonus at the rate of 8.33% of the salary or wages earned by an employee in an year or one hundred rupees, whichever is higher.

OBJECT AND SCOPE OF THE ACT:

The object of the Act is to provide for the payment of bonus to persons employed in certain establishments and for matters connected therewith. Shah J. observed in Jalan Trading Co. (Pvt.) Ltd. v. Mill Mazdoor Sabha,27 that the “object of the Act being to maintain peace and harmony between labour and capital by allowing the employees to share the prosperity of the establishment and prescribing the maximum and

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27 AIR 1967 S.C. 691
minimum rates of bonus together with the scheme of “set-off” and “set on” not only secures the right of labour to share in the profits but also ensures a reasonable degree of uniformity”.

The Payment of Bonus Act provides for payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith.

It extends to the whole of India and is applicable to every factory and to every other establishment where 20 or more workmen are employed on any day during an accounting year. The Act does not apply to certain classes of employees specified therein.

The Act has laid down a detailed procedure for calculating the amount of bonus payable to employees.

Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

An employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for fraud; or riotous or violent behaviour while on the premises of the establishment; or theft, misappropriation or sabotage of any property of the establishment.

Every employer shall be bound to pay to every employee in respect of any accounting year a minimum bonus which shall be 8.33 per cent of the salary or wage earned by the employee during the accounting year or one hundred rupees whichever is higher, whether or not the employer has any allocable surplus in the accounting year.
In case of newly set up establishments provisions have been made under Section 16 for the payment of bonus.

If there is a dispute regarding payment of bonus pending before any authority under Section 22, all amounts payable to an employee by way of bonus under this Act shall be paid in cash by his employer, within a month from the date from which the award becomes enforceable or the settlement comes into operation, in respect of such dispute.

In any other case, the bonus should be paid within a period of eight months from the close of the accounting year.

If any dispute arises between an employer and his employee with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947, or any corresponding law relating to investigation and settlement of industrial disputes in force in a State and provisions of that Act, shall, save as otherwise expressly provided, apply accordingly.

The Act enables the employees and employers to evolve and operate a scheme of bonus payment linked to production or productivity in lieu of bonus based on profits under the general formula enshrined in the Act.

**Payment of Gratuity Act of 1972:**

Gratuity is an old age retiral social security benefit. It is a lump sum payment made by an employer to an employee in consideration of his past service when the employment is terminated. In the case of employment coming to an end due to retirement or superannuation, it enables the affected employee to meet the new situation which quite often
means a reduction in earnings or even total stoppage of earnings. In the case of death of an employee, it provides much needed financial assistance to the surviving members of the family. Gratuity schemes, therefore, serve as instruments of social security and their significance in a developing country like India where the general income level is low cannot be over emphasized. Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years: - (i) on his superannuation; or (ii) on his retirement or resignation; or (iii) on his death or disablement due to accident or disease, However, the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement. The employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned for every completed year of service or part thereof in excess of six months.

The Act is applicable to every factory, shop or an establishment, in which ten or more persons are employed, or were employed on any day of the proceeding twelve months.

A shop or establishment to which the Act has become applicable shall continue to be governed by the Act even if the number of persons employed falls below 10 at any subsequent stage.

An employee is eligible for receiving gratuity payment only after he has completed five years of continuous service. This condition of five years is not necessary if the termination of the employment of an employee is due to death or disablement. The maximum amount of Gratuity payable is Rs. 10 lakhs.
Each employee is required to nominate one or more member of his family, as defined in the Act, who will receive the gratuity in the event of the death of the employee.

Any person to whom the gratuity amount is payable shall make a written application to the employer. The employer is required to determine the amount of gratuity payable and give notice in writing to the person to whom the same is payable and to the controlling authority thereby specifying the amount of gratuity payable.

The employer is under obligation to pay the gratuity amount within 30 days from the date it becomes payable. Simple interest at the rate of 10% p.a. is payable on the expiry of the said period.

Gratuity can be forfeited for any employee whose services have been terminated for any act, willful omission or negligence causing damage or destruction to the property belonging to the employer. It can also be forfeited for any act which constitutes an offence involving moral turpitude.

If any person makes a false statement for the purpose of avoiding any payment to be made by him under this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both. If an employer contravenes any provision of the Act, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with a fine, which may vary from ten thousand rupees to twenty thousand rupees.
The Labour Laws (Exemption from Furnishing Returns and Maintaining Register by Certain Establishments) Act, 1988:

Parliament enacted from time to time a number of labour laws for regulating employment and conditions of service of workers. Whenever a new law was enacted, it prescribed certain registers to be maintained by the employers. Simultaneously, the laws also prescribed for furnishing of returns of various details by the employers to the concerned enforcing authorities. The (Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 was enacted to provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws. Small establishments were exempted from furnishing returns and maintaining registers under certain enactments mentioned in the first Schedule to the Act and instead they were required to furnish returns and maintain registers in the forms set out in the Second Schedule to the Act.

The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws. It extends to the whole of India.

Small establishment means an establishment in which not less than ten and not more nineteen persons are employed or were employed on any day of the preceding twelve months.
Very small establishment means an establishment in which not more than nine persons are employed or were employed on any day of the preceding twelve months.

It shall not be necessary for an employer in relation to any small establishment or very small establishment to which a Scheduled Act applies to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act. However, such employer required to (a) furnishes a Core Return in Form A; (b) maintains registers in Form B, Form C, and Form D, in the case of small establishments; and registers in Form D and Form E, in the case of very small establishments.

Any employer who fails to comply with the provisions of the Act, shall, on conviction, be punishable in the case of the first conviction, with fine which may extend to rupees five thousand; and in the case of any second or subsequent conviction, with imprisonment for a period which shall not be less than one month but which may extend to six months or with fine which shall not be less than rupees ten thousand but may extend to rupees twenty-five thousand, or with both.

**Apprentices Act Of 1961:**

Industrial development of any nation depends on development of its human resource. Enhancement of skills is an important component of Human Resource Development. Training of apprentices in the actual workplace is necessary for the upgradation and acquisition of skills. The Apprentices Act, 1961 was enacted to regulate and control the programme of training of apprentices. The term apprentice means a person who is undergoing apprenticeship training in pursuance of a
contract of apprenticeship. While, apprenticeship training means a course of training in any industry or establishment undergone in pursuance of a contract of apprenticeship and under prescribed terms and conditions which may be different for different categories of apprentices. The Act makes it obligatory on part of the employers both in public and private sector establishments having requisite training infrastructure as laid down in the Act. Every employer shall have the obligations in relation to an apprentice to provide the apprentice with Training in his/her trade in accordance with the provisions of the Act, and the rules made there under.

The Apprentices Act, 1961 was enacted to regulate and control the programme of training of apprentices and for matters connected therewith.

The term apprentice means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

Apprenticeship training means a course of training in any industry or establishment undergone in pursuance of a contract of apprenticeship and under prescribed terms and conditions which may be different for different categories of apprentices.

The Act makes it obligatory on part of the employers both in public and private sector establishments having requisite training infrastructure as laid down in the Act, to engage apprenticeship training.

No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless such a person or, if he/she is a minor, his/her guardian has entered into a contract of apprenticeship with the employer.
Every employer shall have the obligations in relation to an apprentice to provide the apprentice with training in his/ her trade in accordance with the provisions of this Act, and the rules made there under.

Every trade apprentice undergoing apprenticeship training shall have the obligations, to learn his/ her trade conscientiously and diligently and endeavour to qualify himself/ herself as a skilled craftsman before the expiry of the period of training.