Chapter-V
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LEGISLATIVE PROVISIONS FOR LABOUR WELFARE, SAFETY AND SECURITY

Labour is an important factor of production. The production cannot start without labour and it continues till labour works. The role of labour is, thus, preponderant in production. The objectives of any organization cannot be achieved without the co-operation of workers because workers are capable of holding responsibilities, extending co-operation and achieving objectives of the organization. They have their own susceptibilities and aspirations, which, if handled properly, lead to the success of industrial or other work and growth of the economy. Labour welfare increases the productive efficiency of the workers and infuses in them a new spirit of self-realization and consciousness.¹

The labour of a labourer cannot be separated from him. It is his own property, which nobody can snatch. But a labour has no reserve fund of his labour. He cannot store his labour; therefore, he has to lose the wages for the day he does not work.

The importance of labour is highlighted by the fact that no manufacturing or other activity can take place without the help of labour. Other factors of production, such as, land, capital, etc., are useless without labour. Only through labour these factors of production are usable and become productive.

Industrial peace is possible only with the co-operation of labour. Therefore, the wage earner, i.e., the worker, should be given reasonable share in the profits. Moreover, the employers should give workers their due status by offering them reasonable welfare amenities, social justice and security.
The labour welfare activities of the employers in particular, and of the State in general, are not only conducive for an improvement in the conditions of the working class, but are the best kind of investment for employers for promoting industrial efficiency. Besides, labour welfare has tremendous potentiality for fostering good industrial relations.

The necessity and importance of welfare work in India is greater than in the west. Indian workers have regarded industrial employment as a ‘necessary evil’ and they have been keen to escape from it as early as possible. For building up a stable and efficient labour force, it is essential to bring about a marked improvement in the conditions of workers’ life and work. The Indian industrial worker has often been condemned as lazy and inefficient, but, as pointed out by the Bombay Textile Labour Enquiry Committee, “It is axiomatic that in all pursuits a high standard of efficiency can be expected only from persons who are physically fit and free from mental worries, that is, only from persons who are properly trained, properly housed, properly fed and properly clothed.”

Labour is an important part of the community. Economic development of a country depends on the proper development of labour. In fact, the future prosperity of a nation depends largely on the labour because labour are the most important factor of production and they satisfy the national and international demand as an important factor of production. Hence, proper care of this valuable factor of production should be taken.

Nowadays, labour welfare has become a necessary tool because it enables the workers to enjoy a better life and improves their efficiency. The government realized that the goal of economic activity cannot be achieved without improving the level
of workers. Therefore, steps have been taken to improve their working conditions and welfare measures have been adopted to bring a sense of well-being among the labour class. Moreover, the concept of welfare measures makes the labour realize that they are the worthy citizens of the nation.

The need for labour welfare was strongly felt by the Royal Commission on labour way back in 1931, primarily because of lack of commitment to industrial work among factory workers and also the harsh treatment they received from their employers.

In an underdeveloped country like India which has emerged as a free nation from an old age subjection and continued poverty not long back, people expect much more from their own Government. In fact, they expect it to provide and fulfill all their needs and desires. Till the end of British rule in India, the Government was virtually concerned only with its primary duties, like maintenance of law and order. The British administration was nothing more than a Policeman’s administration, which believed in ruling by force and force only. With the advent of our independence, the idea of a Police State has been replaced by that of a Welfare State, which in the true sense of the term, is the expected goal of India. The State is, thus, now entrusted with various activities, which are conductive to the welfare of the community.

The idea of a welfare state in India was given added significance by the framers of the fundamental law of the land, the Constitution of India, which came into force on Jan 26, 1950. In conformity with the objectives as specified in the Preamble to our Constitution, it is incumbent upon the State to strive for securing to all its citizens justice-social, economical and political; liberty of thought, expression, belief, faith and worship, equality of status
and of opportunity; and for promoting among them all fraternity assuring the dignity of the individual and the unity of the nation. Accordingly, the State has assumed special responsibility for attainment of the progress of the country so as to ensure the well-being of the people in all walks of life.\

LABOUR WELFARE MEASURES

Labour welfare plays a vital role in industrial economy. It is an essential part of business organization and management, which nowadays attaches more importance to human angle. Earlier, welfare measures were not provided to workers. The employers would just only give them wages that was not sufficient to meet their both hands needs. The workers could not arrange even proper food for them and for their family with that wages. As a result, their efficiency decreased. Moreover, they did not take interest in their work. The employers and the Government found that the production was not increasing rapidly rather it was decreasing. The workers, on the other hand, started to form trade unions to protect their interests.

Ultimately, the employers as well as the Government realized the importance of workers. It was felt that the welfare measures, such as, health facilities like cleanliness, safe drinking water, proper ventilation, temperature, etc., inside the factory are necessary for workers to raise their standard of living as well as to increase their efficiency. Welfare facilities discourage the workers to form trade unions. They even do not go on strike.

The Government also enacted various welfare schemes for workers, viz., education facilities, medical facilities, housing facilities, family welfare facilities, etc. The workers felt themselves contented and realized that they are also the members
of the society. In short, the welfare facilities provide the following benefits:

1) Welfare measures, such as, educational facilities, sports, entertainment and the like, influence the sentimental atmosphere in the factory. The development of the feeling of friendly relationship between the two groups of industry paves the way for industrial peace.

2) The social advantages of welfare activities are also considerable. Provision of canteens, where cheap, clean and balanced food is available to workers, must improve their physique; entertainment must reduce the incidence of vices; medical aid, maternity and child welfare must improve the health of workers and their families and bring down the rates of general, maternal and infant mortality; and educational facilities must increase their mental efficiency and economic productivity.

3) The provision of welfare measures makes the workers feel and realize that they also have some stake in the undertaking in which they are engaged and, therefore, any reckless action on their part which may prejudice the interest of the undertaking is likely to have reaction upon their own interest. The development of such a feeling helps to further minimize the chances of conflict between labour and capital in the industry on flimsy grounds. An all-round increase in production is thus possible.

4) Adequate provision of welfare facilities can reduce, if not eliminate altogether, the prevalence of high rates of absenteeism and labour turnover in Indian industries.

5) Welfare measures have a content and reality in the context of the poor standard of living of the workers. With a high level
of income, workers may even resent or not show an enthusiastic response to welfare measures. But in Indian conditions, welfare measures provide some of the elementary needs like good housing, education and nutritional food, which the workers might not be able to afford otherwise.

Thus, in India welfare work undoubtedly raises the standard and efficiency of the workers in various industries. Inefficiency is not inherent amongst the Indian workers. Therefore, it is essential to undertake the welfare activities for achieving the welfare results. In fact, welfare measures make the life of workers happier and healthier.

Labour welfare conceptualizes the ‘efforts to make life worth living for workers’. Labour welfare seeks improving the level of workers, creating an environment of comfort for them and raising their standard of living. Broadly speaking, measures and activities undertaken by the State, employers and associations of workers for the improvement of workers’ standard of life and for the promotion of their economic and social well-being, are labelled as ‘welfare work’. Thus, welfare work may be defined as work for improving the health, safety, general well-being and the industrial efficiency of the workers beyond the minimum standards laid down by the Factories Act and other labour legislation.

Labour welfare schemes help to provide better life to labour. According to a report of the ILO (International Labour Organization), “Workers’ welfare should be understood as meaning such services, facilities and amenities which may be established in or in the vicinity of the undertaking to enable the persons employed in them to perform their work in healthy, congenial surroundings, and provide them with amenities conducive to good health and high morale.”
Labour welfare has both positive and negative aspects. It has a positive aspect because it provides various facilities to labour like food, housing, clothing, job security, medical assistance, education, recreation, etc. These facilities enable a worker to lead a happy life. On the negative side, the labour welfare gives rise to multiplicity of demands. When one demand is satisfied, the labour is tempted to force other demands on their employers. Thus, there is endless struggle between employers and the employees.

In the Encyclopaedia of Social Sciences, Welfare is defined as “the voluntary efforts of an employer to establish, within the existing industrial system, working and sometimes living and cultural conditions of his employees, beyond what is required by law, the customs of the industry and the conditions of the market.”

CLASSIFICATION OF WELFARE WORK

Labour welfare includes various activities relating to the different aspects of working class. In short, these activities may be divided into three categories namely:

1. Statutory Welfare Measures
2. Non-Statutory Welfare Measures
3. Mutual Welfare Work

1. Statutory Welfare Measures:

Statutory welfare measures comprise those provisions of the welfare work whose observance is binding on the employers under law. With a view to maintaining a minimum standard of health and safety, etc., of the workers, the Government of a country enacts certain rules under various Acts or Ordinances, which have to be abided by the employers in respect to their workers. Such rules
may relate to certain essential working conditions, e.g., hours of work, sanitation, etc. 9

The statutory welfare requirements in the country may broadly be classified under two heads: (a) those which have to be provided irrespective of the size of the establishment or the number of persons employed therein, such as, cleanliness, adequate ventilation, pure drinking water, etc., and (b) those which are to be provided subject to employment of a specified number of persons, such as, canteens, rest shelters, crèches, ambulance rooms, etc.10

a) Measures with Regard to Health of Labour:

It is an old saying ‘Health is Wealth’ and it is quite correct. A healthy worker can perform his work efficiently, while an unhealthy worker cannot perform his duties effectively. It is, therefore, necessary to adopt measures to maintain labour’s good health.

The Factories Act, 1948, deals with health provisions for workers in the factory. The Act covers a broad spectrum of measures in this respect. A brief account of these legislative measures is presented below:

1) Cleanliness and Disposal of Wastes and Effluents:

Sections 11 and 12 of Factories Act, 1948, enumerates that the occupier is required to keep the factory premises clean and free from waste and effluvia. He shall make arrangements for sweeping and removing dirt and refuse daily, cleaning with disinfectant, effective treatment and disposal of wastes and effluents and maintaining proper drainage.

All inside walls, partitions, staircases and roofs shall be whitewashed once in 14 months, or re-varnished and painted once in three years with washable paint or once in five years with non-
washable paint. Besides, all doors, window frames, other wooden or metallic framework and shutters should be painted or varnished at least once in five years. The date of white washing, painting, or varnishing, etc., should be recorded in the prescribed register.

2) **Ventilation, Temperature and Humidity:**

Section 13 and 15 of Factories Act explain that the factory premises should be adequately ventilated by circulation of fresh air. Comfortable temperature should be maintained in every workroom. Artificial increase in humidity should be controlled by the use of purified water.

There should be adequate ventilation in the factory to prevent the workers from polluted air. For this, the building should be constructed in such a way that provision exists for cross ventilation in each room for circulation of fresh air where workers work.

3) **Dust and Fume:**

Section 14 of the Factories Act, 1948, connotes that accumulation and inhalation of dust and fumes or other impurity of such a nature as is likely to be injurious to the health of workers, should be prevented by use of exhaust fans and other safeguards.

Therefore, in every factory in which, by reason of the manufacturing process carried on, there is any dust or fume or other impurity of such a nature that is likely to be injurious or offensive to the workers employed therein, effective measures should be taken to prevent its inhalation.

4) **Avoidance of Overcrowding:**

Section 16 of the Factories Act enumerates that the workplace should not be overcrowded by workers. In order to
avoid overcrowding in workplace, the Act provides minimum space of 14.2 cubic metres per worker in a new factory and 9.9 cubic metres per worker in an existing factory.14

5) **Lighting and Drinking Water:**

Section 17 and 18 of the Factories Act, explain that there should be provision for sufficient and suitable natural and artificial lights, pure drinking water at suitable points and cool water during hot season in factories employing 250 or more workers.15

6) **Latrines, Urinals and Spittoons:**

Sections 19 and 20 of the Factories Act, enumerates that every factory should provide adequately lighted and ventilated latrines and urinals, in sufficient numbers, for male and female workers separately, and spittoons at suitable locations. The latrines, urinals and spittoons should be washed and cleaned with detergents and disinfectants.16

Thus, it is quite clear that labour welfare promotes the well-being of workers in a variety of ways. It aims at helping the worker to work in better and comfortable surroundings.

Section 7 A of the Factories Act, 1948, explains general duties of employer regarding health and welfare of workers. These are as follows:

Every Occupier Shall-:

(i) ensure, as far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory;

(ii) provide and maintain plant and systems of work in the factory that are safe and without risks to health;
(iii) make arrangements for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
(iv) provide necessary information, instruction, training and supervision for the health and safety of all workers;
(v) provide and maintain such working environment in the factory that is safe, without risks to health and with adequate facilities and arrangements for the welfare of workers.  

The welfare measures are contained in Chapter V of the Factories Act, 1948. The whole of the Chapter, containing nine sections, relates to the long desired provision of a uniform standard of welfare work for industrial labour. Section 42 to 48 deal with washing facilities, facilities for storing and drying clothing, facilities for sitting, first-aid appliances, canteens, shelters, rest rooms, lunch rooms and crèches. Section 49 deals with the appointment of welfare officer in the factory. Section 50 empowers the State Government to make rules to supplement Chapter V of the Act.

b) Various Welfare Facilities:

Sections 42 to 50 define the following welfare facilities to be provided to workers.

Section 42. Washing facilities- Section 42 (1) provides that in every factory -

(i) adequate and suitable facilities for washing shall be provided and maintained for the use of workers;
(ii) separate and adequately screened facilities shall be provided for the use of male and female workers;
(iii) such facilities shall be conveniently accessible and shall be kept clean.
Section 42 (2) authorises the State Government to prescribe, in respect of any factory or class or description of factories, or of any manufacturing process, standards of adequate and suitable facilities for washing.

Section 43. Facilities for storing and drying clothing-
Section 43 empowers the State Government to make rules, in respect of any factory or class or description of factories, requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

Section 44. Facilities for sitting-
According to section 44 (4), in every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

According to section 44 (2), if in the opinion of the Chief Inspector, the workers of any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

Section 44 (3) empowers the State Government to declare, by notification in the Official Gazette, that the provisions of subsection (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

Section 45. First-aid appliances-
According to section 45 (1), in every factory shall be provided and maintained, so as to be readily accessible during all working hours, first-aid boxes or cupboards equipped with the prescribed contents and the number
of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed at any one time in the factory.

Section 45 (2) provides that nothing except the prescribed contents shall be kept in a first-aid box or cupboard. According to section 45 (3), each first-aid box or cupboard shall be kept in the charge of a separate responsible person who holds certificate in first aid treatment recognized by the State Government and who shall always be readily available during the working hours of the factory.

Section 45 (4) states that in every factory wherein more than 500 workers are ordinarily employed, there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

**Section 46. Canteens** - The State Government may, according to Section 46 (1), make rules requiring that in any specified factory wherein more than 250 or more workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

Thus, sub-section (1) confers general rule making power upon the State Government and sub-section (2) of Section 46 authorises the State Government to make rules providing for-

(i) the date by which canteen shall be provided;

(ii) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(iii) the foodstuffs to be served therein and the charges which may be made thereof;
(iv) the constitution of a Managing Committee for the canteen and the representation of the workers in the management of the canteen;

(v) the items of expenditure in the running of canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employers;

(vi) delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the powers to make rules under clause (iii).

It is true that so far as the employer is concerned, where the staff canteen has to be provided in pursuance of this section, it must be run on a no profit basis as prescribed by sub-rule (ii) of Rule 85. But a contractor, who conducts the canteen not out of any philanthropic considerations but for profit, carries on a trade of keeping a catering establishment, for which he must obtain a licence, if provided under the relevant statute. 

**Section 47. Shelters, rest rooms and lunch rooms**

Section 47 (1) lays down that in every factory wherein more than 150 workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers. But any canteen maintained in accordance with the provisions of Section 46 shall be regarded as part of the requirements of this sub-section, and where a lunch room exists, no worker shall eat any food in the work-room.

Section 47(2) requires that the shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.
Section 47 (3) provides that the State Government may—

(i) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(ii) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.¹⁹

Section 48. Crèches- Section 48 (1) lays down that in every factory wherein more than 30 women workers are ordinarily employed, there shall be provided and maintained suitable room or rooms for the use of children under the age of six years of such women.

According to section 48 (2), such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

Section 48 (3) empowers the State Government to make rules—

(i) prescribing the location, and the standards in respect of construction, accommodation, furniture and other equipments of the rooms to be provided, under this section;

(ii) requiring the provision in factories, to which this section applies, of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(iii) requiring the provision in any factory of free milk or refreshment or both for such children.
(iv) requiring that facilities shall be given in any factory for mother of such children to feed them at the necessary intervals.

**Section 49. Welfare Officers**—Section 49 (1) provides that in any factory wherein 500 or more workers are ordinarily employed, the occupier shall employ in the factory such number of welfare officers as may be prescribed. According to section 49 (2), the State Government may prescribe the duties, qualifications and conditions of services of officers employed under sub-section (1).

**Section 50. Power to make rules to supplement this Chapter (i.e. the sections of Factories Act, 1948, already discussed)**—Section 50 of the Act empowers the State Government to make rules-

(i) exempting, subject to compliance with such alternative arrangement for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter;

(ii) requiring in any factory, or class or description of factories that representatives of the workers employed shall be associated with the management of the welfare arrangements of the workers.

**c) Welfare Schemes:**

There are some welfare schemes made by the Government. The employers should provide these welfare schemes to their workers. The welfare schemes are given below:

(i) Medical facilities

(ii) Housing facilities

(iii) Educational facilities
(iv) Family welfare facilities  
(v) Pure drinking water  
(vi) Entertainment facilities.

(i) **Medical facilities**—Section 45 of the Factories Act, 1948, states that there should be first aid box in every factory. Provision of medical facilities is also essential. If a worker sustains injury at the work place, he should be taken to hospital and the expenses of his treatment should be borne by the employer fully. The employer should not also deduct the pay of the worker for the days he was advised to take rest by the doctor.

Under various welfare funds, 13 hospitals with 475 beds and 228 dispensaries have been established at different places in the country. The dispensaries dispense allopathic and ayurvedic medicines and have Maternity and Child Welfare Centres, Primary Health Centres and Small Medical Centres. Some of them are also mobile dispensaries. Diversified medical assistance is also rendered under the fund.

(ii) **Housing facilities**—The Government has established several schemes for providing housing facilities to Iron Ore, Manganese Ore, Chrome Ore, Limestone, Dolomite and Mica Mine Workers and Beedi Workers. The ILO recommendation number 115 on workers' housing suggests that it is not generally desirable that employers should provide housing facility for their workers directly, except where establishment is set up in an out of the way place or where the nature of employment requires that the worker should be available at short notice.

The Subsidized Housing Scheme of the Government, referred to later, may be regarded as best for meeting the financial difficulties in this regard. Under this scheme, Uttar Pradesh Government has been building a large number of quarters in
important towns of the State. At the same time, it may be emphasized that the success of the efforts towards research for reducing the cost of housing would go a long way in minimizing the financial burden involved in the construction of houses.  

The Labour Investigation Committee (1946), with regard to the housing policy in India, has observed that employers will not be able to discharge their duties to the satisfaction of all concerned if they are statutorily asked to erect standard houses for their workers, because apart from being a heavy burden on their resources, they will not be able to get the necessary economic rent because of the workers' low earnings.

The municipalities cannot finance the construction of houses, as their resources are generally inadequate. They can at best supply housing colonies with water, light and drainage. The only alternative under the circumstances seems to be for Government to step in and assume general control of industrial housing.

Therefore, it is the responsibility of the Government to build houses for labour, or if it is not possible, it should provide them quarters to live in and should charge low rent from them.

(iii) Educational facilities-The Directorate General of Employment and Training in the Ministry of Labour is operating a number of training schemes to ensure a regular supply of skilled manpower at different levels. The Central Government is responsible for laying down the policies and training standards, training of vocational instructors and industrial supervisors, conduct of final trade test and award of certificates. The responsibilities for the day-to-day administration and implementation of craftsmen training institutes rest with State Government. In the formulation of a National Policy in this
regard, the Central Government is advised by two tripartite bodies, viz.,

(a) The National Council for Vocational Training (NCVT)
(b) The Central Apprenticeship Council (CAC) 25

(iv) Family welfare facilities-The Ministry of Labour coordinates the family welfare programmes through a special cell, called the Population Cell, in the Welfare Wing of the Ministry. This programme, which is executed through ILO, has assisted projects on population education and family welfare in Tamil Nadu, Uttar pradesh, Madhya Pradesh, Orissa, West Bengal and Gujarat. 26

(v) Pure drinking water-The Factories Act under its Section 18 requires effective and proper arrangements to be made to provide and to maintain at suitable points, conveniently situated for all workers employed in the factory, a sufficient supply of wholesome drinking water.

It is further provided that all such points must be legibly marked. No such points shall be situated within six metres of any washing place, urinal or latrines unless a shorter distance is approved in writing by the Chief Inspector.

It is further provided that in every factory wherein more than 250 workers are ordinarily employed, provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

The State Government has been empowered to make rules for securing compliance with the provisions of sub-section (1), (2) and (3) of Section 18 and for the examination by prescribed authorities of the supply and distribution of drinking water in factories. The State Government may make such rules for all factories and any class of factories or description of factories.
These provisions have been made to ensure availability of cool drinking water to the workers conveniently in the premises of the factory, wherein they are engaged in a manufacturing process.

(vi) Entertainment facilities—The Welfare Funds also provide for schemes for the recreation of the mines and beedi workers.

2. Non-Statutory Welfare Measures:

For financing welfare measures outside the purview of statutory provisions in industrial undertakings of the Government, an experimental scheme for constituting labour welfare funds, built up from voluntary contributions of the workers, Government grants, receipts from fines, rebates from contractors, profits of canteens and yields from cinema shows, etc., was formulated in 1946. Since then, such funds have been constituted in a number of Governmental industrial undertakings. Among the items which are regularly financed, indoor and outdoor games, reading rooms and libraries, radio, education and entertainment, are the most popular. Thus, non-statutory welfare measures or voluntary welfare work require to provide all those activities conductive to the welfare of the workers which are undertaken by the employers themselves of their own free will.

3. Mutual Welfare Work:

Mutual Welfare Work signifies a corporate enterprise of the workers with a view to improving their lot. Activities of the trade unions, which are conductive to the welfare of their members, are included under this category.

The provision of welfare measures makes the labour realize that they are the members of the industry and not mere workers. They work whole-heartedly. It would be correct to say that the Act
contains effective measures in respect of welfare of the workers, and the State Government has been authorized to make these measures more effective and adequate.

If the measures regarding health, safety and welfare of the workers, as contained in the provisions of the Factories Act are properly enforced, the workers will feel that they are respected citizens and are the necessary part of manufacturing process and then they will be more interested in the performance of their duty. They would be able to raise their standard of living. It will benefit the working community and the people in general, and in the ultimate analysis, it would be able to advance our country.

SAFETY OF LABOUR

1. Legislative Measures for the Safety of Labour:

The Factories Act, 1948, is applicable to all factories. In this Act, every factory must take the following appropriate safety measures:

i) Fencing of all dangerous and moving parts of the machine while in motion or use; providing sufficient space for workers to operate self-acting machines; encasing and guarding of all machinery installed in the factory and every set of screw, bolt, spindle, wheel or pinion so as to prevent danger.

ii) Young persons, aged between 15 and 18 years are not to work on any dangerous machine without adequate training and supervision.

iii) Floors, stairs, steps, etc., are to be kept free from obstructions and slippery substances, and all dangerous pits, sumps, opening in floor, etc., are to be covered.
iv) Necessary precautions are to taken and screens or goggles are to be provided to workers for protection of their eyes.

v) Providing safe means of escape in case of fire, necessary fire-fighting equipments and training of workers about use of such equipments.

vi) Appointment of Safety Officers in factories employing 1,000 or more workers or where workers are exposed to risks of bodily injury, poisoning or disease or any other hazard to health.\(^{30}\)

2. **Provision Relating to Hazardous Process:**

Hazardous process means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye products, wastes or effluent thereof would:

(i) cause material impairment to the health of the persons engaged in or connected therewith, or

(ii) result in the pollution of the general environment.

Provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule.\(^{31}\)

The public opinion emerged after the Bhopal disaster that industries involving hazardous processes should not be allowed to function causing environmental pollution. Such factories should not be allowed to be installed in the residential areas of the cities and towns. If such factories have already been installed and are working, effective measures should be taken to control their working as far as practicable, to minimise atmospheric pollution
or to avoid chances of dangerous industrial accidents causing adverse effect on the society.32

The Factories Act, 1948, explains the specific responsibility of the occupier in relation to hazardous process and the right of workers to warn about imminent danger.

Specific Responsibility of the Occupier in Relation to Hazardous Process (Sec 41-C.)

Every occupier of a factory involving any hazardous process shall:

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported, and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(b) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed;

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final:

(c) provide for medical examination of every worker-

(i) before such worker is assigned to a job involving the handling of, or working with, any hazardous substance, and

(ii) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed.33
So far as installation of new factories is concerned, there must be some authority to make necessary enquiries regarding the site and location of the factories. It must be made statutory duty of the factory owner to furnish full information regarding the location, work to be carried on, raw material to be used, including articles and substances, the strengths of workers and the measures for health, safety and welfare of the workers in contemplation.34

Right of Workers to Warn About Imminent Danger (Section 41-H.)

(a) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may bring the same to the notice of the occupier, agent, manager or any other person who is incharge of the factory or the process concerned, directly or through their representatives, in the Safety Committee and simultaneously bring the same to the notice of the Inspector.

(b) It shall be the duty of such occupier, agent, manager or the person incharge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and then send a report forthwith of the action taken to the nearest Inspector.

(c) If the occupier, agent, manager or the person incharge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the worker, he shall, nevertheless, refer the matter forthwith to the nearest Inspector whose decision on the question of the existence of such imminent danger shall be final.35
SOCIAL SECURITY OF LABOUR

Social security includes schemes and measures adopted by the State to furnish safety, relief and protection against sickness, maternity, disablement, medical, dependants' funeral and employment, insecurities and risks, and various safeguards pertaining to health, safety, welfare and working hours in industrial establishments.36

A large number of people in India, as in other parts of the world, depend for their living on their capacity to put in a day's work. If, for any reason, they are unable to work, they find themselves in financial difficulties. In ancient and medieval times, such persons were taken care by the village community as a whole or by the joint family. At that time, there was no problem of social security. As a result of the industrial revolution, a dynamic change has occurred in the economic and industrial structure of the world. The modern forms of industrial technology and organization are no doubt regarded as man's best hope for overcoming poverty and improving the material conditions of life, but almost everywhere, industrialization has touched off a conflict between old and new forms, attitude and human values. The sufferers are the people whose security in the old society have been undermined and have not yet found security in the new society.37

The various types of insecurities confronting the workers may be explained differently. Firstly, there may be 'Income Insecurity' and hazards rising out of it; such insecurity may exist owing to (i) inadequate wages (that has been sought to be eliminated through fixation of minimum wages); (ii) faulty methods of wage payment which may include irregularity in payment, illegal deductions, faulty calculations, etc. (that has been sought to be improved through adequate provisions in the Payment
of Wages Act, trade unions' intervention, workers' education programmes, etc.); (iii) Lay-offs, dismissals and retrenchments (that have been sought to be tackled through relevant provisions in the Industrial Disputes Act). Secondly, there may be 'Occupational Insecurity' which may occur due to (i) Occupational disease (that has been sought to be tackled through appropriate compensation under Workmen's Compensation Act or Employees' State Insurance Act); (ii) Improper conditions of work (sought to be improved through adequate provisions under relevant Acts, e.g., The Factories Act); (iii) Industrial accidents (that may be tackled through measures to prevent and reduce them and provision of adequate compensation in case of the occurrence). Thirdly, there may be 'Natural Insecurity' owing to natural factors, such as, old age (for which provisions of adequate pension has been made), invalidity (for which adequate compensation be provided), death of the bread-winner, sickness and maternity (for which compensation and assistance in appropriate forms is necessary). 38

1. **Aims of Social Security Measures:**

   The aim of all social security measures is three-fold: Compensation, Restoration, and Prevention. Compensation goes to income security and is based upon the idea that during spells of risks, the individual and his family should not be subjected to a double calamity involving both destitution and loss of health, limb, life or work. Restoration implies cure of the sick and the invalid, re-employment and rehabilitation, and is in some ways, an extension of the earlier concepts of the functions of social security. Prevention is designed to avoid the loss of productive capacity due to sickness, unemployment or invalidity and to render available recourses which are used up by avoidable disease and
idleness and thus increase the material, intellectual and moral well-being of the community.

Social Security is a very comprehensive term. The two important means of providing social security are Social Insurance and Social Assistance, which may be said to be the two faces of the same coin. Both of them are integral parts of a social security system.  

(a) Social Insurance:

Social Insurance refers to a scheme of maintaining an insurance fund from the contributions made by the prospective beneficiaries as well as others, and to grant out of it such benefits as sickness, injury, maternity, unemployment, old age pensions, etc.

ILO defines social insurance as a scheme that provides benefits for persons of small earnings granted as of right in amounts, which combine the contribution of the insured with subsidies from the employer and the State. The social insurance protects persons of small earnings. The purpose of social insurance is to render the wage earner to make him independent of poor relief as much as possible on the principle that his wage should include an insurance premium covering the risk of its involuntary loss, the inability of the State being merely subsidiary.

There are some important elements in social insurance which need special mention:

1) The first is the element of insurance or the insurance method which consists of the actual payment by the person insured, partly or fully, of the premium, i.e., the cost of insurance, thus bearing a small known loss instead of an uncertain large
one in the future. The contribution of the insured persons is kept at a level so as not to exceed their paying capacity.

2) Compulsion is another important element in social insurance. Social insurance schemes are made compulsory, especially in modern times, in their application to certain defined sections of the society.

Many advantages result from insurance being made compulsory. These are as follows:

a) Compulsion serves the purpose of better social upliftment.

b) It prevents, what is technically called adverse selection.

Assuming that a sickness insurance scheme is kept voluntary, it is likely that only those persons who are most likely to fall ill will go in for such insurance and heavy morbidity may result so far as that group is concerned, rendering the principle useless and unworkable. All this is avoided if the scheme is made compulsory.

c) Compulsion is necessary so that the worker’s family is protected against his own lack of foresight.

3) An important element in social insurance is the part played by the State in controlling and managing, wholly or partly, the schemes of social insurance.

4) The various benefits provided under the social insurance scheme are kept within fixed limits so as to ensure the maintenance of minimum standard of living to the beneficiaries during the period of partial and total loss of income.
(b) **Social Assistance:**

Social Assistance refers to the assistance rendered by the society to poor and needy persons voluntarily, without placing any obligation on them to make certain contribution for becoming entitled to relief, such as, workmen's compensation, maternity benefits, old age pensions, etc.\(^4^3\)

Social assistance is a device organized by the State by providing cash assistance and medical relief, to such members of the society as cannot get them from their own resources. It was observed that invalids, aged persons and widows who are not receiving social insurance benefits because they or their husbands, as the case may be, were not compulsorily insured, and whose incomes do not exceed a prescribed level, should be entitled to special maintenance allowances at prescribed rates. Appropriate allowances in cash or partly in cash and partly in kind should be provided to all persons who are in want and do not require internment for corrective care. The ILO defines social assistance scheme as one that provides benefits to persons of small means, granted in amounts sufficient to meet a minimum standard of need and financed from taxation.\(^4^4\)

Thus, the social assistance underlines the idea that the care of the poor could not be left to voluntary charity and should be placed on a compulsory and statutory basis. The State had to intervene because individualized charity proved to be inadequate and the floating mass of paupers and destitutes constituted a threat to the society. \(^4^5\)
SOCIAL SECURITY SCHEMES IN MODERN INDIA

There is a network of laws, which provide for social security for the workers. They are:

1. The Workmen’s Compensation Act, 1923;
2. The Employees’ State Insurance Act, 1948;
3. The Maternity Benefit Act, 1961;
4. The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952; and

1. The Workmen’s Compensation Act, 1923:

It was passed in March, 1923, and was put into force on 1st July 1924. The Act makes the employer liable to pay compensation for injury sustained by the workman due to accident arising out of and in the course of his employment.

The Act provides compensation for death, permanent total disablement, permanent partial disablement and temporary disablement, caused either by accident or by occupational diseases. The compensation payable is in the form of half-monthly payments, commencing from the eighth day of disablement. A lump sum is payable in the case of permanent disablement or death.

The Act is administered by State Governments who have appointed Commissioners for Workmen’s Compensation whose duties include the settlement of disputed claims, disposal of compensation in cases where injury results in death and the revision of periodical payments. The Act provides that all cases of fatal accidents shall be brought to the notice of the Commissioners for Workmen’s Compensation, and in case the employer admits the
liability, the amount of compensation payable should be deposited with him. Where the employer disclaims the liability, Commissioner may, after enquiry, inform the dependants that they can prefer a claim and may supply any information to them.48

2. The Employees' State Insurance Act, 1948:

The Employees' State Insurance Act, 1948, has been the first of its kind in South-East Asia and marks the first attempt at introducing a compulsory integrated system of social insurance covering health, maternity and accident benefits.49 The benefits provided under the Act are:

a) Sickness Benefit
b) Maternity Benefit
  c) Disablement Benefit
d) Dependants' Benefit
e) Medical Benefit

a) Sickness Benefit- Sickness benefit consists of cash payment payable to an insured person in case of sickness, if it is certified by a duly appointed medical practitioner. The benefit is payable at the standard benefit rate, corresponding to his daily average wages.50

b) Maternity Benefit- A periodical cash benefit is payable to an insured woman employee, in case of confinement, medical termination of pregnancy, premature birth of a child, or sickness arising from pregnancy, miscarriage, etc., occurring or expected to occur in a benefit period, if the contributions, in respect to her, were payable for at least 80 days in the two immediately preceding contribution periods. The benefit is payable at twice the standard benefit rate for all days on which she does not work for remuneration during the period prescribed. This is shown in the table-20 on the next page.
TABLE-20
Provision of Maternity Benefit Act in India

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Confinement</td>
<td>12 weeks, not more than 6 weeks preceding the date of confinement</td>
</tr>
<tr>
<td>2.</td>
<td>Death of the woman during/after confinement</td>
<td>Same as above</td>
</tr>
<tr>
<td>3.</td>
<td>Death of the women and the child</td>
<td>Upto the date of death of child</td>
</tr>
<tr>
<td>4.</td>
<td>Miscarriage or medical termination</td>
<td>6 weeks following the date of miscarriage, etc.</td>
</tr>
<tr>
<td>5.</td>
<td>Post-confinement sickness</td>
<td>Additional period of one month following the aforesaid period</td>
</tr>
</tbody>
</table>

Source: T. N. Bhagoliwal, 'Economics of Labour and Industrial Relations'.

c) Disablement Benefit- Third schedule of the Act provides disablement benefit at the following rates:

(a) In the case of Temporary Disablement for not less than 3 days and Permanent Total Disablement, the cash benefit is to be paid at the rate of 40% more than the standard benefit rate, and (b) In case of Permanent Partial Disablement, the cash benefit is payable at a percentage of the benefit payable as in case (a) above as is proportionate to the percentage of the loss earning capacity.51

d) Dependants’ Benefit-Dependants’ Benefit is payable to dependants of an insured employee who dies as a result of an employment injury or an occupational disease. Dependants are entitled to cash benefit at 40% more than the standard benefit rate.52

e) Medical Benefit-An insured person is entitled to medical benefit for any week during which contributions are payable in respect of him or in which he or she is qualified to claim sickness
benefit. This benefit consists of free medical treatment in case of sickness, employment injury and maternity.

Thus, the first four benefits are paid in cash while medical benefit is paid in kind. The Act also provides for funeral expenses not exceeding Rs. 1,000 towards expenditure on the funeral of an insured person.

3. **The Maternity Benefit Act, 1961:**

Under the provisions of the Act, no employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery or miscarriage. Further, no pregnant woman shall, on a request being made by her, be required by her employer to do during the period of one month before the date of her expected delivery, any work which is of an arduous nature or is likely to interfere with her pregnancy or is likely to cause adverse effect on her health.

The Act provides for the payment of benefit at the rate of average daily wages or Rs. 10, whichever is greater, for the period of her actual absence immediately preceding and including the day of her delivery, and for six weeks immediately following the day.

The woman employee can avail the leave following her delivery, provided the total leave, i.e., preceding and following the date of her delivery, does not exceed 12 weeks.

4. **The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952:**

The Employees’ Provident Fund and Miscellaneous Provisions Act, 1952, as it stands today, provides for compulsory Provident Fund, Family Pension and Deposit Linked Insurance Scheme for employees. Accordingly, under the Act, the
Government of India have framed three schemes, viz., the Employees' Provident Fund Scheme, Employees' Family Pension Scheme and the Employees' Deposit Linked Insurance Scheme. The main feature of Employees' Deposit Linked Insurance Scheme is that the workers are not required to pay contributions. The employers are required to pay contributions to the Insurance Fund at the rate of 0.5% of the total emoluments, i.e., wages, dearness allowance, etc., of the employees. The Central Government also contributes to the fund at 0.25% of the total emoluments of the employees. All money belonging to the Insurance Fund is kept in deposit with the Central Government in the Public Account.

5. The Payment of Gratuity Act, 1972:

The Payment of Gratuity Act, 1972 envisages to provide a retirement benefit to the workmen who have rendered long and unblemished service to the employer, and have thus contributed to the prosperity of the employer.

The Act extends to the whole of India and is applicable to –

(a) every factory, mine, oilfield, plantation, port and railway company,

(b) every shop and establishment governed by the Shops and Establishments Act of the State, in which 10 or more persons are employed, or were employer on any day of the preceding 12 months, and

(c) any other establishment wherein 10 or more persons are employed, or were employed on any day of the preceding 12 months, and which is so notified by the Central Government.

[Section 1(3)]

Employees Entitled:

Every employee (other than an apprentice), irrespective of his wages, is entitled to receive gratuity after he has rendered continuous service for five years or more. Gratuity is payable at
the time of termination of his services, either (i) on superannuation, or (ii) on retirement or resignation, or (iii) on death or disablement due to accident or disease. Termination of service includes retrenchment. However, the condition of five years continuous service is not necessary if services are terminated due to death or disablement.

Disablement means permanent inability or incapacity of an employee to do the work, which he was capable of doing before the accident or disease.

In case of death of an employee, gratuity payable to him is to be paid to his nominee, and if no nomination has been made, then to his heirs.

An employee who had been getting wages upto Rs. 1,000 per month for more than five years at any time before 16. 9. 1972, when the Gratuity Act was brought into force, is entitled to gratuity under the Act, though his wages on and after 16. 9. 1972 were more than Rs. 1,000 p.m. [this limit was last raised to Rs. 3,500 per month and now abolished vide Gratuity (Amendment) Act, 1994.]

As regards the quantum of gratuity, the Act lays down that for every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages for every completed year of service or part thereof in excess of six months subject to a maximum of Rs. 50,000.

Table-21 given on the next 5 pages shows various Acts relating to social security of labour, their objectives, coverage, eligibility and benefits
## TABLE-21

Various Acts Relating to Social Security of Labour, their Objectives, Coverage, Eligibility and Benefits

<table>
<thead>
<tr>
<th>Law</th>
<th>Objectives</th>
<th>Coverage</th>
<th>Eligibility</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workmen's Compensation Act, 1923</td>
<td>To provide compensation for workmen in case of industrial accidents/occupational diseases in the course of employment resulting in disablement or death</td>
<td>Persons employed in factories, mines, plantations, railways, etc.</td>
<td>Not applicable to those covered by the Employees' State Insurance Act</td>
<td>Compensation:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>For Death</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Minimum: Rs 20,000</td>
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<td></td>
<td></td>
<td></td>
<td>Maximum: Rs 1,14,000</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>For Permanent Disablement</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Minimum: Rs 24,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Maximum: Rs 70,000 For Temporary Disablement</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50% of wages for a maximum period of five years</td>
</tr>
</tbody>
</table>

*to be continued*
| Employees' State Insurance Act (ESI), 1948 | To provide for health cover:  
- Medical care  
- Cash benefits for  
  - Sickness  
  - Maternity  
  - Employment injury  
  - Pensions to dependents in case of  
  - Death  
  - Employment injury | Factories/Estabishments to which law is made applicable by States | Employees drawing wages not exceeding Rs. 3,000 per month from 1-4-92 | Compensation:  
**For Death**  
Minimum: Rs 20,000  
Maximum: Rs. 1,14,000  
**For Permanent Disablement**  
Minimum: Rs 24,000  
Maximum: Rs. 70,000  
**For Temporary Disablement**  
50% of wages for a maximum period of five years |
| Maternity Benefits Act, 1961 | To provide for maternity protection before and after child birth | Factories, mines, plantations, commercial establishments to which State Government extend the law | Not applicable to those covered by the ESI Act | Payment for actual absence upto 12 weeks at average daily wages/ Rs. 10 minimum wages |

*to be continued*
<table>
<thead>
<tr>
<th>Employees’ Provident Funds and Miscellaneous Provisions Act, 1952</th>
<th>To provide for:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Compulsory Provident Fund</td>
</tr>
<tr>
<td></td>
<td>• Family Pension</td>
</tr>
<tr>
<td></td>
<td>• Deposit Linked Insurance</td>
</tr>
<tr>
<td>Factories/ Establishments employing 20 or more employees in scheduled industries; other establishments notified by the Central Government</td>
<td>Employees drawing pay not exceeding Rs. 3,500 per month.</td>
</tr>
</tbody>
</table>

**Provident Fund:**
Apart from terminal disbursal of non-refundable withdrawals for:
- Life Insurance Policies
- House Building
- Medical Treatment
- Marriage
- Higher education

**Family Pension**
- Family pensions ranging from Rs. 250 to Rs. 1,050
- Retirement-cum-withdrawal benefits ranging from Rs. 110 to Rs. 48,825

**Deposit Linked Insurance**
Amount equal to the average balance in provident fund of the deceased, subject to a maximum of Rs. 25,000

*to be continued*
| **Payment of Gratuity Act, 1972** | **To provide for payment of gratuity on ceasing to hold office.** | **Factories, mines, oil fields, plantations, ports, railway companies, shops and commercial establishments and to other establishments to which the Government extends the law** | **Employees drawing wages not exceeding Rs. 3,500 per month** | **15 days’ wages for every completed year of service or part thereof in excess of six months subject to a maximum of Rs. 50,000.** |

**Source:** T. N. Bhagoliwal, *Economics of Labour and Industrial Relations*.  

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Thus, social assistance is a device organized by the State for providing cash assistance and medical relief to such members of the society who cannot get them from their own resources.

MINIMUM RATE OF WAGES

The Fair Wages Committee in its report published by Government of India, Ministry of Labour in 1949, defined the 'Living Wage' as under:

“The living wage should enable the male earner to provide for himself and his family not merely the bare essentials of food, clothing and shelter, but a measure of frugal comfort including education for children, protection against ill health, requirements of essential social needs, and a measure of insurance against the more important misfortunes including old age.”

The Minimum Wages Act, 1948, under section 4 (1) deals with the minimum rate of wages. It provides that any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of:

(1) a basic rate of wages; and

(2) a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers, hereinafter referred to as the cost of living allowance; or

(3) a basic rate of wages with or without the cost of living allowance, and the cash value of concessions in respect of supplies of essential commodities at concessional rates where so authorized; or
(4) an all-inclusive rate allowance for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concessional rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

Section 4 (1) (i) contemplates minimum rate of wages consisting of basic rate of wages and a special allowance called the cost of living allowance. The cost of living allowance is popularly known as dearness allowance. According to section 4(1) (i), the dearness allowance is to be kept at a rate to be adjusted at such intervals and in such manner as the appropriate Government may direct to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers.

The fixation of minimum wage prevents exploitation of workers and secure for them wages according to the value of work done, corresponding to the productive capacity of the workers.

Regarding the objectives of minimum wages, these are:
(a) To prevent 'sweating' in the industry or, in other words, to raise the wages in industries where these are extremely low and inadequate;
(b) To prevent exploitation of workers and to secure 'a wage' according to the value of work done, corresponding to the productive capacity of the workers; and
(c) To promote peace in the industry by keeping the workers contented with the guarantee of a wage rate which may enable them to meet their minimum requirements conveniently.
Thus, the object of a minimum wage rate should be to ensure for the workers a wage which may be just and fair.\textsuperscript{63}

\section*{THE PAYMENT OF BONUS ACT, 1965}

The Payment of Bonus Act, 1965, extends to the whole of India and is applicable to every factory and to every other establishment wherein 20 or more workmen are employed on any day during an accounting year. The Central/State Government can, however, extend its provisions to any establishment employing less than 20 but more than 10 persons [Sec.1(3)]. For the purpose of calculating the number of employees for applicability of the Act, part-time employees are also included, irrespective of the amount of salary drawn by them. The employment of 20 or more persons on even one day in a year is sufficient to attract the provisions of the Act.

Any factory or establishment to which this Act applies, shall continue to be governed by its provisions irrespective of the fact that the number of employees working therein has fallen below 20 or the number specified by the Government, as the case may be. [Section 1(5)]

\section*{Employees Entitled:}

Every employee receiving salary and wages upto Rs. 3,500 per month and engaged in any kind of work, whether skilled, unskilled, managerial, supervisory, manual, etc., is entitled to bonus for every accounting year, if he has worked for at least 30 working days in that year [Sections 1 (13) and 8]. Salary and wages means all remuneration (other than remuneration in respect of over-time work) capable of being expressed in terms of money, which would, if the terms of employment express or imply, are fulfilled, be payable to an employee in respect of his employment.
or of work done while in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living).^'

MEASURES WITH REGARD TO WORKING HOURS, HOLIDAYS AND OVERTIME

1. Working Hours:

Working hours affect the labour's efficiency to a great extent. If the working hours are long, the labour become tired soon. Longer hours of work cause injury to the efficiency of the worker, both directly and indirectly. Directly, the health of industrial worker is subjected to very heavy strain due to the fact that long hours of work cause great physical exertion upon him and consequently, he begins to shirk work and becomes slack in his duties, and his capacity as well as will to work is gradually diminishes and he becomes inefficient.

Provisions Relating to Working Hours:

Factories Act, 1948, states the provisions relating to working hours.

(a) Restriction on Employment of Women and Children and Adolescents—Women workers are not to be employed or allowed to work during night. No child below the age of 14 years is to be employed in any factory (Sec 67). Besides, a child between 14th and 15th year of age or an adolescent (below 18 years) is not to be employed unless he is certified to be fit for work in a factory by a certifying surgeon. The certificate, which shall be valid for one year, is to be kept in the custody of the manager of the factory, and the child or adolescent has to carry with him, while at work, a token giving reference to such certificate. (Sections 68 and 69)
(b) **No Dual Employment**- No worker, whether adult or child, is to be employed on any day on which he has already worked in any other factory. [Section 60 to 71(4)]

(c) **Working Hours**-The working hours for an adult worker, or an adolescent certified to work as an adult, should not exceed 48 hours in a week and 9 hours in a day, while for a child the working hours should not exceed 4.5 hours in a day. [Section 51, 54, and 71(1)]

Woman workers, female adolescents, and male adolescents below 17 years, should not be engaged in any work between 7 p.m. and 6 a.m. [Sections 66 and 70 (1 A)]. Further, no child is to be engaged or permitted to work in any factory during the night, or between 10 p.m. and 6 a.m. [Section 71(A)]

(d) **Rest Intervals and Spread Over**-Every worker is to be allowed at least half-an-hour rest interval after a maximum working of five hours at a stretch. The total hours of work (including rest hours) are to be spread over not more than 10.5 hours in a day for adults and not more than 5 hours/one shift in a day for children. [Sections 55, 56 and 71(2)].

(e) **No Overlapping of Shifts**-Shifts to be worked in a factory should be so arranged that they do not overlap each other.  

2. **Provision of Holidays:**

According to Factories Act, 1948, every worker is to be allowed one holiday (period of 24 consecutive hours) in a week, or any day, so that it does not result in more than 10 days continuous work without a holiday. Whenever a worker is required to work on a weekly holiday, he is to be allowed a compensatory holiday for each holiday so lost, within the same month, or within two months immediately following that month [Sections 52, 53, and 71 (3)]

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With the passing of the Factories Act, 1948, annual leave (i.e., earned leave) with pay is the only leave facility which is required to be granted by employers to their employees as a statutory obligation. All other types of leave facilities have come in vogue either as a result of mutual agreements between the employers and the employees or as a consequence of adjudication awards. Some of the State Governments have also passed laws for the grant of paid national and festivals holidays to persons employed in industrial establishments.

3. **Overtime:**

According to Factories Act, 1948, a worker working for more than 9 hours on any day or for more than 48 hours in any week, shall be entitled to wages in respect of such overtime work at twice the ‘ordinary rate of wages’ [Section 59].

Ordinary rate of wages means basic wages plus such allowances as the worker is, for the time being, entitled to, including cash equivalent of the concessional sale of food grains and other articles, but not including bonus and wages for overtime work. 67

According to Factories Act, 1948, the total working hours in a week including overtime hours should not exceed sixty and the total overtime hours in a quarter should not exceed 50. [Section 64] 68

**TRADE UNIONS**

Trade unions protect rights of workers and save them from being exploited in the hands of employers. A worker alone cannot improve his standard of living and fight for his rights. If the workers act in concert, they can protect their rights.
The Indian Trade Union Act, 1926 [Sec 2 (B)], defines a Trade Union as, “any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions.”

There were no trade unions in the past and labour had to accept every condition which the employer would impose. By and by, some persons including workers started forming a group to protect their interests. These groups developed as trade unions. Trade union movement is the outcome of modern factory system.

The germs of trade unionism in India can be traced back to the year 1890, when for the first time, an association of mill workers was formed in the name and style of ‘Bombay Millhands Association’. This association was formed for the redressal of grievances of the Bombay mill workers.

It is difficult to treat this association as Trade Union in the strict sense in which this expression is used nowadays. Very little account is available about its mode of working. After the First World War was over, the cost of living considerably increased. The political agitation against foreign rule was also gaining momentum throughout the country. Moreover, the increase in cost of living and country-wide political upsurge found its way in economic discontent amongst masses, particularly in industries. The industrial unrest and economic discontent led to a number of strikes by workers, guided and controlled by their Action Committees consisting of representatives of workers themselves. On many occasions, these strikes were successful in getting the
demands of the workers fulfilled. The Trade Union movement in India got impetus by the success of strikes in India and the worldwide uprising of labour consciousness. The establishment of ILO has also influenced the growth of trade union movement in our country.⁶⁹

Trade unions have been formed to help workers to get equal pay for equal work and also help workers in getting fulfilled the other legislative provisions.

Trade unions proved beneficial for labour in the following ways:
1) The Trade Unions save labour from being exploited in the hands of employers.
2) They help in improving the conditions of work and raise workers’ standard of living.
3) They bring a feeling of self-respect in the workers and the labour work more efficiently.
4) They help labour in getting fair wages.
5) The labour can share their problems with trade unions and find their solution.
6) Trade unions organize educational and technical studies and also provide entertainment facilities. At some places, they organize library facilities and educate workers. Thus, they help in economic, social, and national development.

Trade unions in modern industrial countries perform two sets of functions: the Militant Functions and the Fraternal Functions. The trade union is a militant organization designed to fight for the cause of the workers. One of the main aims of the organization of workers into trade union is to secure better conditions of work and employment. The trade unions try to fulfil this object by the method of collective bargaining and negotiations and if they do
not succeed in securing their purpose in this manner, they put up in fight with employers for achieving their end in the form of strikes and boycotts. More recently, the trade unions have started making efforts to secure some share in the profits and also control of the industry. Then, the trade union is also a fraternal association, a benefit organization, providing sickness and accident benefits to the members and supporting them during strikes and lockouts and during the period when they are temporarily out of work. Such financial help to the members is given by the trade unions out of members' mutual funds.70

Thus, Trade Unions act as protectors as well as watchdog to ensure that workers' rights, entitlements and benefits, in accordance with legislative provisions, are provided by the employers in the industry.

From the foregoing discussion, it bears out that the Government of India has made adequate legislative provisions for the safety, welfare and security of the workers. Whether these provisions are being followed by the Agra footwear manufacturers for the benefit of their workers is being traced out in the following chapter. The next chapter is, accordingly, devoted to highlight the 'Problems of Labour in Agra Footwear Industry.'
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