CHAPTER - 3
Labour Welfare
Legislations in India


## CHAPTER NO. 3

**Labour Welfare Legislations in India**

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CHAPTER - III

LABOUR WELFARE

LEGISLATION IN INDIA

3.1 Introduction:

At the time of doing research work an attempt is made to study the Labour Welfare Facilities which provided by the Industrial Organizations as per the Labour Welfare Legislation’s in India. Thus, the detailed information of various Labour Welfare Acts is taken into account in this chapter.

This chapter reviews the existing structure of laws on labour-the fast changing industrial relations, conditions, the coming up of strong labour and employer organizations, the inadequacy of the existing labour legislation’s, the various developments in the world and the desire for harmonious industrial relations have been constantly forcing the Government on need of fresh and comprehensive legislation. Consequently, a comprehensive Industrial Relations Bill 1978 was prepared with many new progressive measures. The objectives of the bill contain. “The objective of the new law is to delineate a legal frame work that will promote cordiality and peace in industrial establishments, protect the legitimate rights of the employees and the legitimate interests of industries, so that industrial harmony and co-operation may lead in increase production and productivity”.

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Labour welfare activity in India was largely influenced by humanitarian principles and legislation. During the early period of industrial development, efforts towards workers welfare were made largely by social workers, philanthropists, religious leaders and some of considerate employers, mostly on humanitarian grounds. Before introduction of welfare and other legislation in India the conditions of labour were miserable. Wages were pitifully low working hours were long, working and living conditions were unhygienic and hazardous and educational and cultural activities for the workers and their families were not in existence. The legislative approach would be traced back to the passing of the Apprenticeship Act of 1850. This Act was enacted with the objective of helping poor people to learn various trades and crafts. The next piece of legislation with respect to this subject was the Fatal Accidents Act of 1853 which aimed at providing compensation to the families of workman who lost their lives as a result of actionable wrong during their hours of work. It is therefore, apparent that earlier attempts of legislation in India were mainly aimed at regulation of employment.

3.2 Pre-Independence Era

In the history of labour legislation in India, there was a period when the labour enactment were initiated for regulating the relationship rather than ‘protection’ of labour from exploitation. The Employers and Workmen’s (Disputes) Act of 1860 rendered workmen liable to criminal penalties for breach of conduct with workers. Any way, latter half of
19th Century, however, may be said to be the beginning of labour legislation in India.

During this period, the legislative measures took turn from the regulatory role to a protective role. The movement to improve the working conditions of Indian labour started with the passing of the first Indian Factories Act in 1881. The rise of factories in India in the latter half of the 19th Century, Inspector-in-charge of the Bombay Cotton Dept. in his report in 1972-73 firstly, raised the question for the provision of legislation to regulate working conditions in factories. The Act applied only to those factories employing not less than hundred persons and using power. Adult workers, was not protected in any manner, but the statute recognized the right of the Government to safeguard the interests of the workers by means of suitable legislation. The Mulak Commission was appointed by the Govt. of Bombay in 1884. The commission reviewed the factories Act of 1881. Mr. N.M.Lokhande founder of the Bombay Mill Hands Association brought the workmen together on two different occasions in 1884 and presented a charter of Demands on their behalf to the commission. The demand for weekly holiday was considered by the Bombay Mill owners Association under pressure from labours. The Factories (Amendment) Act 1891 was passed as a result of the recommendations of the Bombay Factory Commission of 1884 and the Factory labour commission of 1890. The Act applied to all factories employing fifty persons or more. Provisions relating to better ventilation cleanliness and preventing over crowding in factories were also made.
The Government of India entered in the field of labour welfare when it appointed a commission in 1907 to study the working conditions of labour in industry and make recommendations. A more comprehensive Act was introduced in 1911 on the basis of the recommendations of this commission. The Indian Factories Act of 1911 was made applicable also to seasonal factories working for less than 4 months in a year. The hours of work of an adult worker were specified for the first time to 12 hours a day. Certain provisions were also made for the health and safety of the industrial workers. In the meanwhile, voluntary action in the field of labour welfare also made considerable progress. Group efforts come to the forefront. Bombay Postal union (1907) introduced mutual insurance schemes, night schools education stipends etc. In 1910, the Kamgar Hitvardhak Sabha was established which helped the workers in various ways. The establishment of International labour organization in 1919, was another important landmark in the history of labour welfare movement in our country as also in many other countries. The ILO declared that universal peace could be established only if it was based upon social justice. The economic depression also did much to temper the interest which the war had kindled. The government as well as industrialists were prompted to take active interest in the welfare work due to the discontent and industrial unrest that prevailed in the country and to some extent due to moral pressure brought to hear on them by the work of the ILO. The formation of AITUC (1920), the first central Trade Union Organization in the country also helped in furthering the cause of welfare movement.
As a result of all these developments, the importance of labour in economic and social reconstruction of the world was recognized. All these factors created the background for the enactment of a new factory law. Following industrial unrest in 1919 and 1920, the govt. of India passed the Indian Factories (Amendment) Act 1922. Which was made applicable to all the factories using power and employing not less than 20 persons. The hours of work for adult workers were limited to 60 hours in a week and 11 hours in a day. Factory inspection was improved by the appointment of full time factory inspectors possessing technical qualifications. Till the second world war very little was done by the government of India in the field of labour welfare. In 1922 an, All India welfare conference was held at Bombay and it discussed certain important and interesting problems and recommended the co-ordination of the entire welfare work. In 1926, as a result of a convention of the International labour conference, an enquiry was undertaken on the question of welfare work and the provincial Government were asked to collect information on such work. Thus, the central Government did nothing for a long time, except holding labour conference and mailing recommendations. The Royal commission on labour under the chairmanship of J.H. Whitely was appointed in 1928 to Enquirer into the report on the existing conditions of labour in industrial undertakings in British India. The commission made an in-depth survey of different aspects of health, efficiency, welfare, standard of living conditions of work and relation between employers and employees and submitted its monumental report in March 1931. It recommended the enactment of a
number of legislation’s relating to payment of wages in time, minimum wages, need for health insurance for industrial workers etc. Most of he recommendations of this commission were accepted by the Government and they constituted the powerful influence that led to the enactment of the Factories Act 1934.

Apart from amending and consolidating all provisions enactment’s, the Factories Act 1934, introduced a number of important changes. It drew a distinction between perennial and seasonal factories. The Act also made provision for the first time in factory legislation, welfare measures were also thought of and provision was made to provide rest sheds and creates in big factories.

Apart from the central Government committee, a number of committees were also set up by the provincial Government to inquire into the working conditions of labour including the provision of housing facilities. Some of these committees were-Bombay Textile labour Enquiry Committee (1937), the Central Provinces Textiles labour Enquirer Committee (1938) etc. These committee conducted detailed investigation regarding housing facilities available in various industries and drew pointed attention of the Government towards inadequate and unsatisfactory housing conditions of industrial workers. Another milestone in the field of labour welfare was reached with the appointment of the labour Investigation Committee during war period in 1944. This committee was asked to investigate the problem relating to wages and earnings, employment, housing and social conditions of
workers. The committee went into details of the working conditions including welfare measures available to the workers employed in a large number of factories. The committee considered different areas of labour welfare such as housing policy, rest and recreation, occupational diseases, relief in case of old age and death, canteens, medical aid, washing and bathing facilities, and educational facilities etc.

For the first time in India, this committee highlighted not only the importance of welfare measures for the workers in improving their social and economical life, but also emphasized the need for strengthening the enforcement machinery for effective implementation of various lows. This led to amend the Factories Act, 1934. In May 1944, the grand charter of labour, popularly known as the Declaration of Philadelphia, was adopted by the member states of the ILO. Amongst its aims and objects, the Declaration said that labour is not a commodity, and that it was entitled to a fair deal as an active participant in any program of economic development or social reconstruction. The Reduction of 1947 of the ILO and recommendation No. 102 concerning welfare facilities for workers of the International labour conference of 1956, influenced the scope of labour welfare and labour welfare legislation in India.

The 2nd world war brought about for reaching consequences in all fields of activities and strengthened the welfare movement, and benefits regulating from a proper regard for the health and well being of the workers were gradually recognized and employers co-operated with the
government in making the provision of improved amenities. The need for sustained and increased production gave a fillip to Indian industry. The number of factories and factory employees increased enormously. The Government took the initiative and actively promoted various welfare activities among the industrial workers. A number of legislation for the welfare of the working classes were also enacted.

3.3 Post Independence Era

After independence, the labour welfare movement acquired new dimensions. It was realized that labour welfare had a positive role to play in increasing production and reducing industrial tensions. The state began to realize its social responsibilities towards labour and weaker sections of the society. The emergence of different Central Trade Unions Organizations –INTUC (1947) HMS (1948) UTU (1949) BMS(1955), CITU (1970) etc. gave a further fillip to growth of labour welfare program. In December, 1947, an industrial Trace Resolution was adopted by the representative of the Government, employers and workers for one reconstruction national economy. The Directive principles of state policy of the Indian Constitution, particularly Articles 41, 42 and 43 have also emphasized the labour welfare mainly on the basis of the recommendations of the Rege committee the government of India enacted the Factories Act 1948. To draft this important piece of legislation, the services of Sir Wilfred Gallbrat, then chief Inspector of Factories U.K. were utilized. He drafted the legislation in detail using his wide experience of Factory Law. The Factory Act 1948 came into effect from 1 April 1949. It is a comprehensive piece of legislation.
The Act applies to all establishments employing 10 or more workers where power is used and 20 or more workers where power is not used and where a manufacturing process is being carried on. However, section 85 of the Act empowers the state Government to extend all or any of the provision of the Act to any establishment where the manufacturing is being carried on irrespective of the number of workers employed there in. The only exception is that an establishment where the work is done solely by the members of a family. It contains many important provisions regarding health, safety, hours of work etc. The responsibility for administration of the Act rests with the state Governments who administer it through their own Factory Inspectors. The Director General of Factory Advice service and Labour Institute Co-ordinate the work of enforcement of factories Act through out the country, frame model, Rules and suggest amendments to the Act and the Rules in consultation with the state Chief Inspector of Factories.

3.4 **Plans and Labour Welfare**

Immediately after India become a Democratic Republic, the concept of planned economic development through planning was accepted and a planning commission set up in March 1950. The commission was required to make an assessment of the material, capital and human resources of the country and for mullet plans for the “most effective and balanced utilization of the country’s resources. Thus, started an era of economic planning with re-arrangements of resources and allocation of priorities in such a manner as to ensue a balanced development of both economic and social factors. Various labour welfare activities were
incorporated in different Five years plans. A study of these activities may be carried on as follows - The first five year plan (1951-56) paid considerable attention to the welfare of the working classes and provision of Rs.6.74 crores was made for labour welfare programs. It laid emphasis on the development of welfare facilities for avoidance of industrial dispute and for creating mutual goodwill and understanding. During this period the Employees Provident Fund Act, 1952 were enacted. The subsidized housing schemes for industrial workers was employed in 1952. The state Governments passed various laws regulating housing for industrial labour. For e.g. Bombay Housing Board Act 1948, the Uttar Pradesh Industrial Housing Act 1955 and Madhya Pradesh Housing Board Act. 1950 etc. During the second five year plan (1956-61), the importance of better working conditions had been progressively recognized and a provision for Rs. 29 corers was made. Greater stress was laid on the creation of an industrial democracy. The coverage of the ESI Scheme was also extended bringing in its fold more workers. During this period, various states enacted legislation to regulate the working conditions in shops and establishments. The second five year plan period also saw a number of enactment’s in the field of industrial housing by various state Governments.

3.5 Appointment of the study team on labour welfare

In December 1959 the Union labour minister decided to appoint a study team to examine the entire range of labour welfare activities and make recommendations on which the labour welfare schemes in the 3rd Five
year plan could be based. This study which contribute to improve the conditions under which workers are employed. It realized that in a progressive society, the needs and aspirations of the workers increased rapidly and legislation could not keep pace with it. The 3rd Five year plan 1961-66 also stressed the need for more effective implementation of various statutory welfare provisions and provision for Rs.71.08 crores for labour welfare and craftsmen training program was made. It recommended improvement in working conditions and emphasized higher productivity and more efficiency on the part of workers. It called upon the state Government to strengthen the Factory Inspectorial for effective implementation of various legislation’s. The plan also recommended setting up of co-operative credit societies and Consumers’ stores for industrial workers, and emphasized the role of trade unions and voluntary organizations in administering such co-operatives. Some of the legislative measures during this period included the Apprentices Act, 1961. Payment of Bonus Act, 1965 etc. Some of the State Governments have also passed Labour Welfare Funds Acts.

The 4th Five year plan (1969-74) provided for the expansion of the ESI to cover medical facilities to the families of insured persons, and to cover shops and commercial establishments in selected centres. During the 4th plan period the contract labour (Regulation and Abolition) Act 1970, the payment of Gratuity Act 1972, Employees Family Pension Scheme etc were passed. The plan directed that programs for welfare centers holiday homes and recreational centers should be included under
the state plan and stress he laid on strengthening labour administration machinery for effective enforcement of labour laws.

In the 5\textsuperscript{th} Five-Year plan (1974-79) an amount of Rs. 42.37 crores was provided for labour welfare. In the 6\textsuperscript{th} Five Year plan (1980-85) stress was laid on effective implementation of the measures completed in the various legislative enactment's. Workers Education Programs were extended and their quality improved. In the 6\textsuperscript{th} Five year plan (1980-85) an outlay of Rs. 161.9 crores has been provided for labour and labour welfare programs for the period 1980-85. Of this, the central outlay would be of the order of Rs. 78.5 crores and the remaining Rs. 83.4 crores being accounted for by states and Union territories. The 7\textsuperscript{th} plan (1985-90) has to consolidate the gains of past investment spread over three and half decades of planning and to launch the country on the path to further development geared to equity removal of deprivation and a tangible rise in level of social welfare and social consumption, especially of the disadvantaged sections of the population. In view of this 7\textsuperscript{th} plan emphasized that without greater efficiency in the management of the existing resources and assets created at huge cost in the course of the last three decades of planning, it would be difficult to generate resources for stepping up investments.

The planning Commission in its mid term appraisal of the 7\textsuperscript{th} plan (1985-90) while favoring a midcourse correction in industrial strategy for consolidating the gains of liberalization, has given particular emphasis on the need of a new approach which recognized the labour
welfare and provided suitable incentive to the workers for tackling the issue of surplus labour. The committee on labour welfare (1966-69) set up by the government under the chairmanship of Shri. R.K. Malviya reviewed at length the functioning of various statutory and non-statutory welfare schemes in industrial establishment, both in the public and private sectors. The National commission on labour also covered several aspects of welfare services in different establishments and made useful suggestion for their improvements.

The provision of social security in the forms of provident fund, gratuity and pension under various laws and industrial housing schemes are some of the other prominent measures undertaken by the Central Government to promote welfare of the working class.

The above survey of the labour welfare movement shows that there are schemes of two types in the development of labour welfare. Firstly, a movement through voluntary efforts by some of the employers and secondly, the legislative enactment's. In the field of labour welfare, the government is now playing a triple role that of a legislator, a administrators and promoter. Inspite of all these efforts the welfare work, in India is still considerably below the standard setup in other countries. However, it has come to stay as an accepted features of employment conditions and is bound to make rapid progress in the years to come, especially when the Indian Republic is wedded to the ideal of a welfare state with socialistic objectives.
3.10 **Legislative Frame work of Labour Welfare**

In India, Schemes of Labour Welfare were introduced for the first time as stated earlier, during the 2nd world war in ordinance, ammunition and other factories engaged in war production. With the achievement of independence in 1947 and emergence of the country as a Republic wedded to the ideal of a welfare state and socialistic pattern of society, efforts in this direction were intensified. A discernible feature of Government policy in this regard has been to bring matters connected with workers welfare more and more within the purview of legislation setting appropriate standards. The Rege Committee has classified statutory welfare measures into two parts, namely: a) those which have to be provided irrespective of the size of the establishment or number of persons employed there in, such as washing, storing and drying of clothing, first aid, drinking water, latrine and urinals and b) those which are to be subject to employment of a specified number of persons such as, Canteen, rest shelter and ambulance rooms. The scopes of various Act differ from one industry to another and between different types of welfare amenities. The Act wise statutory welfare amenities provided under various Acts, may be stated as under –

3.6.1 **The Factories Act 1948**

The working of the Factories Act 1934 which was in operation prior to 1948 having been found unsatisfactory and its provisions were inadequate in the changed conditions of growing industrial activities in the country in post independence period, the Government of India proposed and then existing central legislature enacted a comprehensive
Factories Act in September, 1948. While the main object of the Act was, and is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories, it seeks to prevent haphazard growth of factories through the provisions there in relating to approval of plans by the chief Inspector of Factories before the erection of factories building started. The Act extends to whole of India and applies to all establishments employing 10 or more workers where power is used and to establishments employing 20 or more workers where power is not used. The state Governments are however, empowered to apply the provisions of the Act to any premises irrespective of the employment therein, where manufacturing process is carried on with or without the aid of power except where the work is done by the workers solely with the help of the members of his family.

The provision relating to welfare facilities to be provided for workers are contained in Chapter V of the Factories Act. These cover such items as washing facilities, facility of storing and drying clothes, facilities for sitting, first-aid appliances, canteens (in case of factories employing over 20 workers) suitable shelters or restrooms, lunch rooms (in case of factories employing over 150 workers) Factories employing 500 or more workers are required to appoint labour welfare officers to look after the welfare of workers. The state Governments are empowered to prescribed the duties, qualifications and service conditions of these officers and also to order the management of any factory or class of factories to associate the representatives of employees in matters relating to provision of welfare facilities.
The Loksabha on March 20th 1987 passed the Bill amending the Factories Act 1948, incorporating modifications to ensure the health safety and welfare of workers in factories. Moving the Bill in the House a day earlier, the then Union Minister of state for labour, said that substantial modernization and innovation in the countries industrial scene had necessitated drastic changes in the Factories Act, which was last amended in 1976 to strong then the provisions relating to health and safety at work. Several chemical industries which deal with hazardous and toxic substances, going on stream had brought with them problems of industrial safety and occupational hazardous. The factories (Amendment) Bill, 1987 provides specially for safeguards to be adopted against use and handling of hazardous substances by the occupier of the factories and lays, down emergency standards and measures for the purpose. If further laid down procedure for locating hazardous industries ensuring that toxic and pollution substances do cause adverse effects on the environment and society. The Bill also included a provision relating to workers participation in safety management. The Bill Seeks to restrict the night employment of young persons by providing that no adolescent below the age of 17 years world be allowed to be employed or permitted to work in any factory at night between 10 pm to 7 am. The amending Bill also provided protection regarding the use of portable electric lights, over crowding, ventilation and proper temperature of work places. The Bill empowered the union Government to appoint an Inquiry Committee, in the event of an occurrence of an extra ordinary situation, to investigate the health and
safety standards prevalent in the factory and ascertain causes to any failure of neglect in the adoption of stipulated regulations.

3.6.2. **The Apprentice Act 1961**

The Apprentices Act 1961 received the assent of the president on 12th Dec. 1961. It comes into force on March 1, 1962 by replacing the apprentices Act 1850. The main object of the Act is to provide for the regulation and control of training of apprentices in trades and for matters connected there with. The Act extends to the Whole of India. Under the Act, an apprentice has been defined as a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship. Where apprentices are undergoing training in a factory or mine, the provision of the Chapter III IV and V of the Factories Act, 1948 and the provisions of Chapter V of the Mines Act 1952 apply in respect of the Health, safety and welfare of the apprentices, as if they were workers within the meaning of the Acts. If personal injury is caused to an apprentice by accident arising out of the course of his training as an apprentice, his employer is liable to pay compensation which is to be determined and paid in accordance with the provisions of the Workmen’s Compensation Act 1923. Subject to the notification specified in the schedule to the Act.

3.6.3. **The Contract Labour (Regulation and Abolition) Act 1970**

The object of the Act is to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances. It extends to the whole of India and has come into force
with effect from 10\textsuperscript{th} Feb.1971. The Act applies to it every establishment in which twenty or more workmen are employed or were employed on any day of the preceding 12 months as contract labour and every Contractor who employ or who employed twenty or more workmen or any day of the proceeding 12 months. The appropriate Government may, however, extend the provisions of this Act to any establishment or Contractor employing less than 12 workmen after giving two months notice. The Act will however, not apply to establishments in which work only of an intermittent or casual nature is performed.

The Act also provides for the provision of canteens, where one hundred or more contract labours are employed, rest rooms, washing facilities, first aid and other facilities like supply of drinking water latrines etc. If a contractor does not provide within prescribed time any amenity required to be provided under the Act for the benefit of the contract labour employed in an establishment the principal employer shall be liable to provide such amenity with in such time as may be prescribed and he may recover from the contractor all expenses incurred by him in providing the amenity to the contract labour.

3.10 Social Security in terms of Labour Welfare

The concept of social security is essentially related to the high ideals of human dignity and social justice. In a welfare state, comprehensive social security schemes take care of persons from womb to tomb. It is one of the pillars on a which the structure of the welfare state rests.
Article 38 of the Indian constitution directs the state to secure a social order for the promotion of the welfare of the people. The 44th Amendment Act 1978 has widened the scope of Article 38 and it provided further that in particular, the state shall strive to minimize the inequalities in income and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals, but also amongst group of persons residing in different parts of the country or engaged in different vocations.

Social security legislation in India for industrial workers consists of the following enactment. i) The workmen compensation Act 1923 ii) The Employee’s state Insurance Act 1948, iii) The employees Provident Funds and Miscellaneous provisions Act 1952. The Payment of Gratuity Act 1972. Each legislative enactment prescribes for the social security benefit in order to meet or combat against a social risk to which a worker is exposed. The Workmen’s Compensation Act 1923 :-

Industrialization expansion or modification of existing factories, and setting up of new industries as well as use of sophisticated machinery and plants in industry have given rise to industrial hazards and accidents. Workers need protection against industrial accidents which occur in every country. Prior to passing of workmen’s Compensation Act 1923 it was almost impossible on the part of an injured workman to recover any compensation for any injury which he has sustained in the course of his employment. In 1921, a committee was appointed by the Govt. of India consisting of members of legislatures, medical profession, employers, Insurance experts to examine the ILO Convention on
Employment Injury of 1921. Though the Committee resolved that the
Convention could not be rectified by India in the original form, yet the
public opinion in favour of protection against employment, injury
received strong support, as a result the Workmen's Compensation Act
1923 was passed in March 1923 and came into force on July, 1924.
Subsequently, there were number of amendments to the Act.

The object of the Act is to impose an obligation upon employers to pay
compensation to workers or their families for accidents (including
certain occupational diseases) arising out of and in course of
employment and resulting in death or disablement for a period
exceeding 3 days. The Act was amendment by the Amending Act of
1976 on May 21, 1976 enhancing the wage limit from 500 Rs to 1000
Rs. Per month. The Act was further amended by the Act of 1984,
abolishing the condition of wage limit of Rs.1000/- for coverage under
the Act with effect from July 1, 1984. The benefits provided under the
Act are not available to those pensions who are covered under the ESI
Act 1948. Under Sub Section (3) of section 2 of the Act, the state
Governments are empower to add to schedule IIInd any class of persons
employed in any occupation and to any occupational disease in Schedule
III, after giving the three months notice in Official Gazette. The Act
provides for payment of compensation to the workmen incase of
temporary/ permanent disablement and to his dependent incase of death.
The minimum amount of compensation for death is Rs.20000 and for
permanent disablement Rs. 24000/- The maximum amount for
disablement can go up to Rs. 1,14,000/- while that for death it can go up
to Rs. 91000 depending on the wages and age of the workmen at the
time of his death. In case of temporary disablement, compensation at
the rate of 50 percent of wages is payable for a maximum period of 5
years. But no compensation is however, payable if the injury, not
resulting in death is caused by the fault of the worker. Besides
compensation is payable in the case of workers who contract certain
occupation diseases.

3.8  The Employee’s Sate Insurance Act 1948

The ESI Act 1948 is a pioneering measure in the field of social
insurance in the country. The question formulating a health insurance
scheme received the attention of the Government of India in 1927, when
the subject of health insurance for industrial workers was first discussed
by the Indian legislature in light of two conventions which were adopted
by the Indian Labour Conference in its 10th session. The Royal
Commission on labour (1931) in its report also stressed the need for
health insurance for industrial workers in India. The Government of
India at that time, was not in favour of any such scheme, due to reasons
of migratory character of workers and financial difficulties etc.

During the war period the Government had under its consideration a
compulsory health insurance scheme, for which funds were to be
collected from both employers and employees, the government taking
the responsibility for the administration of the scheme. In pursuance
there of the workers of preparing details of the compulsory health
insurance of industrial workers was entrusted in March 1943 to Prof.
B.P. Adarkar, an officer on special duty. He submitted his report in December 1944. The recommendations of Prof. Adarkar were based on compulsory contributory principles, contributions by the workers depending upon their earnings in slabs. In 1945, the Govt. of India appointed two ILO experts Mr. Stack and Mr. R. Rao to give their expert opinion on Adarkar Scheme. The expert expressed their view in favour of Adarkar’s scheme and recommended its application. This report was considered by the Government in consultation with the State Governments and other interest concerned which gave birth to the worker’s state Insurance Bill 1946. The bill was further referred to a select committee on November 12, 1947. The select committee modified certain provisions making it applicable to all the employees in the factory and changed the name of “Bill from “Workmen State Insurance Bill” to Employees state Insurance Bill. Finally, the ESI Act was passed in 1948.

The ESI Act was first amended in 1966 to enlarge the scope of the scheme and streamline and simplify the procedure relating to recovery of contribution and payment of benefits. The Act was again amended in 1975 with a view to enhance wage limit for coverage of employees under the scheme from Rs. 500 to Rs. 1000 per month along with revision of rates of contribution etc. The Act was further amended in 1984 with a view to raise the wage limit for coverage under the scheme from Rs. 1000/- to Rs. 1600/- per month with effect from January 27, 1985.
Benefits – (ESI Scheme)

Freedom from economic fear is a great freedom and all special security legislation attack this fear and seek to annihilate it. The benefits conferred by the provision of the Act attack this fear and seek to remove it. The benefits proposed for insured persons by this schemes are –

i) Sickness Benefit
ii) Maternity Benefit
iii) Disablement Benefit
iv) Dependent Benefit
v) Medical Benefit.

An insured person who is entitled to benefits under the scheme is not eligible to claim similar benefits under the workmen compensation Act 1923 or the state Acts relating to the maternity benefits.

3.9 The Employee’s Provident Funds and Miscellaneous Provision Act 1952

The Employee’s Provident Funds and Miscellaneous provisions Act provides for the Institution of compulsory provident funds for employees in factories or other establishments with the object of making “some provision for safeguarding the future of workers after be retires, for the dependents in case of his early death, and to cultivate among workers the spirit of saving.” On a review of the working of the scheme over the years, it was found that PF was no doubt an effective oldage and survivorship benefit, but in the event of premature death of the
employees, the accumulations in the Provident Fund might not be adequate to render adequate and long term protection to his family. This led to introduction of the Employee’s Family Pension Scheme with effect from March 1, 1971. The Act was further amended in 1976 with a view to introduce an insurance to cover linked to the deposits in the Fund in the credit of the deceased worker. The Employees Deposit linked Insurance Scheme was accordingly framed and introduced with effect from August 1, 1976.

The Act, which initially applied to six major industries such as cement, cigarettes, electrical, mechanical and general engineering products iron and steel, paper and textile in 1952, is now applicable to 173 industries and classes of establishments employing do or more persons. However, any newly started undertaking remains exempted for a period of five years if it employees less than 50 employees and for three years if it employs 50 or more persons. Once the establishment covered under the Act, it remain continue, to be so covered un less the number of persons employed is reduced to less than 85 for a period of persons employed is reduced to less than 15 for a period continuous period of one year. The Act does not, however, apply to i) establishment registered under the Co-operative Societies Act, 1912, if the establishment employs less than 50 persons and work without the aid of power. ii) tea plantations in state of Assam and iii) charitable institutions. The total number of establishments including with exempted and un-exempted establishments was 1,51,936 affording shelter to 127-61 lakhs of subscribers as on September 1984.
The employee’s statutory contribution to the Fund was originally fixed at 6 percent of the basic wages, dearness allowance including cash value of food concession and retaining allowance (if any). However, with a view to provide better and more substantial social security benefits to more and more number of workers, the rate of contribution was raised to 8 percent, which was applicable to 108 industries with effect from September 1, 1983.

3.10 **The Employee’s Family Pension Scheme 1971**

With a view to providing substantial long term protection to the family of the worker member who dies prematurely while in service, as scheme of Family Pension-cum life insurance come into force with effect from March 1, 1971. The scheme is applicable compulsorily to all the employees, who become members of the Employee’s Provident Fund Scheme on or after March 1, 1971. But it is optioned to those who had become members of the provident fund prior to that date. The total number of subscribers covered under the family pension scheme, as on 30th September, 1984 were 82.05 lakhs. The scheme is financed by diverting 1 1/6 percent of pay of the employees from out of their share of contribution towards Provident Fund with an equal amount from employer’s share. The central Government also contributes to the family pension fund at 1 1/6 percent of the pay of the member and also bear the expenditure on the administration of the scheme. All money belonging to Family pension Fund is kept in deposits in “Public Account” and interest at the rate of 7½ percent per annum is allowed.
there on with effect from April 1, 1981. Prior to this, the rate of interest was 5½ percent per annum.

**The benefits provided under the scheme are**

**ii) Family Pension**

If a member of the scheme dies during reckonable service before attaining the age of 60 years. Family pension will be paid at the prescribed rates. Provided the member had contributed to the Family Pension is to be payable (a) to the widow or widower up to the date of death or remarriage whichever is earlier (b) failing the above, to the eldest surviving unmarried daughter, until she attains the age of 21 years or marries, whichever is earlier.

**ii) Life Assurance Benefit**

A Lump sum amount of Rs. 2000 will be payable to his/her family as life assurance benefit subject to condition that a member has contributed to the family pension fund for a period not less than one year, dies while in reckonable service.

**iii) Retirement-cum-withdrawal Benefit**

The retirement cum withdrawal benefit because payable to the members either on attaining the age of 60 years or on cessation of membership from the family pension fund before attaining the age of 60 years for reasons other than death provided the member has contributed to the fund for not less than one year. The rate specified for retirement-cum-withdrawal benefit varies with
number of full years of contributions paid subject to minimum of Rs. 110 (with one year contribution) and a maximum of Rs. 9000 (with 40 years contribution).

The scheme has been amended to liberalize the benefits provided under the Act with effect from January 1, 1983 giving additional facilities of a) Remittance of family pension straight in the bank account of the pensioner every month. c) Remittance of family pension up to Rs. 250 per month through money order to the pensioner and c) one time ad-hoc relief ranges from Rs. 20 to Rs. 35 has also been granted to the family pensioners as on March 31, 1982. In addition, an ad-hoc annual increase ranging from Rs. 3 to Rs. 10 shall also be paid to those who are in receipt of pension for one year or more.

3.11 Employees Deposit linked Insurance scheme, 1976

The scheme is applicable to all factories, establishment to which the Employees Provident Fund and Misc. Provisions Act 1952 applies. It was brought into force with effect from August 1, 1976. The Scheme provides that in the event of the death of an employee who is a member of the EPF scheme or of the exempted provident fund, the persons entitled to receive the provident fund accumulations are paid an additional amount equal to the average balance in the PF account of the deceased, during the preceding three years, subject to a maximum of Rs.10000. The amount payable will be deposited in the Saving Bank Account to be opened in the name of the beneficiary in any Nationalized
Bank. The special feature of the scheme is that the employee is not required to make any contribution to the insurance fund, but he is required to keep a minimum average balance of Rs. 1000 in the provident fund so as to entitled him to the benefit under this scheme.

All these three schemes are administered by the Central Board of trustees a tripartite body consisting of representative of employers and employees and persons nominated by the Central and state Governments. The Central Provident Fund Commissioner is the Chief Executive officer of the organization and secretary to the Central Board of trustees. Apart from the central office, there are at present 16 regional offices and 29 sub regional offices functioning in various states for implementation of the Act, and the schemes thereunder.

In pursuance of a recommendation made by the “Public Accounts Committee” in its 110 report, the Ministry of labour appointed a high level committee under the chairmanship of Shri. G. Ramrajan in April 1980 to review of the working of the EPF organization with special reference to the problems of mounting arrears of provident fund contributions. The committee submitted its report on January 28, 1987 and made some important recommendations including the extensions of the average of the scheme to all establishments employing ten or more persons regardless of industry in which they were engaged and all establishments employing more than 100 workers may be allowed to manage all the schemes under the act through a Board of Trustees etc.
3.12 The Payment of Gratuity Act 1972

Gratuity is a kind of retirement benefit just like Provident fund or pension. It has been concerned as a provision for do age and reward for good efficient and faithful service for a considerable period. In the early days, gratuity was considered as a payment to usually made by an employer at his own will and pleasure. In course of time, gratuity came to be paid as a result of bilateral agreements or industrial adjudication’s as a legal claim. Before the enactment of the Payment of Gratuity Act 1972, the first central legislation on the subject was the working Journalists (Conditions of service) and miscellaneous provisions Act 1955. Since the enactment of this Act in Kerala and W.Bengal, some other states have also voiced their intention for similar legislation, it became necessary to have a central legislation to ensure a uniform pattern of payment of gratuity to the employee throughout the country. The proposal for central legislation on gratuity was discussed in labour ministers conference and also in Indian Labour conference held in New Delhi on August, 24-25., 1971 and October 22-23, 1971 respectively. The consensus was reached in these two conferences and consequently the payment of gratuity Act 1972 was passed in light of select committee recommendations.

The Act applies to every factory, mine, oilfield, plantation port and railway, shop and other establishments in which 10 or more persons are working or were working on any day of preceding 12 months and such other establishments in which 10 or more persons are working or were working on any day of preceding 12 months as the Central Govt. notify
in this behalf. The benefit under the Act is available to a person who is
drawing wages not exceeding Rs. 1600 per month. (w.e.f. July 1, 1984
instead of Rs. 1000 per month) and has completed 5 years of
continuous or death or disablement. The condition of continuous,
service of 5 years, however, does not apply in the case of death or
disablement. If an employee has been in service for 5 years on a
monthly salary not exceeding Rs. 1600 – he will not loose his right
when the ways cross the marks.

A Bill to amend further the payment of Gratuity Act 1972 enlarging
coverage, fixing a monetary ceiling of Rs. 50,000/- and making the
penalties more stringent, was introduced in the Rajya Sabha on March
18, 1987 by the Minister of labour for state, Shri. P.S. Sangama some of
the important amendments are - The coverage of the Act is being
extended to persons drawing wages up to Rs. 2500 per month and an
enabling provision is being made for raising the wage limit for coverage
from time to time. A provision is also being made for compulsory
insurance of employers liability to pay gratuity fund under the Act or in
the alternative for the setting up of a Gratuity fund under the provisions
of the Act in relation to establishment employing 500 or more persons.
A provision is also being made for payment of simple interest at a
specified rate, if the amount of gratuity is not paid within 30 days from
the date it becomes payable penalties prescribed under the Act are being
made more stringent.
Gratuity Trust Fund shall be established. The Indian Labour Conference held in November 1985 had recommended that a provision for compulsory insurance be incorporated in the Act.

3.13 Recent Amendments is Employees Provident Fund and the Family Pension Fund Schemes

The government has recently thought that the Employees Provident Fund and the Family Pension Schemes should be recognized and reoriented to provide for more severe penalties in cases of default. The Amendment Act of 1973 provides that if any amount is due from an employer in respect of the employees' contribution for more than six months, the amount so due shall be paid in priority to all other debts. The Act also provides for enhanced punishment in certain cases after previous conviction and makes certain offences cognizable. No court shall take cognizance of any offence punishable under the Act except with the previous sanction of the Central Provident Fund Commissioner. In case an employer is convicted for default, the court may in addition to the punishment, order him to pay the amount. Similarly various amendments have been made in other social and welfare enactment.

Finally, there cannot be two opinions that the main object of the present-day labour policy is humanitarian, economic as well as civil. Humanitarian – because it aims at providing certain facilities and amenities of life to the workers and thereby boosts up productivity besides maintaining a harmonious relationship in industry, civil because
it provides a sense of dignity and responsibility among the workers so as to make them good citizens.

3.14 **Labour Legislation – Proposed amendments for common good**

The bills amending the industrial disputes Act 1947 and the Trade Union Act 1926 have aroused much curiosity because trade unions of prime importance has been the provision to recognize a collective bargaining agent which exists only in Maharashtra recognition Trade Union prevention of unfair labour practices Act 1971. This provision had been long overdue in view of the multiplicity of Trade Union. Under the MRTU and PULP Act a union is eligible for applying for recognition, if it has a minimum membership of 30 percent at least for a period of six months. The new bill provides a modified version of this provision by raising this requirements of minimum membership to 55 to 40 percent. The majority unions have not been altogether eliminated from the collective bargaining process. They would be members of the bargaining council to be setup for the purpose of negotiations with the management. While the Union with the highest membership will be the principle bargaining agent, the minority unions will be associated bargaining agents in the bargaining council in proportion of their relative strength. Thus, the minority unions right to representation also has been recognized. The term of the principal collective bargaining agent will be for three years.
The root cause of proliferation of trade unions in India has been the
 provision in the Trade Union Act 1926, that seven persons conform a
 union. This provision is now obsolete following increased
 industrialization and a rise in the organized labour since independence.
 A union seeking registration will need a minimum membership of 25
 percent of the labour force in a factory. In those organization where
 there is no union, the bill provides for setting up of a workmen council.
 The government wants to encourage Trade union activities from with in
 the organizations is clear from the amendment of section 22 of Trade
 Union Act 1926. For deciding the principal bargaining agent, Trade
 Union membership has to be verified for which the system has been
 provided in the Bombay Industrial Relations Act and the MRTU 8
 PULP Act 1971 with a slight modification. The procedural
 technicalities laid down for membership verification and very
 complicated and time consuming.

The Bill has proposed to check off system which was suggested by the
 Sanat Mehta Committee. Under this system, each employee is free to
 indicate his preferences for union to the management. The bill has
 proposed more stringent punishment compared to the nominal once
 under the existing Industrial Disputes Act for strikes and lockouts
 declared illegal. Imprisonment has replaced the nominal fine of fifty
 rupees and one thousands rupees respectively incase of illegal strike and
 lockout. The proposed bill has incorporated the recommendations of
 the National commission on labour (1969) about setting up an industrial
 relations commissions (IRC). According to the original scheme the IRC
would under take the two fold tasks of conciliation and adjudication. But the National commission on labour’s suggestion that the IRC should be left free of government intervention to decide whether disputes is to be referred to adjudication has not been explicitly incorporated in the bill. While the direct references to labour court in individual disputes in the event of failure of conciliation or otherwise has been very clearly stated, the procedure for adjudication in collective disputes remains unclear. For the bill only states that “Collective disputes would be resolved through mutual discussions and where collective bargaining fails, the parties shall avail of conciliation, arbitration or adjudication”.

As mentioned earlier, the present system of conciliation has been retained in the present proposal. The IRC would perform the task of adjudication and arbitration. But if absolute power conferred on the government in recommending a reference is going to be retained, the proposed IRC would never be able to expedite the industrial dispute settlement process. If there is any thing to oppose in the bill, it is the procedure of adjudication. Employers and Trade unions should join hands in eliminating the functional distortions in the adjudication system, the root cause of which lies in the irrational power conferred on the government. But on the whole the proposed bills envisage changes that should noble management and labour to look beyond their immediate interests to a common goal.
3.15 Payment of Gratuity Act 1972

In the instant case the respondents retired from the established organization of the appellant were paid gratuity on the basis of the basic wages and dearness allowance only. According to these retired employees the incentive wages partook the character of wages and therefore, they were entitled to payment of balance amount of gratuity on the incentive payment for the period of service rendered by them. The controlling authority took the view that the incentive payment dealt with the piece rate wages and the incentive wages were actually calculated on the basis of pieces and the rates were also fined per piece or unit etc. On that view the controlling Authority held that the incentive wages were actually paid piece rate wages and hence allowed the applications. Appeals filed by the employer before the Appellate Authority were dismissed. The employer preferred writ petitions unsuccessfully. The Division Bench which heard the writ appeals held that the incentive payment would fall within the definition of “wages” for the purpose of payment of Gratuity Act 1972. It also found that there is a difference in the term “wage” employed in the payment of Gratuity Act and the term Basic wages under the Employees’ Provident Funds and Miscellaneous provisions Act 1952. The Civil appeal by special leave came up before the supreme court. Setting aside the decision of the High court, the apex held that the term wages as defined under the Employees’ provident Funds and Miscellaneous provisions Act 1952, made it clear that there was no basic difference between the two expressions used in these two enactment in so far as exclusion of Bonus from the emoluments was concerned. The nomenclature of the
expression Basic wages and wages used in the Employees provident Funds Miscellaneous provisions Act and payment of Gratuity Act, respectively will not alter the contents of the two terms.

The Authority were carried away by considering that Bonus was payable on the basis of output equivalent to certain pieces per man-day. But it was made clear in the scheme that each payment would be made not on the basis of pieces of per man-day nor was it a piece rate work for which wages were paid but it was an additional incentive for payment of bonus in respect of extra work done. The measures of extra work done was indicted by piece and not wages as such that formed the basis of payment. It was not that in respect of each piece any wages were paid but altogether if certain number of pieces were produced an additional incentive was payable at a particular rate. Therefore the authorities had completely missed the scope of the scheme and had incorrectly interpreted the scheme. In as much as both the, High court and Authorities had incorrectly understood the position in low and had wrongly held that the concept of “wages” under the Act would include Bonus. The proviso to the payment of Gratuity Act is to e effect that in case of a piece rated employee the daily wages would be computed in a particular manner but that is not the rate at which the wages were paid in the present case at all. Therefore, the payment of Gratuity Act, was not attracted in the case of present scheme with which the court is concerned. The workmen can not claim gratuity by taking in to account such incentive payment.
3.16 Impact of labour legislation on Economic Development

The economy of India is predominantly agricultural. About 70% of the total population still depends for its livelihood upon agricultural sector, which is carried on with conservative methods and out of date and inefficient implements. The people are mostly illiterate and steeped in ignorance. The effects of increased production are neutralized by the divesting torrent of the population which increases roughly at the rate of two percent per annum. Dispute substantial achievements of the first and second five year plan in the industrial sector, the problems of lop sided development and imbalance in the economy continue. These features of the Indian economy have not been kept in view in the field of labour legislation.

Labour legislation has so far been studied as a branch of labour economics mainly from the point of view of the protection it has afforded to labour. The growth of labour legislation in India has been too rapid since 1947 and a number of laws have been brought on the statute book within the course of five or six years with the result that it has been difficult for industries to digest them. Simultaneously since labour administrations not improved to be desired extent, compliance with the law has not been ensured to the fall extent. The impact of labour legislation on the economic development of the country has been great. While earnings of labour have considerably risen productivity has not responded proportionately. On account of fixation of wages on a compulsory basis through tribunal awards, a rigidity has been introduced in the wage structure and as a result Indian industries are finding it
difficult to face competition in foreign countries. The task of authority in the field of labour is difficult in face of increasing population, uneconomic outlook of the people, growing unemployment and ignorance of labour and employers. A reversal of policy is needed and a halt should be called to further labour legislation in order to get time to consolidate the gains already made. The needs of industries must be recognized and labour should be prepared to take adverse decisions with the same equanimity of mind as it does the favorable ones. Further progress, without giving a jolt of the economic structure, would be possible only by an intelligent co-operation between employees and employers. The need of the workers have to be looked into not in aloofness from the interests of the rest of the community, but in harmony and accord with them. This is the failure of which will be deformed by how far such harmony of interest social legislation has been able to achieve.

After 1920, the non co-operation movement, the exchange difficulties, and a world wide crisis resulted in the decline and the labour was faced with the specter of unemployment and cut in wages. Some recovery took place between 1924-28, and in came the full impact of the economic blizzard that swept over the world. This led to cut in wages, retrenchment program in Europe.

The ushering in of the provincial Autonomy in 1937 coincided with fresh labour unrest in the background of promises made to better labour conditions, by political parties. This led to the appointment of labour Inquiry committees to inquire in to labour conditions. The period of the
war (1939) witnessed great economic and industrial activity, Profits rose and so did wages. The tripartite machinery for settlement of industrial disputes, for organizing labour welfare activities and for taking measures to maximize production was established. The abnormal rise in prices caused real hardship to the worker. But a policy of controls supply of subsidized food grains and grant of dearness allowance helped to mitigate the inconvenience caused. A national government has followed a vigorous labour policy, which has resulted in considerable gains to workers.

The last half a century illustrates that the country’s economy on which the well being of the worker depends and that will being itself are subject to far reaching periodic fluctuations, which are caused by the agricultural situation, the epidemics, finance and political movements and events both internal and external.

The economic well being of the worker depends upon the economic health of the country as a whole. The Royal commission on labour emphasised this fact in no uncertain terms. They observed that “Indian industry is not a world in itself, it is an element and by no means the most important element and by no means the most important element in the life of the community. Care must be taken, therefore to ensure that, in adopting measures for the betterment of industry or of industrial workers, the interests of the community as a whole are not overlooked”. It is therefore, necessary to find out as to how the national income of the country has behaved in the past. The national income estimates will
give quantitative measures of the countries economic activity as well as of the activity of the significant sectors of the economy.
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