

Module-I

Origin and growth of labor legislation :- The origin of labor legislation is the history of continuous and relentless struggle for emancipation of working class from clutches of aggressive capitalism. The contract between capital and labor could never be struck on equitable terms. The change is inevitable to transforming a slave into partner and thereby to bridle the power of capital to impose its own terms on the workmen. Various factors helped this process to take place.

Factors influencing labor legislation :-

1. Early Industrialism:- It is well known that the early phase of industrialization in the capitalist countries of the world in era of unbridled individualism, freedom of contract and laissez faire was characterized by excessive hours of work, employment of young children under very unhygienic and unhealthy conditions, payment of low wages and other excess. The early Factories Act emerged to prevent these excesses and manifested the desire of the community in general to protect its weaker sections against the effects of unregulated competition. It is a fact that modern labor legislation is the output of the industrial revolution and industrialization.
2. Impact of Contemporary Events :-
 - a. The revolutionary thinkers like Rousseau, J.S. Mill, Marx has also influenced the debates and hastened the pace of labor jurisprudence.
 - b. The world war made it possible for the working class to realize their importance that unless they produce, it will be difficult for warring nations to win. Therefore, they began to stake their claims for better quality of work life.
 - c. The revolution in science, technology, communication and telecommunication also helped in bringing the world closer. It became easier for the working classes of the underdeveloped world to know the better conditions of service of their counterparts in the developed world.
3. Growth of Trade Unionism :- The trade Union movement which started due to unity of workers against odds of industrialization has been another important factor contributing to the growth of labor legislation. The demands for the protection of the interests of the working class led to legislations in the fields of wages, hours of work, workmen's compensation, social security and other areas, on the other hand their growth necessitated legislations for the regulation of industrial disputes, their prevention and settlement, and maintenance of industrial peace as well as legislations dealing with union rights and privileges.
4. Growth of Political Freedom and Extension of Franchise :- The industrial revolution created not only the era of economic individualism but also of political liberalism. The working class emerged as leading force in the society and they started sending their representative to the parliament or the legislative bodies who readily espoused the cause of labor and got progressive measures enacted.
5. Rise of Socialist and other Revolutionary Ideas:- The growth of socialist ideas as initiated by Marx and his followers has been another important force conditioning the speed and direction

of labor legislation in various capitalist countries. Marx realized that exploitation of labor was inherent in the capitalist economic system. He advocated for overthrowing of the capitalist economic system as a necessary condition for the abolition of the system of wage-slavery and the liberation of the working class.

6. Growth of Humanitarian Ideas and the concept of social welfare and social Justice :- Researches in social sciences like sociology, psychology and anthropology exploded the myth of the natural elite and gave a powerful push to the movements for social reforms, social change and social legislation.
7. Establishment of the International Labor Organization(ILO):- The establishment of the ILO in 1919 has been a very potent factor in conditioning the course of labor legislation all over the world. It has initiated proposals for labor legislations, subjected them to elaborate discussions and review and has adopted conventions and recommendations. The ILO has been trying to establish uniform labor standards in the perspective of globalization.

Nature of labor Legislation :-

Growth of labor Legislation in India :-

1. Influence of colonial Rule :- The British colonial rule in this country was primarily interested in protecting the interests of the British capital invested in the Indian industries and not so much in protecting the Indian working class. In the plantations of Assam and Bengal, when life and labor become extremely intolerable, workers started deserting their place of work for their natives. The earliest piece of labor legislation, The Tea District Emigrant Labor Act, 1832 and workmen's Breach of Contract Act, 1859 were designed more for the purpose of ensuring a steady supply of labor to the tea-gardens in Assam than for the purpose of ensuring a steady supply of labor to the tea gardens in Assam than for protecting the interests of the labourers.

The second influence of colonial rule on Indian legislation has grown out of the fact that the early administrators and the civil servants in India were from England. They brought with them the pragmatism of the British Society and were steeped in the English tradition.

2. Struggle for National Emancipation and the adoption of Indian Constitution:- The struggle for national independence picked up socialist and communist influence generated by the Russian revolution and came to be closely identified with the interests of the workers and peasants. The organized industrial workers demanded improvement in their working conditions and consequently laws had to be passed to protect them for excessive exploitation. The Indian Trade Unions Acts, 1926 was enacted in response to the demands of the Indian Trade union movement supported by its nationalist leaders.

Need for labor Legislations :- It is necessary for the following reasons as the system had some inherent evils to which the workers were exposed:

1. The workers were financially weak and had little bargaining power. The wages paid to workers were quite inadequate to meet their barest needs

2. Workers were exposed to serious accidents, because machines were not properly screened and maintained and had no right to compensation.
3. The employment of factory workers was not secured. A worker could be discharged, suspended or dismissed at any time without assigning any reason therefore.
4. Work in the industries was hazardous with long hours duty, no rest and no recreation. The workers had to work by living in slums and under unsanitary conditions which had its effect on health and morality of the workers.
5. Children and women were to work under hazardous conditions of work and at odd hours.

Objectives of the Labor Legislations:

Proper regulation of employer-employee relationship is a condition precedent for planned, progressive and purposeful development of any society. Labor legislations in India have sought to achieve the following objective :-

1. Establishment of justice- Social, Political and economic
2. Provisions of opportunities to all workers, irrespective of caste, creed, religion, beliefs for the development of their personality.
3. Protection of weaker sections in the community
4. Maintenance of Industrial Peace and harmony
5. Creation of conditions for economic growth.
6. Protection and improvement of labor standards.
7. Protection of workers from exploitation
8. Guarantee right of workmen to bargain collectively for the betterment of their service conditions.
9. Make state interfere as protector of social well being than to remain an onlooker.
10. Ensure human rights and human dignity.

Principles of labor Legislations :- Labor Legislations contain the principles of social justice, social equity and social security in their concept. Social justice implies two things. First, equitable distribution of profits and other benefits of industry between owner and workers, Second, providing protection to workers against harmful effect to their health, safety and morality. On the basis of a study of the objectives behind the enactment of labor laws in global perspective, certain generalizations may be drawn in respect of principles. These principles of labor legislations may be classified and explained as :-

1. Principles of Protection:- It suggests enactment of labor legislation to protect workers who are to protect their socio-economic interests on their own and also workers, in particular industries against the hazard of industrial process.
2. Principle of Social Justice :- It implies establishment of equality in social relationships. It aims at discriminating against women workers when compared to their men counterpart, in matters relating to wages and other terms and conditions of employment.

3. Principle of Regulations :- It seeks to regulate the relationship between employers and their associations, on the one hand, and workers and their organizations, on the other
4. Principle of welfare :- The protective and social security laws have the provisions of promoting labor welfare. Special labor welfare fund laws have also been enacted, with a view to providing certain welfare amenities to the workers, and often to their family members.
5. Principle of social security :- In Industrial societies, income insecurity resulting from various contingencies of life such as disablement, old age, untimely death, etc. has become a serious problem
6. Principle of economic development :- Improvement of physical working conditions, establishment of industrial peace, provision of machineries for settlement of industrial disputes, formation of forum of workers' participation in management, prohibition of unfair labor practices, restrictions on strikes and lock-outs, provision of social security benefits and welfare facilities, certification of collective agreements and regulation of hours of work have direct or indirect bearing on the pace and extent of economic development.
7. Principle of International obligation :- This principle postulates enactment of labor laws with a view to giving effect to the provisions of resolutions, adopted by international organization like ILO, UN and other similar bodies.

Classification of labor Legislations :- On the basis of specific objectives which it has sought to achieve, the labor laws can be classified into following categories:-

1. The Protective Labor Legislations:- Laws coming under this category having the prime objective to protect labor standards and improve working conditions. Mines, plantations, transport, shops and other establishments are included in this category. Some of these are :
 - The Factories Act, 1948
 - The Mines act, 1952
 - The Plantations Labor act, 1951
 - The Motor Transport Workers act, 1961
 - The Beedi and Cigar Workers(conditions of employment)Act 1966
 - The contract Labor(Regulation and Abolition)Act, 1970
2. The Regulative Labor Legislations :- The main objective of the regulative legislations is to regulate relations between employees and employers and to provide for methods and manners of settling industrial disputes. The important legislations are :-
 - The Trade Unions Act, 1926

- The industrial Dispute Act, 1947
 - Industrial Employment(Standing Orders)Act, 1946
3. Wage-Related Labor Legislations:- Legislations laying down the methods and manner of wage payment, authorized deductions, equal pay for equal work as well as fixation of the minimum wages come under this category. They are :
 - The payment of Wages Act, 1936
 - The Minimum Wages Act, 1948
 - The payment of Bonus Act, 1965
 - The Equal Remuneration Act, 1976
 4. Social Security Labor Legislations :- It covers those legislations which intend to provide to the workmen social security benefits such as compensation for accident, occupational diseases, sickness, dependants survival, medical and maternity, provident funds, gratuity, pension, family pension under certain contingencies of life and work to the workers. The legislations are :
 - The Workmen's Compensation Act, 1923
 - The Employees' State Insurance Act, 1948
 - The employees Provident Funds and(Miscellaneous Provisions) Act, 1952
 - The Maternity Benefit Act, 1972
 - The payment of Gratuity Act, 1972
 5. Welfare Labor Legislations :-Legislations coming under this category aim at promoting the general welfare of the workers and improvement of their living conditions. The laws coming under this category have the specific aim of providing for the improvements in living conditions of workers. Some important laws are :
 - The limestone and Dolomite Mines Labor Welfare Fund Act, 1972
 - The Mica Mines Labor Welfare Fund, 1946
 - The Iron Ore Mines, Manganese Ore Mines and chrome Ore Mines Labor Welfare Fund Act, 1976
 - The Cine Workers Welfare Fund Act, 1981
 - The Coal Mines labor Welfare Fund Act, 1947
 - The Beedi Workers' Welfare Fund Act, 1976
 6. Besides the above there are other kinds of labor laws which are very important and some of these are as follows :-
 - The child labor(prohibition and Regulation)Act, 1986
 - The Building and other Construction Workers(Regulation of Employment and conditions of service)Act 1996
 - The Apprentices Act 1961
 - The Employment Exchanges(Compulsory Notification of Vacancies)Act, 1959
 - The Inter-State Migrant Workmen(Regulation of Employment and conditions of service)Act, 1979.

The Factories Act, 1948:-

The Factories Act, 1948 is divided into 11 chapters comprising of total of 120 sections and supplemented by 3 schedules.

The main objectives of the Factories Act, 1948 are

- i) To Regulate working conditions in factories.
- ii) To ensure that basic minimum requirements for the safety, health and welfare of the factory workers.

Besides, the Act envisages to regulate the working hours, leave with wages, holidays, overtime, employment of children, women and young persons etc.

The Amendment of the factories Act, 1948 was done in 1987 where by safeguard against use and handling of hazardous substances and procedures.

Scope and coverage :-

The Factories Act extends to the whole of India and is applicable to all factories owned by government.

A “FACTORY” as per section 2(m), means any premises including the principle of :-

- i) Where on 10 or more workers are employed on any day of the preceding twelve months and a manufacturing process is carried on with the aid of power.
- ii) Where on 20 or more workers are employed on any day of the preceding twelve months and a manufacturing process is carried on without the aid of power.

It is clear from the above definition that

A factory need not be situated in any one premises only and a manufacturing process is being carried on in any of the premises.

The Act under section 2 provides definitions of different terms.

1. Sec 2 (a) :- “ADULT” means a person who has completed his 18 years of age.
2. Sec 2 (b) :- “ADOLESCENT” a person who has completed his 15 years of age but has not completed his 18 years.
3. Sec 2 (bb) :- “CALENDAR YEAR” means the period of twelve months beginning with the first day of January in any year.
4. Sec 2 (c) :- “CHILD” means a person who has not completed his 15 year of age.
5. Sec. 2 (ca) :- “COMPETENT PERSON”, in relation to any provision of this Act, means a person or an institution recognized as such by the chief Inspector for the purposes of carrying out tests, examinations and inspections.
6. Sec 2 (b) :- “HAZARDOUS PROCESS” means process or activity in relation to an industry specified in the first schedule where any raw materials used there in or the intermediate or finished products, by-products, wastes or effluents cause material impairment to the health of the persons or result in the pollution of general environment.
7. Sec. 2 (d) :- “YOUNG PERSON” means a person who is either a child or an adolescent.
8. Sec. 2(h) :- “PRIME MOVER” means any engine, motor or other appliance which generates or otherwise provides power;
9. Sec.2 (i) :- “TRANSMISSION MACHINERY” means any shaft , wheel, drum, pulley, system of pulleys, coupling, clutches, driving belt or other appliances or devices by which the motion of a prime mover is transmitted to or received by any machinery or appliances.
10. Sec. 2 (j) :- “MACHINERY” include prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied.
11. Sec 2 (k) :- “MANUFACTURING PROCESS” Means for

- a. Making, altering, repairing, Ornamenting, finishing, packing, oiling, cleaning etc.
- b. Pumping oil, water, sewage or any other substances
- c. Generating, transforming or transmitting power
- d. Composing types for printing, printing by letter press, lithography photography etc.
- e. Constructing, reconstructing, repairing, refitting, finishing or breaking up ships
- f. Preserving or storing any article in cold storage.

12. Sec 2 (l) :- “WORKER” means a person in any manufacturing process or in cleaning any part of the machinery or premises used for a manufacturing process, or the subject of the manufacturing process.

13. Sec.2 (n) :- “OCCUPIER” of a factory means the person who has ultimate control over the affairs of the factory;

- a. Other association of individuals, Partners, members shall be deemed to be the occupier.
- b. In the case of the company, any one of the directors shall be deemed to be the occupier.
- c. In case of Government company, The person appointed to manage the affairs by the Central Govt. or the State Govt. or any local body shall be deemed to be the occupier.

Approval, Licensing and Registration of Factories. Sec.6

The State Government have been vested with the powers to frame rules and section. 4 empowers the State Government to declare different departments or branches of a factory as separate factories.

The State Governments are also empowered to exempt any factory or any class of factories from all or any of the provisions of the Act(except 67) for a specified period on the conditions

notified in case of public emergency, whereby the security of India or any part is threatened, whether by external aggression or internal disturbance.

Procedure for approval, licensing and registration of factories :-

The factory has got to be approved and registered, after obtaining a license by the occupier in accordance with the rules framed by the State Government in this behalf.

A factory shall not be deemed to be extended by reason only of the replacement of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

The occupier is required to submit full building plans, along with necessary particulars of specifications according to which the building has got to be approved in accordance with the rules. The registration, obtaining of license or renewal of license, as the case may be, is to be done by the occupier in accordance with the rule by paying the prescribed fees.

The permission relating to site on which the factory is purposed to be constructed or extension to be executed in the existing factory in accordance with the plan is to be given within three months by the authority to whom the request is made. If no reply is received with the aforesaid period, the permission is presumed.

In case permission is refused, then in that case, the applicant may appeal to the state Government if the permission is refused by the Chief Inspector or to the Central Government if the permission is refused by the State Government, within 30 days.

No license or renewal of license shall be granted unless the occupier gives at least 15 days notice in writing to the Chief Inspector of factories before he proposes to occupy or use any premises as factory. The notice shall state the full particulars of the factory such as :-

- a. The name and situation of the factory.
- b. The name and address of the occupier
- c. The name and address of the owner of the premises or building
- d. The nature of manufacturing process
- e. The total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate standby plant
- f. The name of manager of the factory for the purpose of this Act

- g. The number of workers likely to be employed in the factory
- h. The average number of workers per day employed during the last twelve months, in case the factory is in existence on the date of the commencement of this Act
- i. Such other particulars as may be prescribed under this rules.

Section 7(2) :- The occupier is required to give notice to the chief Inspector of Factories containing the above particulars with regard to those factories which were already functioning before this Act, within 30 days.

Section 7 (3) :- Before a factory is engaged in a manufacturing process which is ordinarily carried on for less than 180 working days in a year resumes working, the occupier is required to send full particulars of the factory to the chief Inspector within 30 days of such resumption of work.

Section 7 (4) :- Any change in the appointment of a manager or the factory is to be intimated within 7 days by the occupier to the Chief Inspector.

Sec (8) Appointment of Inspecting Staff :- For the enforcement of the provisions of the Act, the State Government is empowered to appoint Inspectors having prescribed qualifications. Every Chief Inspector, Addl. Chief Inspector, Joint Chief Inspector and every other officer appointed shall be deemed to be a public servant within meaning of the Indian Penal Code. Every District Magistrate shall be an Inspector for his district.

Section 9 --- Powers of Inspectors :-

1. They may enter any premises which is used or which they have reason to believe is used, as factory.
2. Make examination of the premises, plant, machinery, article or substance
3. Inquire into any accident or dangerous occurrence.
4. Require the production register
5. Seize or take copies of an register, record or other document or any portion thereof as he may consider necessary.

Section 9(b) & (c) :- Duties of the Inspector :- The Inspectors are required to carry out duties to ensure that statutory provisions and rules framed are carried out properly, and to launch prosecutions against factory-owners under the provision of Chapter X of the Act.

Section 10 – Certifying Surgeons :- The State Government has to appoint qualified medical practitioners as Certifying surgeons for the purposes of the Act. The surgeons should take the

responsibility to certify the young persons engaged, the persons engaged in dangerous work, and also look after the conditions where the people working.

Section 11 to 20 – The chapter III of the Act, deal with the maximum protection of health of workers working in any factory. It is also mentioned in the Article 42 of the Indian Constitution which requires that the state should make provision for securing just and human conditions of work . The provisions are under :-

1. Section 11- Cleanliness
2. Section 12- Disposal of Wastes and Effluents
3. Section 13 – Ventilation and Temperature
4. Section 14 – Dust & Fume
5. Section 15 – Artificial Humidification
6. Section 16 – Over crowding :- The section requires a minimum of 14.2 cubic meter of space per worker to avoid injury and overcrowding.
7. Section 17 – Lighting :- every factory should be provided with artificial or natural light.
8. Section 18 – Drinking Water :- Factories employing 250 or more should provide cool water in hot weather. Wholesome drinking water must be sufficiently supplied and shall be clearly marked “drinking Water” in a language understood by majority of worker.
9. Section 19 – Latrine and urinals
10. Section 20 -- Spittoons – Sufficient number of spittoons should be placed at convenient places and a notice containing this provisions and the penalty for its violation shall be prominently displayed at suitable places.

Sections 21 to 41 of the Act reflect the provisions relating to the safety of the workers.

1. Section 21 – Fencing of Machinery :- Compulsory fencing of all sorts of machinery is a must.
2. Section 22 – Work on or near Machinery in Motion :- It requires that examination, lubrication etc. of the machinery while it is in motion
3. Section 23 – Employment of Young Person on Dangerous Machines :- No young male person shall be required or allowed to work at any dangerous machines unless he has been fully trained or properly instructed.
4. Section 24 – Striking Gear and Devices for cutting off Power:- To avoid accidental starting of the transmission machinery or other machine the shifting from “off” to “on” position of the switch must be there.
5. Section 25 – Self acting machines :- No traversing part of a self acting machine in any factory and no material carried thereon shall be allowed to run on its outward or inward traverse within a distance of forty-five centimeters from any fixed structure which is not a part of a machine.

6. Section 26 – Casing of New Machinery :- All machinery driven by power and installed in any factory after 1st April 1948 must be encased or otherwise effectively guarded as to prevent danger. It is punishable offence to sell or let out on hire any machine which does not comply with the above provision.
7. Section 27 – Prohibition of Employment of Women and Children Near Cotton Openers :- No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work.
8. Section 28 – In every factory, every hoist and lifts shall be of good mechanical construction, sound material and adequate strength.
9. Section 29 – Lifting Machine, Chains Ropes and Lifting tackles :- All the equipments must be at good conditions and a register shall be maintained for all the examination of such things.
10. Section 30 – Revolving Machinery :- In every factory in which the process of grinding is carried on, there shall be permanently affixed or placed near each machine notice indicating the maximum safe working speed.
11. Section 31 – Pressure Plant :- If any factory any plant or machinery or any part thereof is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such plant or machinery or part is not exceed.
12. Section 32 – Floors, Stairs and means of access :- In every factory all floors, steps, stairs, passages, and gangways shall be of sound construction and properly kept and maintained and shall be kept free from obstructions and substances likely to cause persons to slip.
13. Section 33 – Pits, sumps, opening in floor etc :- In every factory, every fixed vessel, sump, tank, pit or opening in the ground or in a floor, which may be a source of danger, shall be either securely covered or fenced.
14. Section 34 – Excessive weights :- No person shall be employed in any factory to lift, carry or move any load so heavy as is likely to cause him injury.
15. Section 35 – Protection of eyes :- Suitable goggles or screens must be provided to protect the staff from excessive lights, fragments thrown off etc.
16. Section 36 – Precautions against dangerous fumes, gases, etc. :- No persons shall entered to any chamber, tank, vat, pit unless it is provided with a manhole of adequate size or other effective means of egress.
17. Section 36-A – Precautions regarding the use of portable electric lights :- Any electric appliances exceeding twenty four volts shall be permitted for use inside any chamber, vat, tank, pit, or other confined space.
18. Section 37 -- Explosive or inflammable dust, gas etc. :- In any factory any manufacturing process dust, gas, fume or vapor of such character and to such extent as to be likely to

explode to ignition, all practicable measures shall be taken to prevent any such explosion.

19. Section 38 – Precautions in case of fire :- In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally and to provide and maintain.
20. Section 39 – Power to require specifications of defective parts or tests of stability :- This section empowers the inspectors to serve on the manager or occupier or both of a factory an order in writing requiring him to furnish specifications of defective parts or he may order to carry out tests as he may specify and to inform him of the result.
21. Section 40 – Safety of buildings and machinery :- This section empowers the inspector to serve on the manager or occupier or both of a factory an order in writing specifying the measures which should be adopted before a specified date for safety of buildings and machinery.
22. Section 40-A – Maintenance of Building
23. Section 40-B – Safety Officers :- Any factory employing one thousand or more workers, the occupier shall appoint such number of safety officers as may specified by the State Government.

The Factories(Amendment)Act, 1987 added certain new provisions on health and safety and provisions relating to hazardous processes

Section 41A contains certain provision regarding grant of permission of the initial location of a factory involving hazardous process or for the expansion of any such factory.

Section 41B-- lays down that the occupier of every factory involving a hazardous process shall disclose to the Chief inspector and also to the local authority in the manner prescribed all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposures to or handling of the materials or substances.

Section 41C- specifies about specific responsibility of every occupier of a factory involving any hazardous process shall maintain accurate and up-to-date health and medical records of every employee who are exposed to any chemical, toxic or any other harmful substances.

Section 41D-- authorizes the Central Government to appointment an Enquiry Committee to inquire into the standards of health and safety observed in the factory.

Section 41E-- provides that the Central Government may lay down emergency standards of safety in hazardous processes and also measures for their enforcement.

Safety 41F-- lays down that the maximum permissible thresholds limit of exposures of chemical and toxic substances in manufacturing processes in any factory.

Section 41G-- provides that the occupier shall in every factory should set up a Safety Committee consisting of equal number of representatives of workers and management to promote cooperation between the workers and management in maintaining proper health and safety work.

Section 41H-- gives right to the workers employed in any hazardous process to warn about imminent danger to their lives or health due to any accident.

Module –II

Payment of Wages Act – 1936.

With the emergence of the industrial revolution and the consequent industrialization, large masses of the population lost their status as independent workers and became wage-labourers. Today, in the industrially developed countries, wage labourers account for more than 75 to 85 percent of the total labour force. It increases the monopoly of the employer and the employer unilaterally laid down the mode and manner of wage payment and also determined the wage rates in his own interests. The worker suffered in both the ways.

Gradually, the evils of this unilateral action on the part of the employers became so glaring that the state was forced to legislate in order to regulate the mode and manner of wage payment by the employer were :-

- a. Payment in kind
- b. Paid in cash, payment in illegal tender
- c. Arbitrary Deductions
- d. Irregular payments and non payment altogether.

The widespread existence of numerous evils as had been continuously alleged by trade unions and social workers, was confirmed by the findings of a committee appointed by the Government of India in 1925, with a view to removing the malpractices, legislative proposals were formulated in 1928, but were subsequently placed before the Royal Commission on labour in 1929 for reconsideration. After examining the connected problems, made several recommendations, on the basis of which, the payment of wages Act, 1936, the first legislation of its kind in India, was enacted. The Act, with subsequent amendments, is still in force in the country.

The objectives of the Act can be grouped under the following heads :-

1. Ensure Regularity of Payment
2. Ensuring Payment in legal tender
3. Preventing arbitrary deductions
4. Restricting employers' right to impose fines
5. Providing remedy to workers.

Scope of Wage Payment :- The Act applies to payment of wages to :-

1. Persons employed in factory
2. Persons employed in railways by a railway administration or either directly or through subcontractors
3. Persons employed in any of the following :-
 - a. Tramway service or motor transport service
 - b. Air transport service
 - c. Dock, wharf or jetty
 - d. Mine, quarry, mechanically propelled
 - e. Plantation
 - f. Workshop or other establishment in which articles are produced, adapted or manufactured
 - g. Establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals or relating to operations connected with navigation, irrigation or the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on
 - h. Any other establishments which the central government or state government may, having regard.

The act does not apply to wages payable in respect of a wage-period which averages Rs. 6,500/- a month or more over such a wage period.

Definition of wages :- It has been defined as all remuneration expressed in terms of money or capable of being so expressed. It includes :-

1. Any remuneration payable under any award or settlement between the parties or order of a court.
2. Any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period
3. Any additional remuneration payable under the terms of employment.

Responsibility for wage payment :- Every employer is ordinarily responsible for payment of wages to persons employed by him.

Fixation of wage period :- A person responsible for payment of wages has to fix wage periods in respect of which wages are payable, but no wage period exceed one month.(Sec. 4)

Time of payment of wages :- The wages of every person employed upon or in any railway, factory or industrial or other establishment upon or in which less than one thousand persons are employed will have to be paid before the expiry of the seventh day after the last day of the wage period, in respect of which wages are payable.

Where one thousand or more persons are employed, wages are to be paid before the expiry of the tenth day after the last day of the wage period.

In the case of persons employed on a dock, wharf, jetty or in a mine, balance of wages found to due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be (sec. 5)

Payment in Legal Tender :-All wages are to be paid in current coins or currency notes or both. However, on the worker's written authorization payment may also be made by cheque or by crediting the wages in his bank account (sec.6)

Permissible or Authorized Deduction :-

1. Deduction for fines :-
 - a. Violation of rules with the form of notice by the employer or the state Governments.
 - b. Opportunity for the show cause must be given
 - c. No fine will imposed on the employee who have not attain fifteen years of age.
 - d. Total fine will not exceed three percent of wages payable to him/her in respect of that wage period.
 - e. Fine imposed on any employee is not recoverable from him by installments or after the expiry of sixty days from the day on which it was imposed.
 - f. All fines and realization have to be recorded in a prescribed register and all such realization will have to be applied only to purpose beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.(Sec.7(a)-8)
2. Deductions for absence from duty Sec.[7(b),9]
3. Deduction for damage or loss. [Sec.7©,10].
4. Deduction for house accommodation and services rendered[Secs.7(d) (e),11]

5. Deductions for recovery of advances or for adjustment of overpayment for wages:[Sec.7(f),12].
6. Deductions for recovery of loans :- Loans granted for house-building or other purposes approved by the state government and the interests on such loans are also permissible[Sec.7(ff),(fff), 12A].
7. Deduction of income-tax payable by the employed person[Sec.7(g)]
8. Deduction required to be made by the order of a court or other authority[Sec.7(h)]
9. Deduction for subscription to and for repayment of advances[Sec 7(i)]
10. Deductions for repayments to co-operative societies and insurance scheme[Sec.7(j)(k),13]
11. Deductions for payment of insurance premia on fidelity Bonds. [Sec.7(1)]
12. Deductions for recovery of losses sustained[Sec.7(m)].
13. Deduction for recovery of losses by a railway administration on account of the failure of the employed person to invoice, bill, collect or account for the charges due to that administration,, whether in respect of fares, freight, demurrage, wharfage and carnage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise.[Sec.7(n)]
14. Deductions, on the written authorization of the employed person for the any relief fund as contribution[Sec.7(p)].
15. Deductions, with the written authorization of the employed person, for the payment of contribution to any fund constituted by the employer or a trade union registered under he trade act.1926 [Sec.7(kk)].
16. Deductions, with the written authorization of the employed person, for the payment of the fees payable by him for the membership of any trade union registered under the Trade Unions Act,1926. [Sec.7(kkk)].
17. Deduction for contributions to any insurance scheme framed by the Central Government for the benefit of its employees. [Sec.7(q)].

The **Minimum Wages Act 1948** is an [Act of Parliament](#) concerning [Indian labour law](#) that sets the minimum wages that must be paid to skilled and unskilled labours. [The Indian Constitution](#) has defined a 'living wage' that is the level of income for a worker which will ensure a basic standard of living including good health, dignity, comfort, education and provide for any contingency. However, to keep in mind an industry's capacity to pay the constitution has defined a 'fair wage'.^[1] Fair wage is that level of wage that not just maintains a level of employment, but seeks to increase it keeping in perspective the industry's capacity to pay. To achieve this in its first session during November 1948, the Central Advisory Council appointed a Tripartite Committee of Fair Wage. This committee came up with the concept of Minimum Wages

The Act provides for fixing wage rate (time, piece, guaranteed time, overtime) for any industry that has at least 1000 workers.

1) While fixing hours for a normal working day as per the act should make sure of the following:

- The number of hours that are to be fixed for a normal working day should have one or more intervals/breaks included.
- At least one day off from an entire week should be given to the employee for rest.
- Payment for the day decided to be given for rest should be paid at a rate not less than the overtime rate.

2) If an employee is involved in work that categorises his service in two or more scheduled employments, the employee's wage will include respective wage rate of all work for the number of hours dedicated at each task. 3) It is mandatory for the employer to maintain records of all employee's work, wages and receipts. 4) Appropriate governments will define and assign the task of inspection and appoint inspectors for the same.

Fixation and revision of minimum wages

The Minimum Wages Act 1948 generally specifies minimum wage rates on a per day basis,^[20] and extends to the entire country and is revised within a period of not less than five years, however there is a provision to increase dearness allowance every two years. The norms in fixing and revision of minimum wages were first recommended by ILC, 1957.

Revision of minimum wage rates is based on a 'cost of living index' and wages can be fixed for an entire state, part of the state, class or classes and employments pertaining to these categories. The fixation of wages is based on the norms mentioned and a wage board (different for different industry).

Under the Minimum Wages Act, State and Central Governments have the power to fix and revise minimum wages. The act specifies that the "appropriate" government should fix the wages i.e. if the wages to be fixed are in relation to any authority of Central government or Railway administration then the Central government fixes it. However if the wage rate is to be fixed or revised for a scheduled employment, the respective state governments fix it. The Centre fixes the National floor level Minimum Wage that is lower than most states' respective minimum wages.^[22] The ambiguity and overlap in the jurisdiction of both these tiers of government have caused debates and controversies. One of such debates revolves around fixing wage rates of MGNREGA scheme, an employment guarantee initiative by the Central Government

As per Section 5 of the Minimum Wages Act, 1948, there are two ways of fixing and/or revising minimum wages • Committee Method: Committees and Sub-committees are set up to make recommendations or create inquiries. • Notification Method: The government publishes proposals and an official date in the Official Gazette. All advice and recommendations from various committees

and sub-committees as well as representations are collected before the specified official date and the government then proceeds to fix/revise minimum wages.

Payment of Bonus Act 1965

Introduction

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

It extends to the whole of India and is applicable to every factory and to every other establishment where 20 or more workmen are employed on any day during an accounting year

Eligibility For Bonus

Every employee receiving salary or wages up to RS. 3,500 p.m. and engaged in any kind of work whether skilled, unskilled, managerial, supervisory etc. is entitled to bonus for every accounting year if he has worked for at least 30 working days in that year.

However employees of L.I.C., Universities and Educational institutions, Hospitals, Chamber of Commerce, R.B.I., IFCI, U.T.I. Social Welfare institutions are not entitled to bonus under this Act.

DISQUALIFICATION FOR BONUS

Notwithstanding anything contained in the act, an employee shall be disqualified from receiving bonus, if he is dismissed from service for 2222222222 fraud or riotous or violent behaviour while in the premises of the establishment or theft, misappropriation or sabotage of any property of the establishment.

Minimum/Maximum Bonus Payable

MINIMUM BONUS

1. The minimum bonus which an employer is required to pay even if he suffers losses during the accounting year or there is no allocable surplus is 8.33 % of the salary or wages during the accounting year, or
2. Rs. 100 in case of employees above 15 years and Rs 60 in case of employees below 15 years, at the beginning of the accounting year,

whichever is higher

MAXIMUM BONUS

If in an accounting year, the allocable surplus, calculated after taking into account the amount 'set on' or the amount 'set off' exceeds the minimum bonus, the employer should pay bonus in proportion to the salary or wages earned by the employee in that accounting year subject to a maximum of 20% of such salary or wages.

TIME LIMIT FOR PAYMENT

The bonus should be paid in cash within 8 months from the close of the accounting year or within one month from the date of enforcement of the award or coming into operation of a settlement following an industrial dispute regarding payment of bonus.

However if there is sufficient cause extension may be applied for.

Calculation of Bonus

The method for calculation of annual bonus is as follow:

1. Calculate the gross profit in the manner specified in-
 - i. First Schedule, in case of a banking company, or
 - ii. Second Schedule, in any other case.
2. Calculate the Available Surplus.

Available Surplus = A+B, where A = Gross Profit – Depreciation admissible u/s 32 of the Income tax Act - Development allowance - Direct taxes payable for the accounting year (calculated as per Sec.7) – Sums specified in the Third Schedule.

B = Direct Taxes (calculated as per Sec. 7) in respect of gross profits for the immediately preceding accounting year – Direct Taxes in respect of such gross profits as reduced by the amount of bonus, for the immediately preceding accounting year.

3. Calculate Allocable Surplus

Allocable Surplus = 60% of Available Surplus, 67% in case of foreign companies.

4. Make adjustment for 'Set-on' and 'Set-off'. For calculating the amount of bonus in respect of an accounting year, allocable surplus is computed after considering the amount of set on and set off from the previous years, as illustrated in Fourth Schedule.
5. The allocable surplus so computed is distributed amongst the employees in proportion to salary or

wages received by them during the relevant accounting year.

In case of an employee receiving salary or wages above Rs. 2,500 the bonus payable is to be calculated as if the salary or wages were Rs. 2,500 p.m. only.

Duties/Rights of Employer

DUTIES

1. To calculate and pay the annual bonus as required under the Act
2. To submit an annual return of bonus paid to employees during the year, in Form D, to the Inspector, within 30 days of the expiry of the time limit specified for payment of bonus.
3. To co-operate with the Inspector, produce before him the registers/records maintained, and such other information as may be required by them.
4. To get his account audited as per the directions of a Labour Court/Tribunal or of any such other authority.

RIGHTS

An employer has the following rights:

1. Right to forfeit bonus of an employee, who has been dismissed from service for fraud, riotous or violent behaviour, or theft, misappropriation or sabotage of any property of the establishment.
2. Right to make permissible deductions from the bonus payable to an employee, such as, festival/interim bonus paid and financial loss caused by misconduct of the employee.
3. Right to refer any disputes relating to application or interpretation of any provision of the Act, to the Labour Court or Labour Tribunal.

Rights of Employees

1. Right to claim bonus payable under the Act and to make an application to the Government, for the recovery of bonus due and unpaid, within one year of its becoming due.
2. Right to refer any dispute to the Labour Court/Tribunal Employees, to whom the Payment of Bonus Act does not apply, cannot raise a dispute regarding bonus under the Industrial Disputes Act.
3. Right to seek clarification and obtain information, on any item in the accounts of the establishment.

Recovery of Bonus Due

1. Where any bonus is due to an employee by way of bonus, employee or any other person authorised by him can make an application to the appropriate government for recovery of the money due.
2. If the government is satisfied that money is due to an employee by way of bonus, it shall issue a certificate for that amount to the collector who then recovers the money.
3. Such application shall be made within one year from the date on which the money became due to the employee.
4. However the application may be entertained after a year if the applicant shows that there was sufficient cause for not making the application within time.

Offences and Penalties

For contravention of the provisions of the Act or rules the penalty is imprisonment upto 6 months, or fine up to Rs.1000, or both.

For failure to comply with the directions or requisitions made the penalty is imprisonment upto 6 months, or fine up to Rs.1000, or both.

In case of offences by companies, firms, body corporate or association of individuals, its director, partner or a principal officer responsible for the conduct of its business, as the case may be, shall be deemed to be guilty of that offence and punished accordingly, unless the person concerned proves that the offence was committed without his knowledge or that he exercised all due diligence.

The **Employees' Provident Fund Organisation**, abbreviated to **EPFO**, is a statutory body of the [Government of India](#) under the [Ministry of Labour and Employment](#). It administers a compulsory contributory Provident Fund Scheme, Pension Scheme and an Insurance Scheme. It is one of the largest [social security](#) organisations in [India](#) in terms of the number of covered beneficiaries and the volume of financial transactions undertaken.^[1] The EPFO's apex decision making body is the [Central Board of Trustees](#) (CBT).

The total assets under management are more than ₹5 lakh crore (US\$91 billion) as of 1 May 2013.

On October 2014 Prime Minister [Narendra Modi](#) launched universal account number for employee provident fund to enable PF number portability.

Legal basis

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 came into effect on 4 March 1952. The organisation is administered by a Central Board of Trustees, composed of representatives of the Government of India, provincial governments, employers and employees. The board is chaired by the Union Labour Minister of India. The Chief Executive of the EPFO, the Central Provident Fund Commissioner, reports to the Union Labour Minister through the Permanent Secretary in the ministry. The headquarters of the organisation is in [New Delhi](#).^[1]

The [Constitution of India](#) under "Directive Principles of State Policy" provides that the State shall within the limits of its economic capacity make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old-age, sickness & disablement and undeserved want. The EPF & MP Act, 1952 was enacted by the [Parliament of India](#) and came into force with effect from 4 March 1952 as part of a series of legislative interventions made in this direction. Presently, the following three schemes are in operation under the Act:

1. [Employees' Provident Fund Scheme, 1952](#)
2. [Employees' Deposit Linked Insurance Scheme, 1976](#)
3. [Employees' Pension Scheme](#), 1995 (replacing the Employees' Family Pension Scheme, 1971)

Appeals

The orders of the Department can be appealed to Employees' Provident Fund Appellate Tribunal at [New Delhi](#). The Tribunal is located at Scope Tower, Laxmi Nagar, New Delhi and is presided by Presiding Officer who is a member of Judicial Service and by a Registrar who is deputed from the other central government cadres.

Structure

The EPFO has the dual role of being the enforcement agency to oversee the implementation of the EPF& MP Act and as a service provider for the covered beneficiaries throughout the country. To this end, the Commissioners of the Organisation are vested with vast powers under the statute conferring quasi- judicial authority for search and seizure of records, assessment of financial liability on the employer, levy of damages, attachment and auction of a defaulter's property, prosecution and arrest and detention in civil prison.

Administratively, the organisation is organised into zones which are headed by an Additional Central Provident Fund Commissioner for each of the political states in the country. The states have either one or more than one Regional Offices headed by Regional P.F. Commissioners (Grade I) which are further sub- divided into Sub-Regions headed by Regional P.F. Commissioners (Grade II). To assist them are Assistant P.F. Commissioners. Most of the districts in the country have small district offices where an Enforcement Officer is stationed to inspect the local establishments and attend to grievances.

The total manpower of the EPFO is at present more than 20000 including all levels. The Commissioner cadre numbering 815 are recruited directly, competitively, through the Union Public Service Commission of India as well as through promotion from lower ranks. Subordinate Officers (Enforcement Officers/Accounts Officers) are also recruited directly in addition to promotion from the staff cadre of social security assistants.

UAN

A Universal Account Number (UAN) will be generated for each of the PF member by EPFO. The UAN will act as an umbrella for the multiple Member Ids allotted to an individual by different establishments. The idea is to link multiple Member Identification Numbers (Member Id) allotted to a single member under single Universal Account Number. This will help the member to view details of

all the Member Identification Numbers (Member Id) linked to it. If a member is already allotted Universal Account Number (UAN) then he/she is required to provide the same on joining new establishment to enable the employer to in-turn mark the new allotted Member Identification Number (Member Id) to the already allotted Universal Identification Number (UAN)

The Contributory provident fund Rules are applicable to every non-pensionable servant of the Government belonging to any of the services under the control of the President. A subscriber, at the time of joining the Fund is required to make a nomination in the prescribed form conferring on one or more persons the right to receive the amount that may stand to his credit in the Fund in the event of his death, before that amount has become payable or having become payable has not been paid.

A subscriber shall subscribe monthly to the Fund when on duty or foreign service but not during a period of suspension. Rates of subscription shall not be less than 10% of the emoluments and not more than his emoluments. The employer's contribution at that percentage prescribed by the Government will be credited to the subscriber's account and this is presently 10%. Rate of interest, at present, is 12% compounded annually. The Rules provide for drawal of advances / withdrawals from the CPF for specific purposes. As in GPF Rules, the CPF Rules also provide for Deposit linked Insurance Revised Scheme.

Earlier, the Government was giving option to CPF subscribers to switch over from CPF Scheme to GPF Scheme (Pension Scheme). The last such option was allowed based on the recommendations of Fourth CPC. As a number of options have already been allowed as and when substantial improvement were made in the pension scheme and the practical difficulties involved in retrieval of records and adjustments to be made, demand for further option was not recommended by the Fifth CPC and there is no proposal with the Government to consider any further change in options.

As an employee working in a corporate set-up, there are several things one would like to know about the Employees Provident Fund (EPF). EPF is the main scheme under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The scheme is managed under the aegis of Employees' Provident Fund Organisation (EPFO).

It covers every establishment in which 20 or more people are employed and certain organisations are covered, subject to certain conditions and exemptions even if they employ less than 20 persons each.

Under EPF scheme, an employee has to pay a certain contribution towards the scheme and an equal contribution is paid by the employer. The employee gets a lump sum amount including self

and employer's contribution with interest on both, on retirement.

As per the rules, in EPF, employee whose 'pay' is more than Rs 15,000 a month at the time of joining, is not eligible and is called non-eligible employee. Employees drawing less than Rs 15,000 per month have to mandatorily become members of the EPF. However, an employee who is drawing 'pay' above prescribed limit (currently Rs 15,000) can become a member with permission of Assistant PF Commissioner, if he and his employer agree.

1. Contribution by employer and employee

The contribution paid by the employer is 12 per cent of basic wages plus dearness allowance plus retaining allowance. An equal contribution is payable by the employee also. In the case of establishments which employ less than 20 employees or meet certain other conditions as notified by the EPFO, the contribution rate for both employee and the employer is limited to 10 percent.

For most employees of the private sector, it's the basic salary on which the contribution is calculated. For example, if the monthly basic salary is Rs 30,000, the employee contribution towards his or her EPF would be Rs 3,600 a month (12 per cent of basic pay) while the equal amount is contributed by the employer each month.

go into EPS. The balance will be retained in the EPF scheme. On retirement, the employee will get hi .. It should, however, be noted that not all of the employer's share moves into the EPF kitty. Out of employer's contribution, 8.33% 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 deducted.

2. Higher voluntary contribution by employee or Voluntary Provident Fund

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.

3. Withdrawals from the EPF account

According to the EPF Act, for claiming final EPF settlement, one has to retire from service after attaining 55 years of age. The total EPF balance includes the employee's contribution and that of the employer, along with the accrued interest.

There is, however, a window to partially withdraw the amount for those nearing retirement. Anyone over 54 can withdraw up to 90 percent of the accumulated balance with interest. But what if some ..

With effect from December 6, 2018, the employees can withdraw 75% of their EPF corpus after remaining unemployed for one month and balance 25% he is out of employment for 60 straight days or more. Prior to this, an employee can make such withdrawal only after remaining unemployed for more than 60 days.

To withdraw money, one may now use 'UAN based Form 19' and in effect bypass the employer signature requirement. This facility will be available to all those subscribers whose Universal A ..

4. Interest on account

The Interest in EPF is calculated on the basis of monthly running balance.

5. Universal Account Number (UAN)

UAN is allotted by EPFO. The UAN acts as an umbrella for the multiple Member IDs allotted to an individual by different establishments. The idea is to link multiple Member Identification Numbers (Member Id/PF Account number) allotted to a single member under single Universal Account Number.

UAN will help the member to view details of all the Member Identification Numbers (Member Id) linked to it. If a member is already allotted (UAN then he/she is required to provide the same on joining new establishment to enable the employer to in-turn mark the new allotted Member Identification Number (Member Id/PF account number) to the already allotted Universal Identification Number (UAN).

UAN has been made mandatory for all employees and will help in managing the EPF account and even PF transfer and withdrawals will become much easier than before. Remember, in most cases, the employer provides the UAN and the employee just has to get it activated by providing relevant KYC documents to the employer. So if you are changing jobs and already have a UAN, you need not get a new UAN from your new employer. It is a one-time permanent number which will remain the same throughout one's career ..

When you join a new organisation, the first thing you should do is ask your employer for the 'New Form No. 11- Declaration Form' to furnish the existing UAN. If you don't have one, then just give your previous PF number along with the date of exit from your previous job.

6. The importance of five years of continuous service

Typically, in early and mid-years of their careers, employees tend to switch jobs. After leaving, they have two options with regard to their EPF. Either they can withdraw 75% of EPF corpus after waiting for one month if unemployed and make a complete withdrawal after remaining unemployed for two months or transfer the balance to the new employer. The EPF withdrawal is not taxable if one has completed at least five years of continuous service. If one has switched jobs in less than five years but transferred the EPF to the new employer, it will be counted as continuous service. Someone, for instance, works for 1.5 years and then joins another organisation. He transfers his PF balance on to the new employer where he continues to work for 3.5 years. Taken together, it will be five continuous years of service for the employee. It is, therefor ..

7. Tax on early withdrawals

Withdrawing the PF balance without completing five continuous years of service has tax implications. The total employer's contribution amount along with the interest earned will get

taxable in the year of withdrawal. Also, the amount of deduction claimed under Section 80C on one's own contribution will be added to one's income in the year of withdrawal. In addition, the interest earned on one's own contribution will also be subject to tax.

The government had introduced Tax Deducted at Source (TDS) on PF withdrawals in order to discourage premature withdrawals and promote long-term savings. No tax is deducted if the employee withdraws PF after five years. Also, TDS shall not be applicable in case of PF transfer from one account to another. From June 1, 2016, for TDS, the threshold limit of PF withdrawal has been raised from Rs 30,000 to Rs 50,000. TDS will be applicable at the rate of 10 per cent provided PAN card is submitted.

8. Employees' Provident Fund Advances

Contributions towards Employees' Provident Fund (EPF) are meant to take care of one's post-retirement needs. But you don't have to wait till you retire to lay your hands on it. The EPFO allows one to access one's EPF even during the course of employment. Such withdrawals are treated as 'advances' and not loans.

Such advances are allowed only under specific situations - buying a house, repaying a home loan, medical needs, education or marriage of children, etc. Also, the amount that you can take as an advance will depend on the specific situation, the number of years of service, etc. As it's not a loan, one need not pay any interest on such advances. Unlike a loan, it is not necessary to repay the advance.

9. Availing advances

If you have your Know Your Customer (KYC) compliant Universal Account Number (UAN), which is activated and seeded to your bank account, you don't have to even go through your employer to get hold of your EPF. The UAN Based Form 31 (New) can be directly submitted to the EPFO. Else, you may fill in Form 31 and submit it to the EPFO through your employer. The claim can be submitted online on the Member e-Sewa portal, provided Aadhaar is linked to UAN.

The employee can take the advance for buying or building a house or buying a plot of land and even for construction of a house on a plot owned by the member. The advance can also be taken for repayment of the outstanding home loan, for self or family member's medical treatment, for the marriage of self/daughter/son/ brother/sister or for post matriculation education of son/daughter. With effect from March 27, 2020 the non-refundable advance can also be taken to meet the financial emergencies related to pandemic.

10. Special advance scheme for housing

EPFO has allowed members i.e. the contributory employees of the provident fund (PF) scheme to use 90 percent of EPF accumulations to make down payments to buy houses and use their accounts for paying EMIs of home loans.

Under the new rules, an essential requirement for a PF member to withdraw one's PF money to buy a real estate property is that he or she has to be a member of a registered housing society having at least 10 members.

Points to note

The money in EPF account is sovereign-backed and the interest earned is tax-free at present. In fact, it enjoys the Exempt, Exempt, Exempt (EEE) status as contributions are deductible from income before tax under section 80C and the total corpus on maturity is also tax exempt subject to certain conditions. Also, the interest accrued in the EPF account is exempt from tax. Financial experts generally advise people to transfer their PF account when they switch jobs and avoid withdrawing the amount till maturity.

MODULE-3**Workmens' Compensation Act.1923—**

The workmen's compensation legislation in India is patterned after the British workmen's compensation legislation. The factors that led to the enactment of the legislation in Great Britain, came to operate in India too.

With the advent of Industrial revolution and harnessing of the massive powers of steam and electricity, the dangers in work-places increased manifold. Accidents increased by leaps and bounds causing physical injuries, and death on a large scale. Similarly, occupational diseases caused by industrial processes and handling of particular types of materials and substances also became common feature, resulting in physical and mental incapacitation, sickness and death.

The economic loss resulting from accidents caused widespread suffering among the working class families. Accidents became one of the permanent causes of poverty, starvation and deprivation. With the wages low, as they were, workmen were not in a position to save any significant amount for such rainy days.

Under the common law an injured workman or his dependants, in case of his death, could sue the employer in a civil court and claim damages from him with the sufficient proof against the employer's negligence regarding the safety measure and to failure in his duties. Against the case, with far superior financial resources and legal advice, the employers could easily defeat such claims.

The common defenses available to the employer in such compensation cases under the common law were the following :

1. Doctrine of assumed Risk :- The employer argued that the employee took the risk upon himself(*volenti non fit injuria*)when he accepted employment, knowing fully well that it could involve him in accidents.
2. Doctrine of Contributory negligence :- The employer could say that the injury was caused entirely due to the workman's fault.
3. Doctrine of common employment and fellow Servants' Responsibility :- The employer contended that the workman knew at the time of employment that he was exposed to the risk of injury because of the negligence on the part of his fellow-workmen also, and that he was supposed to have contracted on the term that, as between himself and his master, he would run that risk.
4. The "Personal Claim Comes to an end with the Death of either Party" Doctrine
5. The Doctrine of unknown Person's Responsibility :- In that case, the employer contended that he was not liable to pay damages for such accidents, as his liability was confined only in respect of accidents resulting from his personal negligence.

With the establishment of the British rule in India, the common Law became applicable to this country also. As a result, in India, too, the same policy regarding workers compensation, prevailed as in England.

The Principle of workmen's compensation was formally adopted in India in 1923, that is about 25 years after the adoption of the principle in Great Britain. The workmens' Compensation Act,1923 which is the first social security legislation in India, makes the employer liable to pay compensation for personal injury caused by accidents "arising out of" and "in the course of" employment. The Act has been amended several times since it came into force on July 1, 1924.

In general, the protection of the Act has been given to non-casual workmen employed for employer's trade or business irrespective of their wages. Schedule II of the Act specifies in detail the operations, industries or employments covered by the Act. Although the industries or employments mentioned in the schedule have a very wide coverage including factories, mines, plantation, agriculture, transport by land, water and air etc. there are certain limitation in respect of the categories of persons covered. Notable operations mentioned in the schedule include: manufacturing, mining, loading or unloading, fuelling, constructing, repairing,

demolishing, excavating, driving, handling, blasting and others. Persons employed in the clerical capacity have generally been excluded.

Definitions (Section 2) :-

1. Commissioner :- A person appointed under section 20.
2. Compensation [Section 2(1) ©] – Compensation as provided for by this Act.
3. Dependent :- [Section 2(1) (d)]- A widow, a minor, legitimate or adopted son, an unmarried legitimate adopted daughter, or a widowed mother.
4. Employee :- [Section 2 (1) (dd)] – a railway servant, A master sea man or crew of a ship, A captain, A person recruited as driver, helper, mechanics, cleaner or in any other capacity in connection with a motor vehicles, a person recruited for work abroad by a company.
5. Employer :- [Section 2(1) (e)]:- It includes a body of persons with whom the employee has entered into a contract of service.
6. Managing Agent :- [Section 2(1) (f)]:- It means any person appointed or acting as the representative of the employer.
7. Minor :- [Section 2(1) (ff)]:- It means a person who has not attained the age of 18 years.
8. Disablement:- It means loss of capacity to work or to move.
9. Partial Disablement :-[Section 2 (1) (g)]
 - a. Where the disablement is of temporary nature, and resulted in reduces the earning capacity.
 - b. Where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time.
10. Total Disablement :-[Section 2(1) (i)]:- Means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement. In includes loss of two organs of body permanently.
11. Qualified Medical Practitioner:- [Section (2) (i)] :- Any person registered under the central Act or the state Act by the notification in the official gazette.

Employees' Compensation :-

1. Employer's Liability for compensation [Section 3] :- An employer is liable to pay compensation to an employee :
 - i. Personal injury :- That includes the injury caused during the course of his employment
 - ii. Occupational Diseases :- The employee employed in certain types of industries of occupation risk exposure to certain occupational diseases peculiar to that employment.

The employer is not liable to compensate the employee, any injury which does not result in the total or partial disablement of the employee for a period exceeding three days. In the case of drinking, disobedience, willful removal or disregard.

2. Amount of Compensation [Section 4] :- The amount of compensation payable to a employee depends on :
 - i) The nature of the injury caused by the accident
 - ii) The monthly wages of the employee concerned
 - iii) The relevant factor for working out lump sum equivalent of compensation amount.
 - A. Compensation for Death :- Where death results from an injury, the amount of compensation shall be equal to 50 percent of the monthly wages of the deceased employee multiplied by the relevant factor, or an amount of Rs. 1,20,000 whichever is more. The calculation will be :-

$(50 \times \text{Monthly wages} \times \text{Relevant factor}) / 100$ or Rs. 1,20,000 whichever is more.

- B. Compensation for Permanent Total Disablement :-

When it causes out of an injury, the amount of compensation payable shall be equal to 60 percent of the monthly wages of the injured employee multiplied by the relevant factor, or an amount of Rs. 1, 40,000 which ever is more. The calculation will be :-

$(60 \times \text{Monthly wages} \times \text{Relevant factor}) / 100$ or Rs. 1, 40,000 whichever is more.

- C. Compensation for Permanent partial Disablement :- Here the compensation shall be 30 percent of compensation payable in case of permanent total disablement.
 - D. Compensation for temporarily Disablement :- A half monthly payment of the sum equivalent to 25% of monthly wages of the employee, to be paid.

Method of calculating Wages : Section 5 :- It means the amount of wages deemed to be payable for a month's service.

Distribution of Compensation :- Section 8 :-The Act provides for the deposit of the compensation before the commissioner, as also to the distribution of the compensation by the commissioner.

Notice and Claim :- Section 10 :- This act prescribes that a claim for compensation shall be entertained by the commissioner only after a notice of the accident has been given to him by the employee.

Medical Examination [Section 11] :- here the employee must gone with a proper medical examination where the medical practitioner has to certify the reason of the accident and to certify about the injury or the disable ness within three days of the accident.

Insolvency of the Employer :- [Section 14] – A employer, who has insured his liability for compensation under the Act, becomes insolvent, or if the employer being a company has gone into liquidation, the rights of the employer against the insurers shall pass to the employee.

MODULE-4

The **Industrial Disputes Act 1947** extends to the whole of [India](#) and regulates [Indian labour law](#) so far as that concerns trade unions. It came into force April 1, 1947. The objective of the Industrial Disputes Act is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of [industrial disputes](#) by negotiations.

The laws apply only to the organised sector. Chapter V-B, introduced by an amendment in 1976, requires firms employing 300 or more workers to obtain government permission for layoffs, retrenchments and closures. A further amendment in 1982 (which took effect in 1984) expanded its ambit by reducing the threshold to 100 workers.

The Act also lays down:

1. The provision for payment of [compensation](#) to the workman on account of closure or lay off or [retrenchment](#).
2. The procedure for prior permission of appropriate Government for laying off or retrenching the workers or closing down industrial establishments
3. Unfair labour practices on part of an employer or a [trade union](#) or workers.

Applicability

The Industrial Disputes Act extends to whole of India and applies to every industrial establishment carrying on any [business](#), [trade](#), [manufacture](#) or [distribution](#) of goods and services irrespective of the number of workmen employed therein.

Every person employed in an establishment for hire or reward including [contract labour](#), [apprentices](#) and part-time employees to do any manual, clerical, skilled, unskilled, technical, operational or supervisory work, is covered by the Act.

This Act though does not apply to persons mainly in managerial or administrative capacity, persons engaged in a supervisory capacity and drawing > 10,000 p.m or executing managerial functions and persons subject to Army Act, Air Force and Navy Act or those in police service or officer or employee of a [prison](#).

Applicability of Parent Act

- Trades Dispute Act' 1929

Related Sections Of The Act

- **Section 1** : Short title, and commencement
- **Section 9-B**: Power of Government to exempt

Important Definitions

- **Section 2A** : Appropriate Government

Any industry carried on by or under the authority of the Central Govt, or by a railway company or a Dock Labour Board, or the Industrial Finance Corporation of India Ltd, or the ESIC, or the board of trustees of the Coal Mines PF, or FCI, or LIC or in relation to any other industrial dispute, the state Government.

Definition


The industrial dispute means any dispute or difference between:-

- (i) Employers and employers
 - (ii) Employers and Workmen or
 - (iii) Workmen and workmen, which is connected with
- Industrial disputes may be said to be disagreement or controversy between management and labor with respect to wages, working conditions, other employment matters or union recognition.

Industry

As per section 2 (J) of industrial disputes act 1947, Industry mean any systematic activity carried on by cooperation between an employ and his work man for the production supply or distribution of goods and services with a view of satisfy human wants or needs.

Objective



Promotion of measures of
securing, preserving Industrial
harmony

Settlement of disputes between

- Employer – Workman
- Employer - Employer
- Workman - Workman

Rights of Registered Trade Union

Prevention of illegal- Strike; Lockout

Promotion of collective bargaining

Types Of ID's

Interest disputes: arising out of deadlocks in negotiation for collective bargaining

Grievance disputes: may pertain to discipline, wages, working time, promotion, rights of supervisors etc. also some times called interpretation disputes

Unfair labor practices: those arising out of right to organize, acts of violence, failure to implement an award, discriminatory treatment, illegal strikes and lockouts

Recognition disputes: over the rights of a TU to represent class or category of workers

Authority

Any person who is a workman employed in an industry can raise an industrial dispute.

A workman includes any person (including an apprentice) employed in an industry to do manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

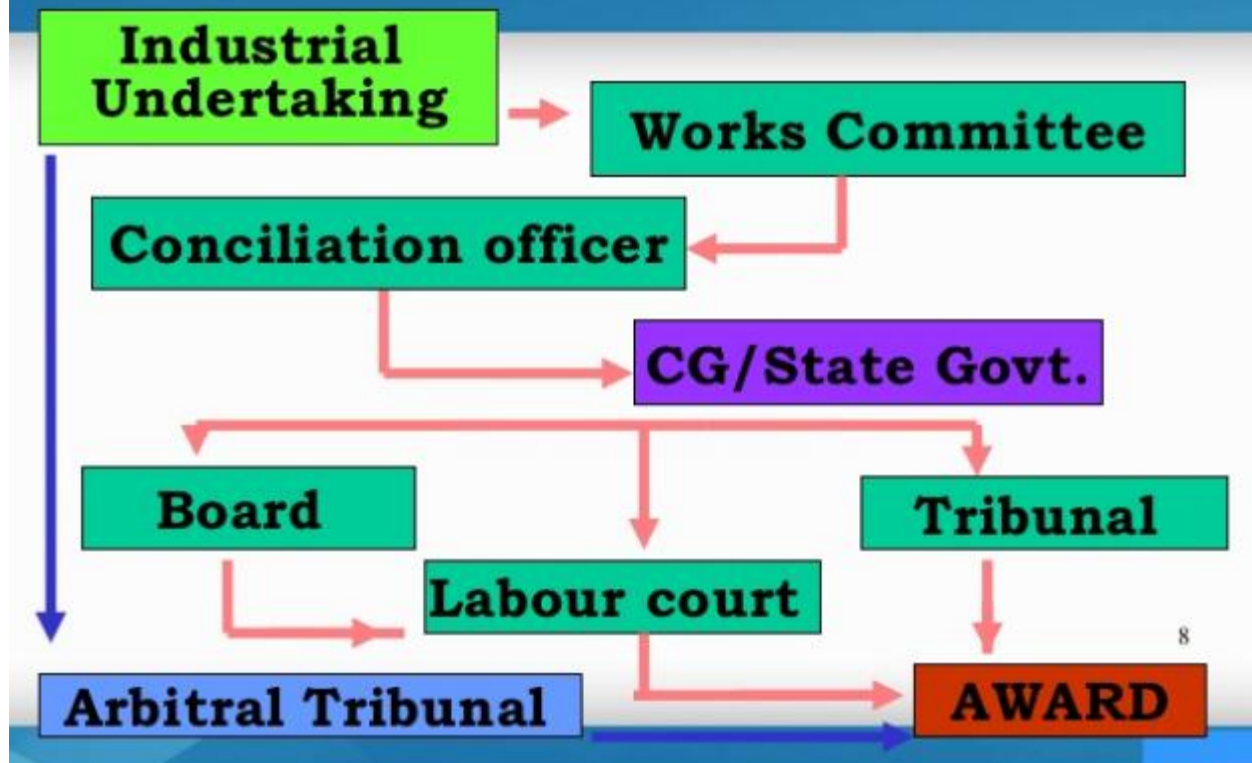
It excludes those employed in managerial or administrative capacity.

Industry means any business, trade, undertaking, manufacture and includes any service, employment, handicraft, or industrial occupation or avocation of workmen.

Prohibition of strikes and lock-outs

- According to SEC 22 (1) No person employed with a public utility service shall go on strike in breach of contract – Without giving the employer notice of strike, within six weeks before the strike. Before the expiry of date of strike specified in such notice. According to SEC 23; No employee of any industrial establishment shall go on strike during the period when proceedings in any disputes case is going on or when final judgment is awaited .

INDUSTRIAL DISPUTE RESOLUTION MECHANISM



Settlement Without State Intervention

- There are two ways in which the basic parties to an industrial dispute- the employer and the employees- can settle their disputes.
 - Collective bargaining
 - Voluntary arbitration

Settlement Under the Influence of the State

Compulsory establishment of bipartite committees.

Establishment of compulsory collective bargaining.

Conciliation and mediation (voluntary and compulsory).

Compulsory investigation.

Compulsory arbitration or adjudication.

Voluntary Arbitration

- It is commonly viewed as less expensive and faster than resolving a dispute in court.
- An arbitrator may be a single person or a panel.
- Sometimes, however, the parties may agree to submit the dispute to an arbitrator but at the same time, reserve their right to accept or reject the award when it comes.

Adjudication in India

**3 types of adjudication
authorities for the
adjudication of
industrial disputes:**

Labor Court

Tribunal

National Tribunal

Cont..

- Labor Courts and the Tribunal can be established both by the central and state governments, but the National Tribunal is setup only by the central government.
- National Tribunal is set up to adjudicate such disputes which involve any question of national importance or are of such a nature that industrial establishments situated in more than one state are likely to be interested in or affected by them.

Introduction

- The Labor Court adjudicates disputes relating to the propriety or legality of an order passed by the employer under this standing orders, discharge or dismissal of workmen, legality or otherwise of a strike or lock-out.
- The Tribunal and National Tribunal generally deal with such subject matters as wages, bonus, profit-sharing, rationalization, allowances, hours of work, provident fund, gratuity etc.
- Strikes and lock-outs are prohibited during the pendency of the proceedings before any of the adjudication authorities, and two months after the conclusion of such proceedings and during any period in which the award is in operation, in respect of any matter covered by the award.

Other Tripartite Bodies at the State Level

- Amongst the important tri partite committees functioning in the states are:
- Implementation and Evaluation Committees
- Committees for particular industries
- Labor Welfare Boards or Committees
- Some of these are permanent, while others are constituted as and when required.

INDUSTRIAL DISPUTE ACT 1947:

INDUSTRIAL DISPUTE ACT 1947 SUBMITTED TO: SUBMITTED BY: Mr. Jashandeep Singh JasneetKaur Roll No. 4132 B.B.A. -1 st Year

INDUSTRIAL DISPUTE:

INDUSTRIAL DISPUTE An industrial dispute may be defined as a conflict or difference of opinion between management and workers on the terms of employment. It is a disagreement between an employer and employees' representative; usually a trade union, over pay and other working conditions and can result in industrial actions. When an industrial dispute occurs, both the parties, that is the management and the workmen, try to pressurize each other. The management may resort to lockouts while the workers may resort to strikes, picketing or gheraos.

Trade Union s Act, 1926- Salient features

Section 2(h) of Trade union Act, 1926 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 or two or more trade unions.

Workmen means any person working in the industry. But the persons working in Civil, police, and defence and persons who are dismissed and retrenched are barred from forming unions.

Children are prohibited from joining unions, but there is no upper age bar.

Under the Act, 1926, seven members could form a trade union. But it was amended in 2001 and the limit for registering a union increased to 10% or 100 which ever is less, subject to a minimum of seven.

The law is silent on craft, category and caste unions.

Section 15 of the act mentions that trade unions do not just pursue economic interest, but are also oriented towards political, social and welfare objectives.

Act 1926, mentioned that, 50% of outsiders can lead unions, but in 2001 it reduced to 1/3rd of the office-bearer positions in a union.

Registration of Trade Union:- A trade union can be made permanent and stable only if it is registered under the Trade Union Act. A registered trade union enjoys various privileges, benefits and immunities, and therefore, most sponsors of a trade union are tempted to register it. After registration, a trade union is entitled to represent its members.

Procedure for Registration :- As per section 4 of the Trade Union Act, a minimum of 10 members of a trade union shall apply for registration, with the total number being 100 or less. In all other cases, at least seven members of a union shall apply for registration.

However, in case where less than half the number of applicants who originally applied for registration withdraw their membership from the union after submitting the application for registration, the application shall not be considered invalid.

The application shall be submitted in Form A to the Registrar along with the rules of the union and other mandatory details, such as name of the trade union, name addresses and occupations of the applicants and the office bearers and address of the main office of the trade union.

As per section 6 of the Trade Union Act, a trade union cannot be registered unless it adheres to the provisions of the Act. Here are some mandatory rules to be satisfied by a trade union to be eligible for registration.

- Name of the Trade Union
- Objectives of its establishments
- The lawful purpose of spending the general funds
- Maintenance of list members, sufficient facilities for its scrutiny by the office bearers and union members.
- Payment of monthly membership fee of 25 paise
- Safe custody of funds
- Conduction of annual audits

The Registrar, on being satisfied that the trade union has complied with all the requirements of this Act in regard to registration shall register the Trade Union by entering the particulars in a register.

Certificate of Registration :- The Registrar on registering a Trade Union as detailed earlier, shall issue a

certificate of registration in prescribed Form C which shall be conclusive evidence that the Trade Union has been duly registered.

Cancellation of Certificate :- on an application from the Trade Union to be verified in such manner as may be prescribed .

On satisfaction of the Registrar that the certificate has been obtained by fraudulent means or mistake or that Trade Union has ceased to exist or has willfully and after notice from the Registrar contravened any provision of the Trade Union act, 1926 or allowed any rule to continue in force which is consistent with any such provision or has rescinded any rule providing any matter provision for which is required by section 6. The Registrar has to provide not less than two months notice previous in writing specifying the ground on which it is proposed to withdraw or cancel the certificate, before actually withdrawing or cancelling the certificate.

Recognition of Trade Union:- A trade union is said to be recognized once an employer has agreed to negotiate with it on pay and working conditions on behalf of a particular group of workers.

Trade Unions are recognized by Governments on the basis of membership verification(once on 10 years or so) to determine which unions are to be invited for participation in national-and international level consultations on social and labor matters.

There are several methods for recognition of trade union(s) by managements. These are

1. Closed Shop / Union Shop : Union membership is a prerequisite for employment in a firm or a workshop. It is closed to all except members. First one has to a union before he/she could take

up employment in an enterprise. These prevails informally in wholesale markets and railway stations among manual, headlock workers.

Union shop is a system whereby new entrants to employment, if they are not union members, must join the union within a stipulated period.

2. **Membership Verification :-** An official of the Labor Department of the State or Central government visits the enterprise/establishment, obtains the roster of employees from the management and asks each employee individually whether or not they wish to become members of a union and if so, which union. The membership claim of all unions is verified to identify which union or unions individually or collectively have the support of the majority of the employees. This becomes the basis for recognizing the collective bargaining agent.
3. **Check-off:-** Under check-off, employees are asked to state in writing whether or not they belong to a union and if they do, to which. Along with this, employees should also undertake in writing that they are willing to have the union membership subscription deducted from their salary every year, in one or more installments, and credited to the account of the union concerned.

The check-off system helps managements to know how many members each union has and who are they. This not only enables an assessment of the relative strength of unions for the purpose of recognition but such information can also be used by managements, in some cases, to pressurize workers to stop patronizing unions which are not in good books of the management.

4. **Secret Ballot:-** A more democratic method, election by secret ballot, enables employees to exercise their option secretly, without fear or favor. Under this method, it is possible to elect the President from union A, The secretary from Union B and the treasurer from union C. The benefit of this method that leaders from various denominations have to work together.
5. **Code of Discipline :-** The Central trade union federations of workers at the conference held in Nainital in 1957 deliberated on the code of conduct for maintaining harmonious inter-union relationship and laid down a set of principles :
 - ✚ Every employee in an industry or unit shall have the freedom and right to join the union of his/her choice.
 - ✚ There shall be no dual membership of unions.
 - ✚ There shall be unreserved acceptance of and respect for the democratic functioning of trade unions.
 - ✚ There shall be regular and democratic elections of executive bodies and office bearers of trade unions.
 - ✚ Ignorance and backwardness of workers shall not be exploited by an

organization.

- ✚ Casteism, Communalism and provincialism shall be eschewed by all unions.
- ✚ There shall be no violence, coercion, intimidation or personal vilification in inter union dealings.

White Collar Trade Union. :-

There was a time when unions and strikes were known only to Blue-collar workers in factories, mines, railways docks, etc. White-collar employees and professional people like doctors, engineers, lawyers, professors and senior executives and managerial staff thought it below their dignity to band themselves in unions, march the high streets, and yell slogans. Today it is different. Trade unions exist among most professionals, white-collar employees, officers, senior executives, and managers, and so do strikes and gheraos. Highly paid employees in banks, in the Life Insurance Corporation and in many other establishments are organised, and so the Central Government and semi-government employees. They take recourse to strikes, mass casual leaves, work to rule, dharnas, and gheraos for securing their demand and thus creating some embarrassing problems for their employers/managements requiring serious consideration.

Both blue and white-collar workers are employees, but are of different status, and holding different positions at different levels. The differences between these two categories of unions are as summarised in the Table below.

s. No.	Blue-Collar Worker	White Collar Worker
1	All shop-floor workers (Pari of production system who operate machines and related systems) are termed as blue-collar workers, as their work is not generally clean.	All clerical or office staff who do not work on the shop floor, are termed as white-collar workers as their work and working places are clean. They are generally involved in a desk job or providing service over the counter.
2	They are manual workers with lower literacy and education, and have their own social and economic background.	They are non-manual workers forming a distinct social ground characterised by divergent socio-economic backgrounds, level of education, manner of speech, social custom and ideology. They are better educated and have jobs requiring mental capabilities to a greater extent.

3	They may be paid by time, or by piece, or results, either on daily, or weekly, or fortnightly, or monthly basis. They are generally wage earners, and may have lesser holidays, and leave facilities and other privileges than white-collar workers.	They are time workers paid on monthly basis. They enjoy longer holidays and leave facilities and better privileges.
4	They are not so inclined towards management. On the other hand, they may be caring for their unions than for the management.	They hold such jobs that they are regarded as part of the management, and so they are more inclined towards it than the blue-collar workers.
5	Excepting highly skilled categories who are in greater demand and can manage to have higher wages income, the blue-collar workers are not so well paid. Their fringe benefits and perquisites are lower than that of white-collar	Because of their professional and social standing they are generally better paid and have better terms and conditions of employment including better perquisites and fringe benefit
6	They have better union protection and job security by labour legislation, such as Industrial Disputes Act, 1947.	They have no union protection if they are not unionised, and also job security if they are not covered by the Industrial Disputes Act, 1947 as may be the case with not a few of them.
7	They are mostly engaged in production processes.	They are concentrated in the fields of commerce, transport, storage and communication. They are engaged in different occupations that fall under the category of professional, administrative, executive and managerial workers, clerical and related workers, sales staff, technical, and supervisory and other workers, engaged in transport and Communication services, or in sports and recreational facilities, artists and musicians.
8	They have no authority, and nor they associated with decision taking.	They are linked with their employers by being associated with that part of the productive process where authority is exercised and decisions are taken.

Workmens' Compensation Act.1923—

The workmen's compensation legislation in India is patterned after the British workmen's compensation legislation. The factors that led to the enactment of the legislation in Great Britain, came to operate in India too.

With the advent of Industrial revolution and harnessing of the massive powers of steam and electricity, the dangers in work-places increased manifold. Accidents increased by leaps and bounds causing physical injuries, and death on a large scale. Similarly, occupational diseases caused by industrial processes and handling of particular types of materials and substances also became common feature, resulting in physical and mental incapacitation, sickness and death.

The economic loss resulting from accidents caused widespread suffering among the working class families. Accidents became one of the permanent causes of poverty, starvation and deprivation. With the wages low, as they were, workmen were not in a position to save any significant amount for such rainy days.

Under the common law an injured workman or his dependants, in case of his death, could sue the employer in a civil court and claim damages from him with the sufficient proof against the employer's negligence regarding the safety measure and to failure in his duties. Against the case, with far superior financial resources and legal advice, the employers could easily defeat such claims.

The common defenses available to the employer in such compensation cases under the common law were the following :

6. Doctrine of assumed Risk :- The employer argued that the employee took the risk upon himself(volenti non fit injuria)when he accepted employment, knowing fully well that it could involve him in accidents.
7. Doctrine of Contributory negligence :- The employer could say that the injury was caused entirely due to the workman's fault.

8. Doctrine of common employment and fellow Servants' Responsibility :- The employer contended that the workman knew at the time of employment that he was exposed to the risk of injury because of the negligence on the part of his fellow-workmen also, and that he was supposed to have contracted on the term that, as between himself and his master, he would run that risk.
9. The "Personal Claim Comes to an end with the Death of either Party" Doctrine
10. The Doctrine of unknown Person's Responsibility :- In that case, the employer contended that he was not liable to pay damages for such accidents, as his liability was confined only in respect of accidents resulting from his personal negligence.

With the establishment of the British rule in India, the common Law became applicable to this country also. As a result, in India, too, the same policy regarding workers compensation, prevailed as in England.

The Principle of workmen's compensation was formally adopted in India in 1923, that is about 25 years after the adoption of the principle in Great Britain. The workmens' Compensation Act, 1923 which is the first social security legislation in India, makes the employer liable to pay compensation for personal injury caused by accidents "arising out of" and "in the course of" employment. The Act has been amended several times since it came into force on July 1, 1924.

In general, the protection of the Act has been given to non-casual workmen employed for employer's trade or business irrespective of their wages. Schedule II of the Act specifies in detail the operations, industries or employments covered by the Act. Although the industries or employments mentioned in the schedule have a very wide coverage including factories, mines, plantation, agriculture, transport by land, water and air etc. there are certain limitations in respect of the categories of persons covered. Notable operations mentioned in the schedule include: manufacturing, mining, loading or unloading, fuelling, constructing, repairing, demolishing, excavating, driving, handling, blasting and others. Persons employed in the clerical capacity have generally been excluded.

Definitions (Section 2) :-

12. Commissioner :- A person appointed under section 20.
13. Compensation [Section 2(1) ©] – Compensation as provided for by this Act.

14. Dependent :- [Section 2(1) (d)]- A widow, a minor, legitimate or adopted son, an unmarried legitimate adopted daughter, or a widowed mother.
15. Employee :- [Section 2 (1) (dd)] – a railway servant, A master sea man or crew of a ship, A captain, A person recruited as driver, helper, mechanics, cleaner or in any other capacity in connection with a motor vehicles, a person recruited for work abroad by a company.
16. Employer :- [Section 2(1) (e)]:- It includes a body of persons with whom the employee has entered into a contract of service.
17. Managing Agent :- [Section 2(1) (f)]:- It means any person appointed or acting as the representative of the employer.
18. Minor :- [Section 2(1) (ff)]:- It means a person who has not attained the age of 18 years.
19. Disablement:- It means loss of capacity to work or to move.
20. Partial Disablement :-[Section 2 (1) (g)]
 - c. Where the disablement is of temporary nature, and resulted in reduces the earning capacity.
 - d. Where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time.
21. Total Disablement :-[Section 2(1) (i)]:- Means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement. In includes loss of two organs of body permanently.
22. Qualified Medical Practitioner:- [Section (2) (i)] :- Any person registered under the central Act or the state Act by the notification in the official gazette.

Employees' Compensation :-

3. Employer's Liability for compensation [Section 3] :- An employer is liable to pay compensation to an employee :
 - j. Personal injury :- That includes the injury caused during the course of his employment

ii. Occupational Diseases :- The employee employed in certain types of industries of occupation risk exposure to certain occupational diseases peculiar to that employment.

The employer is not liable to compensate the employee, any injury which does not result in the total or partial disablement of the employee for a period exceeding three days. In the case of drinking, disobedience, willful removal or disregard.

4. Amount of Compensation [Section 4] :- The amount of compensation payable to a employee depends on :

- iv) The nature of the injury caused by the accident
- v) The monthly wages of the employee concerned
- vi) The relevant factor for working out lump sum equivalent of compensation amount.

E. Compensation for Death :- Where death results from an injury, the amount of compensation shall be equal to 50 percent of the monthly wages of the deceased employee multiplied by the relevant factor, or an amount of Rs. 1,20,000 whichever is more. The calculation will be :-

$(50 \times \text{Monthly wages} \times \text{Relevant factor}) / 100$ or Rs. 1,20,000 whichever is more.

F. Compensation for Permanent Total Disablement :-

When it causes out of an injury, the amount of compensation payable shall be equal to 60 percent of the monthly wages of the injured employee multiplied by the relevant factor, or an amount of Rs. 1, 40,000 which ever is more. The calculation will be :-

$(60 \times \text{Monthly wages} \times \text{Relevant factor}) / 100$ or Rs. 1, 40,000 whichever is more.

G. Compensation for Permanent partial Disablement :- Here the compensation shall be 30 percent of compensation payable in case of permanent total disablement.

H. Compensation for temporarily Disablement :- A half monthly payment of the sum equivalent to 25% of monthly wages of the employee, to be paid.

Method of calculating Wages : Section 5 :- It means the amount of wages deemed to be payable for a month's service.

Distribution of Compensation :- Section 8 :-The Act provides for the deposit of the compensation before the commissioner, as also to the distribution of the compensation by the commissioner.

Notice and Claim :- Section 10 :- This act prescribes that a claim for compensation shall be entertained by the commissioner only after a notice of the accident has been given to him by the employee.

Medical Examination [Section 11] :- here the employee must go with a proper medical examination where the medical practitioner has to certify the reason of the accident and to certify about the injury or the disability within three days of the accident.

Insolvency of the Employer :- [Section 14] – A employer, who has insured his liability for compensation under the Act, becomes insolvent, or if the employer being a company has gone into liquidation, the rights of the employer against the insurers shall pass to the employee.

Employees' State Insurance Act, 1948

The Act tries to attain the goal of socio-economic justice enshrined in the Directive Principles of State Policy under part IV of Indian Constitution, in particular Articles 41, 42 and 43 which enjoin the state to make effective provision for securing the right to work, to education and public assistance in cases of unemployment, old age, sickness and disablement. This act was promulgated by the Parliament of India in the year 1948. To begin with ESIC scheme was initially launched on 24 February 1952 in Kanpur and Delhi.

Definitions [Section 2] –

1. Appropriate Government [Section 2(1)] :- It means, in respect of establishments under the control of the central government, railway, Mines, state Government.
2. Confinement [Section 2(3)] :- It means labor resulting in the issue of a living child, or labor after 26 weeks of pregnancy resulting in the issue of a child whether alive or dead.

3. Contribution :- [Section 2(4)] :- The sum of money payable to the employees' State Insurance Corporation by the principal employer in respect of an employee.
4. Corporation :- [Section 2(6)] :- It means the employees' State Insurance Corporation.
5. Dependent :- [Section 2(6A)] :-
6. Duly Appointed :- [Section 2(7)] :- appointed in accordance with the provisions of this Act or with the rules or regulations made under.
7. Employment Injury :- [Section 2(8)] :- A personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment.
8. Employee :- [Section 2(9)] :- Any person employed for wages in or in connection with the work of a factory or establishment.
9. Exempted employee :- [Section 2(10)] :- An employee who is not liable under the Act to pay the employee contribution.
10. Family :- [Section 2(11)] :-
11. Factory :- [Section 2(12)] :- It means any premises including the principles thereof, where on ten or more persons are employed or were employed for wages on any day of the preceding twelve months and whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on.
12. Seasonal factory:- [Section 2(19A)] :- A factory which is exclusively engaged for a period not exceeding seven months a year.
13. Immediate Employer :- [Section 2(13)] :- A person who has undertaken the execution, on the premises of a factory, or an establishment to which this act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work.
- 14.

Minimum Wages Act

Industrial Employment(Standing Order) Act 1946

An Act to require employers in industrial establishments formally to define conditions of employment under them.

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them.

1. Short title, extent and application .-

(1) This Act may be called The Industrial Employment (Standing Orders) Act, 1946.

(2) It extends to [the whole of India]

(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months:

Provided that the appropriate Government may, after giving not less than two months 'notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification.

(4) Nothing in this Act shall apply to-

(i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 (Bombay Act 11 of 1947), apply; or

(ii) any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (26 of 1961), apply:

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (26 of 1961), the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.

2. Interpretation .-In this Act, unless there is anything repugnant in the subject or context,-

(a) "appellate authority "means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act:

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963 (39 of 1963), that Court or authority shall be deemed to be the appellate authority;]

(b) "appropriate Government "means in respect of industrial establishments under the control of the Central Government or a [Railway Administration] or in a major port, mine or oil-field, the Central Government, and in all other cases, the State Government:

[Provided that where any question arises as to whether any industrial establishment is under the control of the Central Government, that Government may, either on a reference made to it by the employer or the workman or a trade union or other representative body of the workmen, or on its own motion and after giving the parties an

opportunity of being heard, decide the question and such decision shall be final and binding on the parties;]

(c) "Certifying Officer "means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act;]

(d) "employer "means the owner of an industrial establishment to which this Act for the time being applies, and includes-

(i) in a factory, any person named under [clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)], as manager of the factory;

(ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;

(iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment "means-

(i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (4 of 1936) , or

[(ii) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948),] or

(iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (9 of 1890), or

3. Submission of draft standing orders .-(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

4. Conditions for certification of standing orders .-Standing orders shall be certifiable under this Act, if-

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(b) the standing orders are otherwise in conformity with the provisions of this Act, and it [shall be the function] of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

(iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

(f) "prescribed "means prescribed by rules made by the appropriate Government under this Act;

(g) "standing orders "means rules relating to matters set out in the Schedule;

(h) "trade union "means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (16 of 1926);

[(i) "wages "and "workman "have the meanings respectively assigned to them in clauses (rr) and (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947).]

5. Certification of standing orders .-(1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed, an opportunity of being heard, the Certifying Officer

shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

6. Appeals .-(1) [Any employer, workman, trade union or other prescribed representatives of the workmen] aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within [thirty days] from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

7. Date of operation of standing orders .-Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

8. Register of standing orders .-A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

9. Posting of standing orders .-The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter

the industrial establishment and in all departments thereof where the workmen are employed.

10. Duration and modification of standing orders .-(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen [or a trade union or other representative body of the workmen]be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

[(2) Subject to the provisions of sub-section (1), an employer or workman][or a trade union or other representative body of the workmen][may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five copies of] [* * *][the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen][or a trade union or other representative body of the workmen][, a certified copy of that agreement shall be filed alongwith the application.]

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (1) as they apply to the certification of the first standing orders.

[(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

[10-A. Payment of subsistence allowance .-(1) Where any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance-

(a) at the rate of fifty per cent. of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(b) at the rate of seventy-five per cent. of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If any dispute arises regarding the subsistence allowance payable to a workman under sub-section (1), the workman or the employer concerned may refer the dispute to the Labour Court, constituted under the Industrial Disputes Act, 1947 (14 of 1947), within the local limits of whose jurisdiction the industrial establishment wherein such workman is employed is situate and the Labour Court to which the dispute is so referred

shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties.

(3) Notwithstanding anything contained in the foregoing provisions of this section, where provisions relating to payment of subsistence allowance under any other law for the time being in force in any State are more beneficial than the provisions of this section, the provisions of such other law shall be applicable to the payment of subsistence allowance in that State.]

11. Certifying Officers and appellate authorities to have powers of Civil Court .-

[(1)] Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of [sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)].

[(2) Clerical or arithmetical mistakes in any order passed by a Certifying Officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that Officer or authority or the successor in office of such Officer or authority, as the case may be.]

12. Oral evidence in contradiction of standing orders not admissible .-No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.

[12-A. Temporary application of model standing orders .-(1) Notwithstanding anything contained in sections 3 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Act come into operation under section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment, and the provisions of section 9, sub-section (2) of section 13 and section 13-A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

13. Penalties and procedure .-(1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may

extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act or his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of [a Metropolitan Magistrate or Judicial Magistrate of the second class] shall try any offence under this section.

[13-A. Interpretation, etc., of standing orders .-If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman][or a trade union or other representative body of the workmen]][may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947 (14 of 1947), and specified for the disposal of such proceeding by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.

13-B. Act not to apply to certain industrial establishments .-Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Services) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.]

14. Power to exempt .-The appropriate Government may by notification in the Official Gazette, exempt conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

[14-A. Delegation of powers .-The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also-

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government, as may be specified in the notification.]

15. Power to make rules .-(1) The appropriate Government may, after previous publication, by notification in the Official Gazette, make [rules] to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;

(b) set out model standing orders for the purposes of this Act;

(c) prescribe the procedure of Certifying Officers and appellate authorities;

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(e) provide for any other matter which is to be or may be prescribed:

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

[(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or][in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid][both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

