

MIR-4- Social Security

Social Security: Concept, Objective and Other Details

The connotation of the term “social security” varies from country to country with varying political ideologies. For example, social security in the socialist countries implies complete protection to every citizen of this country from the cradle to the grave.

In other countries which are relatively less regimented ones, social security refers to measures of protection afforded to the needy citizens by means of schemes evolved by democratic processes consistent with resources of the State.

Concept: In general sense, social security refers to protection provided by the society to its members against providential mishaps over which a person has no control. The underlying philosophy of social security is that the State shall make itself responsible for ensuring a minimum standard of material welfare to all its citizens on a basis wide enough to cover all the main contingencies of life. In other sense, social security is primarily an instrument of social and economic justice.

Social security-Meaning

According to International Labour Organisation,” Social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner”. It is a right which is generally guaranteed by some act or legislation to people for their economic and social security in the time of sickness, disability or old age.

Objectives of Social Security:

The objectives of social security can be sub-summed under three, categories:

1. Compensation
2. Restoration
3. Prevention

A brief description of these is given as under:

Compensation: Compensation ensures security of income. It is based on this consideration that during the period of contingency of risks, the individual and his/her family should not be subjected to a double calamity, i.e., destitution and loss of health, limb, life or work.

Restoration: It connotes cure of one’s sickness, reemployment so as to restore him/her to earlier condition. In a sense, it is an extension of compensation.

Prevention: These measures imply to avoid the loss of productive capacity due to sickness, unemployment or invalidity to earn income. In other words, these measures are designed with an objective to increase the material, intellectual and moral well-being of the community by rendering available resources which are used up by avoidable disease and idleness.

Scope:

The term ‘social security’ is all embracing. The scope of social security is, therefore, very wide. It covers the aspects relating to social and economic justice.

All social security schemes furnished by the government are broadly classified into two types:

- (i) Social Assistance, and
- (ii) Social Insurance.

According to the Social Security (Minimum Standards) Convention (No. 102) adopted by the ILO in 1952, the following are the nine components of social security that configure its scope:

- (i) Medical care,
- (ii) Sickness benefit,
- (iii) Unemployment benefit.
- (iv) Old age benefit,
- (v) Employment injury benefit,
- (vi) Family benefit,
- (vii) Maternity benefit,
- (viii) Invalidity benefit, and
- (ix) Survivor's benefit

Need for social security in India

- Rise in population levels
- Rising poverty
- Rising inequality
- Unemployment
- A rise in the number of unorganised sector workers.
- Dangers and risks at the workplace
- Privatization
- Ageing population
- Rise in migration

Types of social security in India

- Gratuity
- Old-age pension
- Health and medical insurance
- Maternity benefits
- Disability benefits
- Minimum Wages Act

Challenges to social security in India

- Lack of programme implementation
- Lack of delivery mechanisms
- Corruption
- Lack of awareness
- Lack of delivery infrastructure.

Introduction to India's Social Security System

India's social security system is composed of a number of schemes and programs spread throughout a variety of laws and regulations. Keep in mind, however, that the government-controlled social security system in India applies to only a small portion of the population.

Furthermore, the social security system in India includes not just an insurance payment of premiums into government funds (like in China), but also lump sum employer obligations.

Generally, India's social security schemes cover the following types of social insurances:

- ✓ Pension
- ✓ Health Insurance and Medical Benefit
- ✓ Disability Benefit
- ✓ Maternity Benefit

Gratuity

While a great deal of the Indian population is in the unorganized sector and may not have an opportunity to participate in each of these schemes, Indian citizens in the organized sector (which include those employed by foreign investors) and their employers are entitled to coverage under the above schemes.

The applicability of mandatory contributions to social insurances is varied. Some of the social insurances require employer contributions from all companies, some from companies with a minimum of 10 or more employees, and some from companies with 20 or more employees.

Pension or Employees' Provident Fund

The Employees' Provident Fund Organization, under the Ministry of Labor and Employment, ensures superannuation pension and family pension in case of death during service.

The schemes under the Employees' Provident Fund Organization apply to businesses with at least 20 employees. Contributions to the Employees' Provident Fund Scheme are obligatory for both the employer and the employee when the employee is earning up to 15,000 rupees (Rs) per month, and voluntary when the employee earns more than this amount. If the pay of any employee exceeds this amount, the contribution payable by the employer will be limited to the amount payable on the first Rs 15,000 (US\$232) only.

The Employees' Provident Fund Organization includes three schemes:

The Employees' Provident Fund Scheme (EPF), 1952—contributed to by the employer (1.67%-3.67%) and the employee (10%-12%)

The Employees' Pension Scheme (EPS), 1995—contributed to by the employer (8.33%) and the government (1.16%) but not the employee

The Employees' Deposit Linked Insurance Scheme (EDLI), 1976—contributed to by the employer (0.5%) only

These four main types of pension (all monthly) are offered:

- ✓ Pension upon superannuation or disability;
- ✓ Widow's pension for death while in service;
- ✓ Children's pension; and,
- ✓ Orphan's pension.

In addition, there are separate pension funds for civil servants, workers employed in coal mines and tea plantations in the state of Assam, and for seamen.

Health Insurance and Medical Benefit

India has a national health service, but this does not include free medical care for the whole population. The Employees' State Insurance (ESI) Act creates a fund to provide medical care to employees and their families, as well as cash benefits during sickness and maternity, and monthly payments in case of death or disablement for those working in factories and establishments with 10 or more employees.

The ESI (Central) Amendment Rules, 2016—notified on December 22, 2016—expanded coverage to include employees earning Rs 21,000 (US\$313.53) or less in a month from January 1, 2017; previously, the wage limit for ESI subscribers was Rs 15,000 per month. Subsequently, the Employees' State Insurance (Central) Amendment Rules, 2017, was notified on January 20, detailing new maternity benefits for women who have insurance.

Sickness benefit under ESI coverage is 70% of the average daily wage and is payable for 91 days during two consecutive benefit periods.

Disability Benefit

The Employee's Compensation Act, 1923, formerly known as the 'Workmen's Compensation Act, 1923, requires the employer to pay compensation to employees or their families in cases of employment-related injuries that result in death or disability.

In addition, workers employed in certain types of occupations are exposed to the risk of contracting certain diseases, which are peculiar and inherent to those occupations. A worker contracting an occupational disease is deemed to have suffered an accident out of and in the course of employment, and the employer is liable to pay compensation for the same. Injuries resulting in permanent total and partial disablement are listed in parts I and II of Schedule I of the Employee's Compensation Act, while occupational diseases have been defined in parts A, B, and C of Schedule III of the Employee's Compensation Act.

Compensation calculation depends on the situation of occupational disability:

(a) Death—50% of the monthly wage multiplied by the relevant factor (age) or an amount of Rs 80,000 (US\$1,246.20), whichever is more.

(b) Total permanent disablement—60% of the monthly wage multiplied by the relevant factor (age) or an amount of Rs 90,000 (US\$1,401.98), whichever is more.

Maternity Benefit

The Maternity Benefit (Amendment) Act, 2017 came into force on April 1, 2017, and increases some of the key benefits mandated under the previous Maternity Benefit Act of 1961. The amended law provides women in the organized sector with paid maternity leave of 26 weeks, up from 12 weeks, for the first two children. For the third child, the maternity leave entitled is 12 weeks. India now has the third most maternity leave in the world, following Canada (50 weeks) and Norway (44 weeks).

The Act also secures 12 weeks of maternity leave for mothers adopting a child below the age of three months as well as to commissioning mothers who opt to use a surrogate. The 12-week period in these cases will be calculated from the date the child is handed over to the adoptive or commissioning mother.

In other provisions, the law mandates that every establishment with more than 50 employees must provide crèche or day care facilities within easy distance which the mother can visit up to four times a day. For compliance purposes, companies should note that this particular provision came into effect from July 1, 2017.

The Maternity Benefit (Amendment) Act introduces the option for women to negotiate work from home arrangements, if they reach an understanding with their employers, after the maternity leave ends.

Under the pre-existing Maternity Benefit Act of 1961, every woman is entitled to, and her employer is liable for, the payment of maternity benefits at the rate of the average daily wage for the period of the employee's actual absence from work. Apart from 12 weeks of salary, a female worker is entitled to a medical bonus of Rs 3,500 (US\$54.45).

The 1961 Act states that in the event of miscarriage or medical termination of pregnancy, the employee is entitled to six weeks of paid maternity leave. Employees are also entitled to an additional month of paid leave in case of complications arising due to pregnancy, delivery, premature birth, miscarriage, medical termination, or a tubectomy operation (two weeks in this case).

In addition to the above, the 1961 Act states that no company shall compel its female employees to do tasks of a laborious nature or tasks that involve long hours of standing or which in any way are likely to interfere with her pregnancy or the normal development of the fetus, or are likely to cause her miscarriage or otherwise adversely affect her health.

Gratuity

The Payment of Gratuity Act, 1972 directs establishments with 10 or more employees to provide the payment of 15 days of additional wages for each year of service to employees who have worked at a company for five years or more.

Gratuity is provided as a lump sum payout by a company. In the event of the death or disablement of the employee, the gratuity must still be paid to the nominee or the heir of the employee.

The employer can, however, reject the payment of gratuity to an employee if the individual has been terminated from the job due to any misconduct. In such a case of forfeiture, there must be a termination order containing the charges and the misconduct of the employee.

Gratuity is calculated through the formula mentioned below:

Gratuity = Last Drawn Salary \times 15/26 \times Years of Service, where:

The ratio 15/26 represents 15 days out of 26 working days in a month.

Last Drawn Salary = Basic Salary + Dearness Allowance.

Years of Service are rounded up or down to the nearest full year. For example, if the employee has a total service of 10 years, 10 months, and 25 days, 11 years will be factored into the calculation.

Gratuity is exempt from taxation provided that the amount does not exceed 15 days' salary for every completed year of service calculated on the last drawn salary (subject to a maximum of Rs 10 lakh or US\$15,467.62). It is important to note that an employer can choose to pay more gratuity to an employee, which is known as ex-gratia and is a voluntary contribution. Ex-gratia is subject to tax.

Health and Occupational safety programs

Definition of health

- As defined by the World Health Organization (WHO), health is a “state of complete physical, mental, and social well-being, and not merely the absence of disease or infirmity”.

Definition of safety

- Safety is the state of being ‘safe’, the condition of being protected from harm or other non-desirable outcomes.

Health, Safety & the Law

- The Government has laws to protect the health and safety of workers. This is why preventing workplace injuries is important for everyone.
- The purpose of these laws is to prevent injury and illness which helps create a better place to work.
- Along with specific duties and responsibilities, the law also sets out general health and safety requirements for everyone in the workplace.

Why is workplace safety important?

- **Protects** employees and the employer from death or injury.
- **Teaches** workers how to work in a safe environment.
- **Helps** everyone feel **safe** and **happy**.

- **Teaches** the workers to pay attention to their surroundings.
- **Protects** companies from law suits, citations and fines.

Health & Safety Law

The **Law** sets out:

- Your **rights and responsibilities** as a **worker**
- Your **responsibility** as a **supervisor and employer**
- The **role of the government** in enforcing the law
- **Specific regulations** for certain jobs or workplaces

Under the law, **everyone has a role to play in preventing workplace injuries and illnesses.**

This means, workers, supervisors, employers, and worker representatives **all have legal duties to keep their workplace safe and healthy.**

This system of health and safety duties is called the **Internal Responsibility System (IRS).**

Every employee must be trained on the Health & Safety in their workplace.

Ministry of Labour

The **Ministry of Labour (MOL)** enforces the **Occupational Health and Safety Act (OHSA)** and its regulations. MOL inspectors can enter any workplace covered by the OHSA **at any time!**

The MOL can also:

- Lay charges against companies or people breaking the law
- Inspect workplaces
- Issues orders and stop unsafe work
- Investigate serious accidents, fatalities, or work refusals
- Look for violations of health and safety laws and regulations

Role of the Health & Safety Committee

- Inspect the workplace at least once a month.
- Identify workplace hazards.
- Be consulted about workplace testing and make recommendations to the employer.
- Investigate work refusals and serious accidents.
- Carry out regular inspections of the workplace.
- Be available to receive worker concerns, complaints, and recommendations; discuss problems and recommend solutions; and to provide input into existing and proposed health and safety programs.

Workers Responsibility

Workers must:

- **Follow** the law and workplace health and safety policies and procedures.
- **Wear** and **use** the protective equipment required by their employer.
- **Work** and **act** in a way that won't hurt themselves or anyone else.
- **Report** any hazards or injuries to their supervisor.

Workers Rights

As a worker, the law also give you three important rights:

1. The Right to **Know**
2. The Right to **Participate**
3. The Right to **Refuse Unsafe Work**

1.The Right to Know: You have a right to know about dangers in your workplace and what to do about them. Your employer must provide you with the training, supervision and hazard information you need to perform your job safely.

2.Right to Participate: You have the right to take part in keeping your workplace healthy and safe.

- Ask questions
- Help with health and safety inspections
- Take part in training
- Identify hazards and possible solutions

3.Right to Refuse Unsafe Work:

- When the boss or supervisor tells you to do something, it's hard to say no.
- But you should say no if you think someone will get hurt. No job is worth getting injured.
- Before refusing work that you think is dangerous, discuss it with your boss or supervisor. In most cases, you can work it out. But if your boss insists that you do work that you feel is unsafe, you may have to refuse. If you do need to refuse, be polite but firm.

Employer Responsibility

Employers must:

- **Make sure** workers know about hazards and dangers by providing information, instruction and supervision on how to work safely.
- **Make sure** supervisors know what is required to protect workers' health and safety on the job.
- **Create** workplace health and safety policies and procedures.
- **Make sure** everyone follows the law and the workplace health and safety policies and procedures.
- **Make sure** workers wear and use the right protective equipment.
- **Do everything** reasonable in the circumstances to protect workers from being hurt or getting a work-related illness.

Workplace/occupational Hazards

A workplace hazard is **any condition, practice, behaviour**, or a combination of these **that can cause injury or illness to a person or damage to property**.

Types of Hazards

They are generally grouped into four basic types:

1.PHYSICAL HAZARDS include unsafe machines and environmental condition. Examples are unguarded machine parts like saw blades, constant noise, or prolonged exposure to sun or cold.

2.BIOLOGICAL HAZARDS are produced by living things. They often come from working with animals and people. Examples include blood, viruses and animal and bird droppings.

3.CHEMICAL HAZARDS include materials that are flammable, explosive or poisonous. Example are cleaning products, pesticides and gasoline.

4.ERGONOMIC HAZARDS are caused by poorly designed workplaces or processes. Examples are poor lighting, workstations that are too high or low for you or a job that requires you to repeat the same movement over and over.

1. Physical Hazards:

NOISE is unwanted sound that can interfere with communications in the workplace, leading to possible injuries.

Excessive noise levels or prolonged noise can damage the nerves in the ear. Hearing loss may be temporary or permanent.

Effects:

- Hearing loss
- Ringing in the ears
- Difficulty in understanding what people say
- Sleep problems
- Fatigue

- Muscle tension

Electricity:

- Frayed electrical cords, missing ground pins, improper wiring and live electrical parts can all result in electric shock.
- Death from electrocution
- Burns to skin and organs

2. Biological Hazards:

BACTERIA are found in the air, water, soil, and in living or dead animals or plants.

VIRUSES are micro-organisms that reproduce by coming into contact with living cells. They are found only in living animal and plant matter.

FUNGI are simple plants that feed on the living or dead tissues of animals or plants. Mold, mushrooms and yeast are examples of fungi.

3. Chemical Hazards include materials that are flammable, explosive or poisonous. Examples are cleaning products, pesticides and gasoline.

Acute and Chronic Injuries and Illness

- Some hazards – like slippery floors or building water – cause injuries right away. But other hazards take longer.
- Immediate injuries are called **acute**. Examples of acute injuries are burns, fractures or bruises.
- Illnesses that develop over a long period of time are called **chronic**. Examples of chronic illnesses include repetitive strain, hearing loss and cancer.

4. Ergonomic Hazards

- The goal of ergonomics is to improve the "**fit**" between the worker and the workplace activities.
- This is accomplished by improving the set-up of workstations, improving the tools and equipment used to perform work tasks, and adapting the way the work is done.

Work Stations and Tools

- ✓Adjust your workstation and seat to meet your needs
- ✓Maintain a neutral, relaxed posture, and work in a comfortable position
- ✓Use tools and equipment that reduce repetition, awkward, or sustained postures, forceful muscle movements and pressing on hard surfaces

Workmen's Compensation Act, 1923

Introduction: Workmen's Compensation Act, 1923 was issued by the Central Government and was implemented by various State Governments to ensure social security for workers. It was enacted for the security of the workers whose nature of occupation is hazardous and has a risk to life or grievous injury during the course of employment such as factories, mines, plantations, construction work, railways, cruises, ships, transport establishments and other hazardous occupations and employments specified in Schedule II to the Act. This Act does not extend to the members of the Union's Armed Forces and all those employees who are protected under the Employees State Insurance Act, 1948. This Act is also applicable to the cooks employed in hotels and restaurants.

The Act was established after it was noticed that with the advancement of technology and usage of more sophisticated and complex machinery, labourers were becoming more prone to danger at the workplace. The common law, however, had the provision that if any industrial accident happens due to the negligence of the employer only then would he be liable to pay the compensation. In India, the problem of workmen's compensation after fatal and major injuries hit the track in the year

1884. The factory and mining inspectors found in 1885 that the Fatal Accidents Act, 1885, was not adequate to look after the intended purposes.

The foundation of the Workmen's Compensation Act, which was passed in March 1923 and came into effect on 1st July 1924, emphasises on the fact that the Central and State Government cannot be silent spectators to the misery of the working class employed in factories or enterprises that are susceptible to the various risks to their limbs and lives.

Aims and Objectives of the Act

- The primary aim of this Act is to provide comprehensive coverage to workers for work-related injuries and disabilities. The Act focuses on providing workmen with a sustainable life after suffering any injury at the workplace during the course of employment.
- The second goal is to provide effective protection against loss of income. The cash incentives are meant to recover a large proportion of the lost wages of the disabled workers so that the previous quality of life can be maintained.
- Third objective is to provide the injured staff with sufficient medical treatment and recovery facilities. It requires employers to cover hospital, surgical, and other medical expenses incurred by injured workers and provide rehabilitation facilities to employees with disabilities to help them be returned to productive employment.
- Another aim is to promote employers to reduce work-related mishaps and develop effective safety measures. Organisations with superior accident rates pay comparatively lower workmen's compensation premiums as experience ranking is used to motivate the employers to minimize work-related accidents and illnesses.
- Workmen's compensation laws are, above all, designed to reduce litigation. Disabled employees are automatically paid compensation, without having to sue their employers. The goal is to reduce the number of lawsuits pending in court, which will help to minimize or eliminate legal fees charged to lawyers.

Scope of the Act

The Act applies only to those industrially employed workers as specified in Schedule II of the Workmen's Compensation Act. The Act provides the workers with protection from losses or injury caused by accidents resulting from and during the course of employment subject to certain exceptions as set out in the Act.

Employee's liability for compensation

In order to get compensation from the employer under the Workmen's Compensation Act, 1923 the following conditions should be fulfilled:

- I. The worker's death or injury must result from an 'accident arising out of and in the course of his employment'. However, the employee cannot hold the employer liable if the injury does not result in the total or partial disablement of the employee for a period exceeding 3 days; if the injury which does not result in death or permanent total disablement is caused due to accident directly attributable to the worker being under the influence of drink or drugs, or willful disobedience to an order expressly given, or a rule expressly framed, to ensure the safety of all the workers, or wilful removal or disregard of any safety guard with the knowledge of it being provided to secure the safety of the employees.
- II. The employee employed in any employment as specified in Part A, Part B or Part C of Schedule III to the Act contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident unless the proved otherwise, the accident shall be deemed to have arisen out of and in the course of the employment.
- III. The disease caused to the employee must be directly attributable to a specific injury by accident arising out of and in the course of his employment, otherwise, no compensation shall be payable by the employer.

- IV. The employee would not be entitled to confer any right to compensation in respect of any injury for anything contained under the Act if he filed a suit in a Civil Court for damages against the employer or any other person.

Applicability of the Act

The applicability of the Act extends throughout India. The words 'except the State of Jammu and Kashmir' were omitted by Act 51 of 1970. The Act does not apply to those areas which are being covered under the Employees State Insurance Act, 1948.

Salient Features of the Act

I. Extent and Application: The Workmen's Compensation Act, 1923 is applicable to the whole of India. It also extends to the workers recruited by organisations/enterprises registered in India and sent abroad for work. It applies to: All **railway employees** not permanently employed in any railway administrative, district, or sub-divisional office and who are not employed in any capacity as stated in Schedule II to the Act;

Persons employed in any capacity as stated in Schedule II to the Act. Schedule II covers people working in **factories, mines, plantations, and mechanically propelled vehicles, building works**, and several other **hazardous occupations**. A total of 48 jobs are listed in the Schedule; and

II. Contingencies in which Compensation is Payable: Compensation is payable in case of temporary or permanent disability or death resulting from any injury caused during the course of the employment. The contracting of any disease as specified in Schedule III to the Act is considered to be an injury caused by accident.

III. Occupational Diseases: If an employee who is employed under the employment specified in Schedule III to the Act contracts some occupational disease peculiar to that employment, he is entitled to get the compensation under the Act.

The occupational diseases should be contracted in the specified employment while serving an employer. Schedule III divides the occupational diseases into three specified groups, Part-A, Part-B, Part-C in particular.

There is no qualifying period of employment for the diseases mentioned in Part-A. In the case of diseases specified in Part-B, a person should have been employed for a continuous period of no less than six months before contracting the disease in the specified employment.

The qualifying period is specified by the Central Government for the diseases listed in Part-C. The qualifying time for the diseases mentioned in the Part-C of the Schedule is as follows:

- ✓ Pneumoconiosis – 7 years
- ✓ Pagassosis – 3 years
- ✓ Byssinosis – 7 years

IV. Administration: The Act does not provide for Inspectors to be appointed. Under Section 32 of the Act, however, the State Governments/Union Territory Administrations shall frame rules to implement the purposes of the Act.

Originally the rulemaking power under the Act was vested in the Central Government, and the Workmen's Compensation Laws, 1924, was formulated in the exercise of these powers. Subsequently, some state governments framed their own laws under the Act.

In this relation, a declaration is attached showing the names of the States/UTs, which to date have framed the required rules under the Act (Annex-II). The remaining States/UTs are aware of how easily laws are laid down under the Act.

V. Settlement of Claims under the Act: Compensation claims fall broadly into three groups, namely (i) uncontested cases of disablement; (ii) disputed cases of disablement, and (iii) fatal cases. The procedures for settling the three types of cases are as described below:

Uncontested Cases: The employer is expected to pay for the medical examinations of the worker after he has given notice of the accident. The medical examination fee must be free of charge for the worker. These tests would show the nature of the disablement.

If the disability is of a temporary nature, the employer shall pay compensation in the form of half monthly payments, directly to the workers.

If the disability is of permanent nature the compensation amount, in such case, would be paid in a lump sum if he is a male over the age of 18 years. In the case of women and children, the employer must deposit, for disbursement, the amount of compensation with the Commissioner.

Where an employee has agreed to accept and has taken a smaller sum than that decided by the Act, his right to bring a proceeding for the balance shall be protected.

The agreement with the employee for lump sum payment, if any, must be registered with the Commissioner employer.

Disputed Cases: In case the employer refuses to pay compensation or fails to pay the full sum owed, the employee in such a case has to write an application to the Commissioner for Workman's Compensation appointed by the State Government/Union Territory.

The application must be in the Form 'F*' as prescribed in the Workman's Compensation Rules. An illiterate person may have the application prepared under the guidance of the Commissioner.

A compensation claim shall be preferred before the Commissioner within 2 years from the occurrence of the accident or within 2 years from the date of death in the case of death. The incident is considered to have happened, in the case of contracting a disease, on the first day on which the workman was continually absent as a result of the impairment caused by the disease.

Fatal Cases: The employer has to deposit the amount of the compensation due to the Commissioner for Workmen's Compensation. The Act explicitly provided that no payment rendered directly by the employer shall be considered a payment of compensation.

The Commissioner shall distribute to the dependants the lump sum of the compensation in the proportion as he may desire.

If the employer refuses to pay the compensation, the employee or dependent shall appeal to the Commissioner in the Form 'G' as prescribed by the Workmen's Compensation Rules for the matter of an order to pay the compensation.

VI. Extension of the provisions of the Workmen's Compensation Act to Hazardous Employment in Agriculture:

The Workmen's Compensation Act of 1923 also refers to workers who are working by tractors or other contrivances powered by steam or other mechanical power or electricity etc. in agriculture. In March 1976, the State Governments of Andhra Pradesh, etc. were advised to consider, in compliance with the provisions of subsection (3) of Section 2 of the Act, the addition of the following employments to Schedule-II:

- Employed in the clearing of jungles or in the reclaiming of land or wetlands in which more than twenty-five persons were working on any one day of the proceeding;
- Employed in land cultivation or in the rearing and maintaining of live stocks or forest operations or fisheries in which more than twenty-five persons were working on any one day of the proceeding;
- Employed, otherwise than in cleric, I capacity, in installation, maintenance, repair of pumping equipment used to raise water from wells, rivers, ponds, lakes, streams and so on;
- Employed in the construction, boring or deepening of an open well / dug well, other than in clerical capacity, by means of mechanical techniques;
- Employed in the construction, operating, repair or maintenance of a bore well, bore-cum-dug well, fitter point, etc., other than in clerical capacity;
- Employed in agricultural operations/plantations for the spraying and dusting of insecticides or pesticides;
- Employed in repair work and maintenance of bulldozers, power tillers, tractors, and other such carriers.

Employee Provident Fund ACT -1952

1. Introduction:- Employee Provident Fund is the fund the purpose of which is to provide **employees** with the lump sum payments at the time of exit from their place of employment. This is different from pension fund, which have elements of both lump sum as well as monthly pension payments. Employees save fraction of their salary every month under EPF scheme.

It is a very good platform for saving the portion of salary that can help employees in the event of emergency or upon retirement Every employer with over 20 employees is required by law to register with EPFO.

2. What is UAN (Universal Account Number)?

UAN has been introduced by Employees Provident Fund Organization (EPFO). UAN number is not to be confused by EPF number.

UAN number allows a member to view his or her EPF accounts with current and former employers. With a single number, a member can initiate the process of closing old accounts and transferring balances. UAN number needs to be activated.

UAN Number and Member ID or PF Account Number these two details are mandatory for UAN activation

Following is the process for activating the UAN number:

- ✓ Visit the EPFO website and click on “Activate UAN”, after reading all the instructions, click on “I have read and understood the instruction”.
- ✓ Once the above steps are done, member will be asked to enter the details like, UAN number, Mobile Number, PF account number etc. and once all the details have been uploaded, click on “Get PIN”.
- ✓ In order to complete the activation process, member needs to enter the PIN received on registered mobile number.
- ✓ On completion of the activation, the member will be prompted to create a login user id and password for accessing the UAN services offered by the portal.

3. Who deducts EPF?

Contribution to EPF is done by both employees and employer.

Employer deducts, employees share of EPF contribution and along with his share of contribution, deposits the amount in the PF account of employees.

4. Contribution towards EPF?

The contribution paid by the employer is 12% of basic wages plus dearness allowance plus retaining

allowance. An equal contribution is payable by the employee also.

Present rate of contribution towards EPF is as follows:

✓ Employee contribute – 12 %* towards EPF.

✓ Employer Contribute – 8.33 % * towards “**Employees’ Pension Scheme**”

(subject to maximum of INR 1,250 (refer note 5 for details), 3.67%* towards “**Employees Provident Fund**”, 0.5%* towards **EDLI** and 0.5%* towards **administrative charges**.

*% is calculated of Basic Pay + Dearness Allowance + Retaining Allowance

Note:

- a. Incase, an organization is covered under the EPFO and does not have a separate group insurance **for** its employees, the employer needs **to** monthly **contribute** 5% of the employee’s basic salary + dearness allowance + retaining allowance (capped at Rs 15000) **to EDLI** scheme as insurance premium.
- b. Provisions of EPF covers every establishment in which 20 or more persons are employed and certain organizations are covered, subject to certain conditions and exemptions even if they employ less than 20 persons each.
- c. In the case of establishments which employ less than 20 employees or meet certain other conditions, as per the EPFO rules, the contribution rate for both employee and the employer is limited to 10 percent.
- d. The employee can voluntarily pay higher contribution above the statutory rate of 12 percent of basic pay. This is called contribution towards Voluntary Provident Fund (VPF) which is accounted for separately. This VPF also earns tax-free interest. However, the employer does not have to match such voluntary contribution.
- e. 33% will be diverted to **Employees’ Pension Scheme**, but it is calculated on Rs 15,000. So, for every employee with basic pay equal to Rs 15,000 or more, the diversion is Rs 1,250 each month into EPS. If the basic pay is less than Rs 15000 then 8.33% of that full amount will go into EPS. The balance will be retained in the EPF scheme.
- f. New EPF members enrolled on or after September 1, 2014, and having a basic salary of more than INR 15,000 per month at the time of joining, **will not** become members of the EPS. Accordingly, the entire contribution of 24% (from the employee and employer) will go to the provident fund account of the employee.

5. When can we withdraw the EPF amount?

EPF can be completely withdrawn in case if employee retires or remains unemployed for 2 months or more.

Note:

1. Its needed to mention that fact that the individual is unemployed for more than 2 months, the same has to be certified by gazetted officer.
2. Decision taken at the 222nd central board of trustees meeting of EPFO in June 2018, it was decided that subscribers of Employees Provident Fund Organization (EPFO) who resign from their service can now withdraw 75% of their total provident fund kitty after one month from the date of cessation of service to meet their monthly financial commitments.
3. One is also allowed to withdraw the EPS amount if the service period has been less than 10 years and not later on. Once this milestone is crossed, the employee compulsorily gets pension benefits after retirement.

S.no	Reasons for withdrawal	Limitations on withdrawal	No. of years of service	Other conditions
1	Marriage	Up to 50% of employee's share of contribution to EPF	7 years	For the marriage of self, son/daughter, brother/sister
2	Education	Up to 50% of employee's share of contribution to EPF	7 years	For the education of either himself or his children after class 10
3	Purchase of land / purchase or construction of a house	For land – up to 24 times of monthly wages plus Dearness allowance For house – up to 36 times of monthly wages plus Dearness allowance	5 years	The asset i.e. land or the house should be in the name of the employee or spouse or Jointly.
4	Home loan repayment	Up to a maximum of 90 %, from both employee's contribution and employer contribution in Employee Provident Fund.	10 years	<ul style="list-style-type: none"> The property should be registered in the name of the employee or spouse or jointly Withdrawal permitted subject to furnishing of requisite documents as called for by the EPFO relating to the housing loan availed The accumulation in the member's PF account (or together with the spouse), including the interest, has to be more than INR 20,000.
5	Renovation of house	Up to 12 times of the monthly wages	5 years	The property should be registered in the name of the employee or spouse or jointly.

4. Following are different scenarios when and how much amount can be withdrawn from EPF

S.No	Scenario	Taxability
1	If amount withdrawn is less than INR 50,000 before completion of 5 years of continuous service	No TDS will be deducted, however individual will have to show that as income while calculating the taxable income for that FY.
2	If amount withdrawn is greater than INR 50,000 before completion of 5 years of continuous service	TDS @ 10% if PAN is furnished. No TDS in case form 15G/15H is furnished.
3	Withdrawal of EPF after 5 years of continuous service	No TDS will be deducted, Further, the individual need not offer the same in the return of income as such withdrawal is exempt from tax
4	Transfer of PF from one account to another upon a change of job	No TDS. Further, the individual need not offer the same in return of income as it is not taxable.
5	If withdrawal is done before completion of 5 continuous years of service due to any of following reasons: a) employment is terminated due to employee's ill health b) The business of the employer is discontinued c) the reasons for withdrawal are beyond the employee's control	No TDS. Further, the individual need not offer the same in the return of income as such withdrawal is exempt from tax

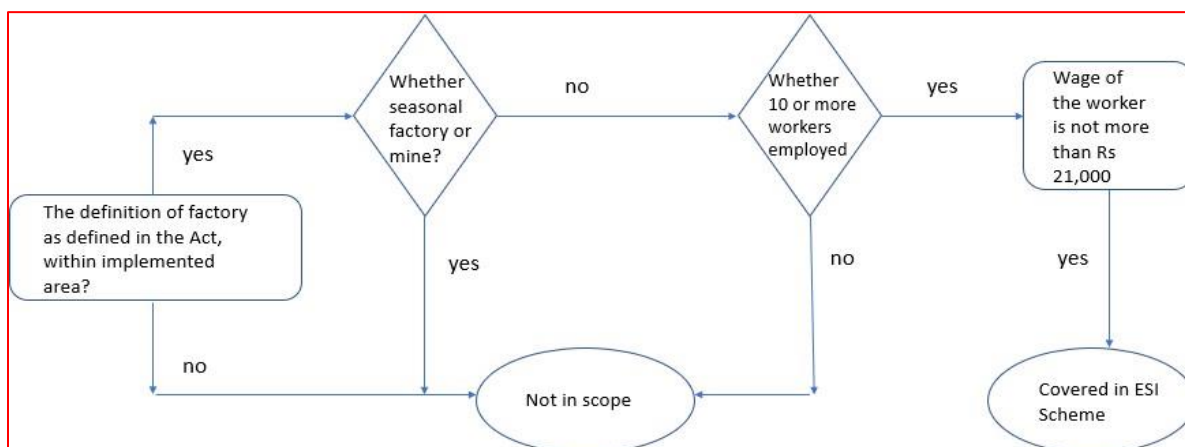
ESI (Employees' State Insurance)

Employees' State Insurance (abbreviated as **ESI**) is a self-financing social security and health insurance scheme for Indian workers. The fund is managed by the Employees' State Insurance Corporation (ESIC) according to rules and regulations stipulated in the **ESI Act**

Applicability of the ESI scheme

The ESI scheme is applicable to all factories and other establishments as defined in the Act with 10 or more persons employed in such establishment and the beneficiaries' monthly wage does not exceed Rs 21,000 are covered under the scheme. Whether the employer has employed 10 or more employees, all employees employed by the employer, agnostic of the salary are reckoned.

The applicability of the scheme is explained through a flow chart below:



Note : The scheme under the act also supports restaurants, motor road transports, newspaper establishments and undertakings, movies and purview theatres, hotels, shops.

The threshold for coverage of establishment is 20 employees in Maharastra and Chandigarh.

Features of the scheme

Complete medical care and attention are provided by the scheme to the employee registered under the ESI Act, 1948 at the time of his incapacity, restoration of his health and working capacity. During absenteeism from work due to illness, maternity or factories accidents which result in loss of wages complete financial assistance is provided to the employees to compensate for the wage loss. The scheme provides medical care to family members also. As on 31 March 2017, 2.93 crore employees are covered under this scheme with the total number of beneficiaries summing up to 12.40 crores. Broadly, the benefits under this scheme are categorized under two categories, 1) cash benefits (which includes sickness, maternity, disablement (temporary and permanent), funeral expenses, rehabilitation allowance, vocational rehabilitation and medical bonus) and, 2) non-cash benefits through medical care.

The scheme is self-financing and being contributory in nature. The funds under the ESI scheme are primarily built out of the contribution from the employees and employers payable monthly at a fixed percentage of wages paid. Currently, the employee contribution rate is 1.00% of the wages and that of employers is 4.00% of the wages paid. For newly implemented areas, the contribution rate is 1% and 3% respectively for employee and employer for the first 24 months. The employer makes the contribution form its own share in favor of those employees whose daily average wage is Rs 137 as these employees are exempted from own contribution. The employer is required to pay his contribution and deduct employees' contribution from wages and deposit the same with ESIC within 15 days from the last day of the calendar month in which the contribution fall due. The payment can either be done online or through designated and authorized public sector banks.

ESIC contribution rates (Reduced w.e.f. 01/07/2019)		
Particulars	Current Rate	Reduced Rate
Employer Share	4.75%	3.25%
Employee Share	1.75%	0.75%
Total	6.50%	4.00%

Payment of Gratuity Act, 1972

The **Payment of Gratuity Act, 1972** (the **Gratuity Act**) is applicable to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments with ten or more employees. ... **Gratuity** is fully **paid** by the employer, and no part comes from an employee's salary.

The Applicability and Calculation of Gratuity in India

Gratuity is a lump sum that a company pays when an employee leaves an organization, and is one of the many retirement benefits offered by a company to an employee.

In India, gratuity rules and requirements are set out under the Payment of Gratuity Act, 1972. An employer may also choose to pay gratuity outside of that which is required by this Act.

The Payment of Gratuity (Amendment) Act, 2018 enables the government to raise the limit of tax-free gratuity. The change can be made through an executive order by the prime minister.

On February 1, 2019, India's interim budget hiked the tax-free gratuity limit from Rs 20 lakh. The government had doubled the tax-free gratuity to Rs 20 lakh (US\$27,904) in March, 2018.

In this we discuss India's gratuity rules in terms of:

- Applicability;
- Calculation;
- Tax exemption;
- Payment; and
- Forfeiture.

Applicability

The Payment of Gratuity Act, 1972 (the Gratuity Act) is applicable to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments with ten or more employees. The full official text of the Gratuity Act can be found [here](#). Gratuity is fully paid by the employer, and no part comes from an employee's salary.

To be eligible for gratuity under the Gratuity Act, an employee needs to have at least five full years of service with the current employer, except in the event that an employee passes away or is rendered disabled due to accident or illness, in which case gratuity must be paid.

Gratuity is paid when an employee:

- Is eligible for superannuation;
- Retires;
- Resigns; or
- Passes away or is rendered disabled due to accident or illness (if an employee passes away, gratuity will be paid to the employee's nominee).

Gratuity Calculation Formula

Gratuity in India is calculated using the formula:

Gratuity = Last Drawn Salary × 15/26 × No. of Years of Service

Notes:

- The ratio 15/26 represents 15 days out of 26 working days in a month.

- Last drawn salary = Basic Salary + Dearness Allowance.
- Years of Service are rounded down to the nearest full year. For example, if the employee has a total service of 20 years, 10 months and 25 days, 21 years will be factored into the calculation.

Tax Exemption

Gratuity received under the Gratuity Act is exempt from taxation to the extent that it does not exceed 15 days' salary for every completed year of service calculated on the last drawn salary (subject to a maximum of US\$41,856 or Rs 30 lakh).

Any other gratuity is exempt to the extent that it does not exceed one half-month salary for each year of completed service calculated on the basis of average salary for 10 immediately preceding months. The upper limit of US\$41,856 applies to the aggregate of gratuity received from one or more employers in the same or different years.

India's income tax department has put out a taxable gratuity calculator, which can be accessed [here](#).

Payment

The employer shall arrange to pay the amount of gratuity within 30 days from the date it is billed to the person to whom the gratuity is allocated.

If the amount of gratuity payable under the section is not paid by the employer within the period specified, he will have to pay simple interest on it from the date on which the gratuity becomes payable at the rate not exceeding the rate stipulated by the federal government.

Gratuity should be paid in cash, or if so desired by the payee, by demand draft or bank check to the eligible employee, nominee, or legal heir.

Forfeiture

The gratuity payable to an employee shall be wholly forfeited if:

- The service of such employee has been terminated for his or her lawless or disorderly conduct or any other act of violence on his or her part; or
- The service of such employee is terminated for any act which constitutes an offense involving moral turpitude, provided that such offense is committed by him or her in the course of his or her employment.

In order to forfeit gratuity of an employee, there must be a termination order containing charges as established to the effect that the employee was guilty of any of the aforesaid misconducts. In one case, it has been held that in the absence of a termination order containing any of the above allegations, the gratuity of an employee cannot be forfeited.

Workers' Education-concept-objectives

Workers make a significant contribution to the GDP of the country through their labour. They need to be supported in the pursuit of their social and psychological satisfaction. It is not the physical equipment of a company that achieves its output; without manpower much would not be possible.

The concept of workers' education has been talked about for around fifty years. In 1956, in Copenhagen, the ILO considered the question of workers' education but there were very sharp differences of opinion and no unanimous concept was defined. To some, it signified basic education for those who had not got it, for others it meant training to be trade unionists, and for others it meant training the worker to be a good citizen, a member of the community, as a producer, a consumer or citizen.

The educational needs of a workman as an individual for his personal evolution, as an operative for his efficiency and advancement as a citizen for an integrated life with the community, as member of a trade union and for the protection of the members of the working class these are all perspectives of worker education.

Some features that have been identified are:

- ✓ The scope is much wider than that of trade union education but narrower than adult education
- ✓ It is designed to create trade union consciousness and make them good citizens and train them to understand their status, rights and responsibilities
- ✓ The workers prescribe the curriculum and select teachers who have a deep empathy for the working class.
- ✓ Institutions providing worker education are owned, financed and managed by the workers
- ✓ The aim is to increase the bargaining power of the unions, though making them cooperative and sensible in their interactions
- ✓ It is not vocational and professional training; it is aimed at increasing group advancement through individual capacity for creative work.
- ✓ The approach is psychological and philosophical 8. It may include general education, vocational training, technical education, social education and training in unionism.

Objective of workers' education:

- To convert a worker into an efficient, disciplined union member and a good corporate citizen is the overall objective, so as to enable the worker to participate in the socio-economic development of the country.
- To develop the worker for a good and respectable civic life
- To promote among workers a greater understanding of the problem of the country's economic environment and their privileges, rights and obligations as union members and citizens
- To develop leaders from within the unions, preventing infiltration by politicians
- To help workers understand capitalist culture and philosophy which is the pillar of the modern industrial system
- To help workers understand their duties, responsibilities to enable them to work properly
- To equip organized labor to take its rightful place in a democratic society

After liberalization, some of the objectives have changed based on the changed scenario.

Some additional objectives are:

- To acquaint workers with the ground realities of liberalization and inculcate a sense of competitiveness and excellence needed to compete on the international stage.
- To help workers understand the philosophy of liberalization and to train them to carry out their new role.
- To teach workers means of keeping the pace of the business and with upcoming trends The overall objective of workers' education is to create a social consciousness in the worker, to enable him to perform his functions effectively in a dynamic scenario and to promote his solidarity with other workers through worker organizations in a positive manner.

