(A) Wage: Meaning and definition

Wage is the remuneration paid by the employer to his employees in return for the services rendered by the latter to the former. It is the "cash nexus" that joins the employer to the employee.

The term wage as defined in Oxford Dictionary is the term used for remuneration paid for other than white collar jobs, wage means an amount paid periodically, specially by the day, week, month or time during which workmen or servant is at employer's disposal. The term wage in its most generic and common balance means to compensate in terms of money to the workmen in return of his services rendered to the employer.

Many scholars have defined the term 'wages' in their own way, Economist Ricardo considered 'wages' as "Price" of labour alone Prof. J.R. Hicks has formulated the definition in the following words.
“Wages are the price of labour and thus in the absence of control, they are determined, like all prices, by supply and demand”.

Prof. C. Gide defines. “Wages as the price of labour hired and employed by an entrepreneurs.”

Wage may be defined legally as all remuneration (other than remuneration in respect of overtime work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied were fulfilled be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance but does not include.

i. Any other allowance, which the employee is for the time being entitled to.

ii. The value of any house accommodation or of supply of light, water, medical, attendance order amenity or of any service or of any concessional supply of food grains or their articles.

iii. Any travelling concession.

iv. Any bonus including incentive production and attendance bonus.
v. Any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force.

vi. Any retrenchment concession or any gratuity or other retirement benefit payable to the employee or any ex-gratia payment made to him.

vii. Any commission payable to the employee.

It would not be out of place to note here that in a legislation like the Payment of Bonus Act, 1965 in distinction has been made between “salary and wages”. But wages are used as synonymous to salary. However, on technical grounds a distinction can be made between wages and salary, for salary referees to payment made in connection with professional or semi-professional services, like that of public officials managers and administrators, while wage earners do not own individually the product upon which they work. In this respect they are differentiated from the self employed dependent proprietors and persons contributing managerial ability to the industry and commerce.
Entomologically the term 'wages' means all amount paid periodically especially by the date, or week or the month or time during which the workmen or servant in at the employer's disposal.

The lexicon Webster dictionary define 'wages' as money paid for labour or services usually according to specified intervals of work, as by the hour day, week, the share of national product received by the labour for its, as distinct from the share going to "capital The term "Wages" may refer to a rate of pay for hour week or month price"

The term wage has been defined under the different statues as follows:

(1) Section 2 (vi) of the Payment of Wages Act, 1936 says,

"Wage means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express of employed, were fulfilled, be payable to a person employed in respect of his employment of work done in such employment & includes: .

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a) Any remuneration payable under any award or settlement between the parties or order of the court.

b) Any remuneration to which the person employed is entitled in respect of overtime work or holiday or any leave period,

c) Any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

d) Any sum which by the reason of he termination of employment of the person employed is payable under any law contractor instrument which provides for the payment of such sum whether which or without deductions, but does not provides for the time within which the payment is to be made;

e) Any sum to which he person employed is entitled under any scheme frame under any law for the time being in force;

But does not include: -

1. Any bonus (whether under a scheme of profit sharing or otherwise) which does
not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;

2. The value of any house accommodation or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the state government;

3. Any contribution paid by the employer to any pension or provident fund and the interest which may have accrued there on;

4. Any travelling allowance or the value of any travelling concessions;

5. Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
6. **Any gratuity payable on the termination of the employment in cases other than specified in subclause (d).**

According to section 2 (m) of the Workmen’s Compensation Act, 1923, ‘wages’ includes any privilege or benefit, which is capable of being estimated in money other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workmen towards any person or provident fund or a some paid to a workmen to cover any special expenses entailed on him by the nature of his employment.

According to Section 2 (rr) of the Industrial Disputes Act, 1947 wages means all remuneration capable of being expressed in term of money, which would, if the terms of employment, expresses were fulfilled, be payable to a work done in respect of his employment, or of work one in such employment and includes:

1. Such allowances (including D.A.) as the workmen is for the time being entitled to;
2. The value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

3. Any travelling concession; but does not include-
   a) Any Bonus;
   b) Any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workmen under any law for the time being in force;
   c) Any gratuity on the termination of his services.

4. Any commission payable on the promotion of sales or business or both.

4. Section 2 (22) of the Employee's State Insurance Act, 1948 states,

"Wages means all remuneration paid or payable in cash to an employee in the terms of the contract of employment, express or implied, were fulfilled and includes any payment to an employee in respect of any period of authorized leave, lockout, strike
which is not illegal or lay off and other additional remuneration, if any, paid at intervals not exceeding two months; but does not include-

a) Any contribution paid by the employer to any person fund or provident fund or under this Acts.

b) Any travelling allowance or the value of traveling concession;

c) Any sum paid to the person employed to defray special expenses entailed on him by the nature of his employments;

d) Any gratuity payable on discharge.

5. Section 2 (b) d the Employee's Provident Funds Act. 1952 says,

"Basic wages means all emoluments which are earned by an employee on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash to him but does not include:-

1. The cash value of any food concession;

2. Any dearness allowance (that is to say, all cash payment by whatever name called paid
to an employee on account of arisen in the cost of living), house rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done is such employment;

3. Any presents made by the employer.

6. According to Section 2 (8) of the Payment of Gratuity Act. 1972 'Wages' means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission house rent allowance, overtime wages and any other allowance.

7. According to Section 2 (h) of the Minimum Wages Act. 1948 'Wages' means all remuneration, capable of being expressed in terms of money which would, if the terms of the contract of employment, express or implied were fulfilled, be capable to a person employed in respect of his employment, or of work done
in such employment and include house rent allowance, but does not include-

1. The value of

   a) Any house accommodation, supply of light water, medical attendance;

   b) Any other amenity or any service excluded by general or special order of the appropriate Govt.

2. Any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance;

3. Any travelling allowance or value of any travelling concession;

4. Any sum paid to the person to defray special expenses entailed on him by the nature of his employment.

5. Any gratuity payable on discharge.

The analysis of this section indicates that the following essential requirements are necessary for wages:

1) Wages include all remuneration paid to an employee including house rent allowance;
2) Wage must be capable of being expressed in terms of money,

3) Wages become due when there is a contract between employer and employee. However, the contract may be expressed or implied,

4) The term and conditions of contract must be fulfilled, or he must have done work assigned to him under such employment.

But the term "wages" does not include the value of:

A. Any house accommodation, supply of water, light and medical attendance, or

B. Any other amenity or service excluded by general or special order of the appropriate Govt. It does not include any contribution to pension fund or any payment under scheme of social insurance, travelling allowance, sum paid to defray special expenses any gratuity payable on discharge.

The term 'wages' has a composite meaning which include all remuneration and other payments payable to an employee, which are not expressly excluded by the provisions of the Act.
From the statutory parts of the definition of wages in various enactments, a chemical analysis from the inclusive and exclusive part is that the term wages is a comprehensive one and includes a privilege or benefit which is capable of being estimated in terms of money.

Only in the industrial dispute Act any 'travelling concession' is included in the definition of wages and not in any other statute and comes either expressly or impliedly under the exclusion part of the definition of ways.

(B) Determination of Wages

The study group for wage policy of the National Commission on Labour observed:

"In determining the minimum wage that a unit must pay, three factors need to be taken into account they are:

1. The needs of the worker and his family
2. Capacity to pay
3. Standard of living of other social groups

The recommendation of the 15th session of the Indian labour conference on this subject considered only the first of the three factors, excluded the
third entirely and allowed the second factor some scope in exceptional circumstances. They were based on the absolute as contrasted with relative to minimum wage fixing”.

It is submitted that the fixation of minimum wages should not be determined in relation to a unit, but with reference to the industry as a whole in the state in which minimum wages are to be fixed. There again different rates may be fixed for different parts of the State depending upon the cost of living index and other factors.

The minimum wages should provide not merely for bare sustenance of life but for preservation of the efficiency of the worker by providing some measure of education, medical requirements and amenities. It should be determined by a judicious balance of different factors like human needs, family earning strength, cost of living and prevailing wage rates for similar work. Care should be taken to see that the wage economy of the area is not disturbed. It should be an all inclusive wage, that is, dearness allowance should from part of it.

The minimum wage should also be regional in character and should cover skilled, semi-skilled and unskilled workers.

At the 15th session of India Labour Conference, held at New Delhi in July 1957, an important Resolution was passed and the following norms were accepted as a guide for all wage fixing authorities including minimum wage committees, wage boards, adjudicators, etc.:

(i) In calculating the minimum wage the standard working class family should be taken to comprise three consumption units for one earner, the earnings of women, children and adolescents being disregarded.

(ii) Minimum food requirements should be calculated on the basis of a net intake 2,700 of calorie;

(iii) Clothing requirements should be estimated on the basis of a per capita consumption of 18 yards per annum, which would give for the average worker’s family of four, a total of 72 yards.
(iv) In respect of housing. The rent corresponding to the minimum area provided for under Government Industrial, Housing Scheme should be taken into consideration in fixing the minimum wages.

(v) Fuel lighting and other miscellaneous items of expenditure should constitute 20% of the total minimum wage.

(vi) Children's education, medical requirements, minimum secretion including festivals / ceremonies and provision for old age, marriage etc should further constitute 25 percent of the total minimum wage\(^2\).

The above sixth ground was added by the Supreme Court in Workman Vs Reptakos Brett and Co Ltd., SCC 271.

Under Section 3 of the Act Minimum Wages Act, 1948 the appropriate government has been empowered to fix the minimum rates of wages payable to employees employed in the scheduled employments and in an employment added to either part-I or part-II of the

schedule by Notification U/S 27. Provided that the appropriate Govt. may in respect of employees employed in an employment specified in part II of the schedule, instead of fixing minimum rates of wages under this clause for the whole state, fix such rate for a part of the state or for any specified class or classes of such employment in the whole state or part thereof. It simply means that in case of employment specified in part II of the schedule the minimum rates of wages needs not be fixed for the entire state. Part of the state may be left out altogether. In case of employment specified in part I, the minimum wages must be fixed for the entire state, no part of the state being omitted. This does not mean that the rates to be fixed should be uniform what is necessary is that minimum rates of wages should be fixed for every part of the state without omission. Section 3 (iv) expressly provides for the fixation of different minimum rates of wages for different localities.

The appropriate Govt. in the manner provided under this Act shall review at such interval at it may think fit, such intervals not exceeding 5 years, the minimum rates of wages so fixed and revise the
minimum rates, if necessary. If the appropriate Govt. for any reason fails to review minimum rates of wages fixed by it within an interval of 5 years, it may do so after the expiry of the said period of 5 years, if necessary, and until the wages are so revised the existing minimum rates before the expiry of 5 years shall be continue to be in force.

It has been provided under the provision of sec. 3 (2) of the Minimum Wage Act that the appropriate Govt. may fix:

a) A minimum rate of wages for time work, hereinafter referred to as ‘a minimum time rate’,

b) A minimum rate of wages for piece work, herein after referred to as ‘a minimum piece rate’,

c) A minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis, hereinafter referred to as a guaranteed time rate,

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d) A minimum rate, whether a (time rate or a piece rate)

To apply in substitution, for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees hereinafter referred to as “overtime rate”.

Sec. 3 (3) of the Minimum Wages Act further provides that in fixing or revising the minimum rates of wages under this sec.:

(A) Different minimum rates of wages may be fixed for:-
   i) Different scheduled employments;
   ii) Different classes of work in the same scheduled employment.
   iii) Adults, adolescents children and apprentices,
   iv) Different localities.

(B) Minimum rate of wages may be fixed by anyone or more of the following wage periods, namely:
   i) By the hour,
   ii) By the day,
   iii) By the month, or

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4 Airfreight Ltd. Vs. State of Karnataka and other, 1999 SCC (L & S) 1185.
iv) By such other larger wage period as may be prescribed and where such rates are fixed by the day or by the months. The manner of calculating wages for a month or a day, as the care may be, may indicated:

Provided that where any wage periods have been fixed U/S 4 of the Payment of Wages Act, 1936 minimum wages shall be fixed on accordance there with.

Thus the Minimum Wages Act undoubtedly confers authority upon the appropriate government to issue notification fixing and revising rates of minimum wages in respect of scheduled industries for the whole or part of the state\(^5\).

**Wage Determination Under Various Market Models:**

As we known there are three important conditions of both factor and product market. There conditions are: (i) monopoly (ii) perfect competition, and (iii) imperfect competition or oligopoly. Permuting these conditions in both the markets we get nine models in which wage determination can be studied. However, such mental gymnastics is not necessary to be performed. We will

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\(^5\) Ibid
study when there is (i) monopoly in both the markets (ii) perfect competition in both markets, and (iii) imperfect competition in both the markets\(^6\).

1. **Wage Determination when there is monopoly in the product market and monopsony in the factor (labour) market.**

   An employer can be the sole producer of a specific product market. He can be a monopolist in buying the labour required to produce that product. This is said to be monopsony of factor market, better known as monopsony. When such condition exist it is clear that the employer will have an upper hand. He will not only charge a high price for his product (this exploiting the consumers) but he will pay less than the marginal productivity of labour. He will create artificial scarcity of goods in the market as also will not employ as many workers as he could. Thus, he will depress the wages if the workers have low mobility, are unorganized and there is no interference from the government, then the workers will have very low wages. The monopolist may

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even pay discriminating wages to different categories of workers.

2. **Wage Determination when there is perfection in both the markets**

We have studied what perfect competition in product market means and what perfect competition in factor market means. On such conditions wages are determined by the forces of demand and supply. The demand for labour is a function of its productivity as also the demand for the product that the labour produces if the demand for the product is high, if the labour cannot be easily substituted with machines, than the demand for workers be high.

The supply of labour will depend upon their numbers as also upon their willingness to take up work. Other things remaining the same, the greater the supply, the lower the wages and higher the wages, the greater the supply. The supply of labour is determined by the mobility of worker, by their quality (education and health) by their motivation (work habits and ethics)

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7 Ibid,
8 Ibid, P. 395
wages will be determined where the M.C. and M.R. (Marginal cost and marginal revenue) are equal. Each homogenous group of labour will have same wage rate. This wage rate will change when supply or demand conditions change.

Collective bargaining cannot raise wages above this level. If they are lower than this level, then it can bring the wages upto that level, if wages are above the equilibrium level unemployment will result, if wages are below the equilibrium level unfilled vacancies will result.

For an individual firm the equilibrium wages level is give. The form will only decide as how many workers it should employ on what wage (Just as the seller in perfect competition does)⁹.

**Wages Determination under Imperfect Competition** -
In imperfect competition there are only a few sellers of a particular type of commodity. The goods produced by there sellers are near substitutes of each other. In such conditions the wages may be determined by different industries in different manner.

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⁹Ibid,
Each industry may have its own collective bargaining with the representatives of the worker's trade union. The wage level need not be the same in all industries. A leader may emerge who may set the wage determination pattern. Other industries will have similar wage pattern deviating slightly. In any case, it is quite possible that the wages paid to the workers (if the trade unions are absent) may be less than the marginal productivity to the workers but not as less as they would have been under monopoly\(^{10}\).

(C) Mode of wage determination

Section 5 of the minimum wages Act, 1948 lays down procedure for fixing and revising the minimum rates of wages. It enunciates two methods for the purpose and the appropriate Govt. can follow either of the two methods, namely:

1) It shall either appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

\(^{10}\) Ibid,
2) It shall be notification in the official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date not less than two months from the date of notification, on which the proposals will be taken into consideration.

After considering the advise of the committee or committees appointed under clause (a) of sub-section (i), or as the case may be, all representations received by it before the date specified in the notification in the official Gazette, fix or, as the case may be revise the minimum rates of wages in respect of each scheduled employment and unless such notification otherwise provides, it shall come into force on the expiry of three months form the date of its issue\textsuperscript{11}.

Provided that where the appropriate Govt. proposes to revise the minimum rates of wages by the made specified in clause (b) of sub-sec (1) the appropriate Govt. shall consult the advisory board also for the purposes of co-coordinating the works of committees.

\textsuperscript{11} Minimum wage Act Sec. 5 (2)
and sub-committees so appointed U/S 5 of the Minimum Wages Act, the appropriate Govt. has to appoint an advisory board. The advisory board is constituted to co-ordinate the work of the committees and sub-committees and to advise the Govt. generally in the matter of fixing and revising the minimum rates. However, in the initial fixation of minimum wages consultation with the advisory board is not compulsory.

For the purposes of advising board the central and state governments in the matter of fixation and revision of minimum rates of wages and other matters under this Act and for coordinating the works of the advisory Boards the central Govt. shall appoint a central advisory board. Thus, the central advisory board is constituted by the central Govt. U/S 8 of the Minimum Wages Act, for the following purposes:

1) To advise the central and state governments in the matters of fixation and revision of minimum rates of wages,

2) To advise on any matters within the scope of this Act,
3) To Co-ordinate the work of the advisory boards\textsuperscript{12}.

The object of sec. 5 is to enable the government to collect date required for fixing the minimum wages, the committee appointed U/S 5 is only an advisory body and Govt. is not bound to accept any of its recommendations. The two different modes of fixing or revising the minimum wages sanctioned respectively by clauses (a) and (b) of sec. 5 are substantially similar. In one, the committees hold enquires and advise in respect of the fixation or revision and the Govt. in the light of the advice, ultimately decides. In the other, the Govt. formulates it proposals, invites representations and after consulting the advisory boards, arrives at its division. Thus sec. 5 provides two modes of procedure for fixing and revising minimum wages and the primary object of both procedures is to enable the Govt. to reach a balanced conclusion with regard to fixation of M.W. Neither of there methods could be called more drastic than the other\textsuperscript{13}.

\textsuperscript{12} Minimum Wages Act, Sec. 7.
\textsuperscript{13} Janswant Rai Beri Vs. State of Punjab AIR 1958 Punj., 425
In Secunderbad club V/s state of Andhra Pradesh\textsuperscript{14}. Where the appellants challenged certain final notifications issued by the Govt. in exercise of power conferred U/S 3 (1) and 5 (2) of the Minimum Wages Act on the grounds that sec. 5 of the Act was ultravires of the constitution, that an opportunity of hearing was not given to the employer before issuance of the final notification, that constitution of advisory board U/S 7 of the Act was not in consonance with sec.9 and the advisory board failed to discharge its duties, that the provision of the Act could not be extended to those scheduled employments the employees of which could form organizations for bargaining their wages, and the Govt. could not fixed higher rates of M.W than those prescribed in the draft notification.

Rejecting the contentions of the appellants and dismissing the writ appeals, the court observed that in respect of the present of case, it cannot be denied that there was material in the form of notification issued earlier in respect of same scheduled employment, it can not therefore, be said that the procedure followed by the

\textsuperscript{14} 1997 (1) (L) 434
Govt. In issuing draft notification, calling and objections from the employers and employees and appointing advisory committee is not proper and is in any way contrary to sec. 5 (1) of the Act. It has to be noticed by the supreme court in Bijay Cotton fuills Ltd. V/S state of Ajmer, 1955 (1) LLJ. 129 (S.C.) and Ms. B.Y Kshatriya V/S S.A.T.B. Kamgar Union 1962 (2) [1] 736 (S.C.)

Sec. 10 empowers the appropriate Govt. to correct clerical or arithmetical mistakes in any order fixing or revising minimum rates of wages V/S under this Act or errors arising from any accidental slips or omission by notification in of the official Gazette. Every such notification shall be placed before the advisory board for information.

Difficulties in fixing a minimum wage but the practicability of fixing a minimum wage is not so simple as it seems to be what is a minimum wage? How should it be determined in the case of various centers and in various industries? What machinery Should be established to enforce if? Should there be minimum wages separately for male and female workers? There
are some of the questions which arise in the discussion of the problem therefore, certain principles have to be followed in coming to the conclusion about a minimum wage.

The labourers have always demanded that minimum wages must be based on a national standard of living. The employers, on the other hand, always put forward the various theories of wages and also raise the slogan that the wages must be paid according to the capacity of the industry to pay. Hence, the difficulty arises as regards the object of fixing a minimum wage. We may say that the object should be to ensure for the workers a living or subsistence wage which may be called just and fair. But the question arises as to what is a just and fair wage. It is not possible to define justice. We can only say as to what is just and what is not, from a relative point of view. A minimum wage, similarly, would depend upon conditions, at different places, and there can not be such a thing as a definite just wage, it may differ from place according to local conditions, climate, fictions and habits of the people, etc, etc; in general we can say that the object of a
minimum wage com be best achieved, if it is declared at first on the basic of minimum requirement of food clothing and shelter for a human-being and then it may be fixed according to different occupations, grades and local conditions. In Australia, a minimum wage has been defined as a wage sufficient to enable a worker to live in reasonable comfort having regard to all obligations to which an average worker would be ordinarily subject.

Besides, a minimum wage must include the cost of maintaining the members of worker's family also. A reasonable standard of civilized life is to be provided for the worker as well as his family. In this connection the difficult is to determine the average size of a family. In India, five members are generally regarded as the average size of a family. But the labour conference while fixing the norms about minimum wages in 1957 decided that the standard working class family should be taken to comprise three consumption units for one earner.

Another problem is the question of determining the cost of living with reference to the prices for fixing a minimum wage. Cost of living index numbers have to be
prepared from time to time, and the minimum wages have to be adjusted accordingly then, there is also the need to evolve an efficient wage fixing machinery should be it be a central machinery of state or local? The most desirable thing seems to be that the main principle should be laid down by the central Govt., and the details may be filled in by the state Govt. according to local conditions.

From the statutory parts of the definition of wages in various enactments, a chemical analysis from the inclusive and exclusive part is that the term wages is a comprehensive one and includes a privilege or benefit which is capable of being estimated in terms of money.

Only in the Industrial Dispute Act, any travelling concession is include in the definition of wage and not in any other statute and comes either expressly or impliedly under the exclusion part of the definition of the wage.

For the determination of minimum wage, minimum wages Act undoubtedly confers authority upon the appropriate Govt. to issue wage in respect of scheduled industries for the whole or part of the state and Section
5 of the minimum wages Act lays down procedure for fixing and revising the minimum rates of wage either by appoint on committees and sub committees in respect of such fixation and revision, as the case may be or by the notification of official Gazette.