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**AL-AMEEN COLLEGE OF LAW**  
Affiliated to Karnataka State Law University and Recognised by Bar Council of India  
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**IMPORTANT PREVIOUS YEAR QUESTIONS WITH  
ANSWERS  
FOR  
LABOUR AND INDUSTRIAL LAW - II**

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## UNIT 1

### **1. Define “Labour Welfare” and explain the constitutional dimensions of social security in India with the help of decided cases.**

#### **Introduction**

Labour welfare and social security are essential features of a welfare State. India, through its Constitution and labour welfare legislations, seeks to ensure social justice, dignity of labour, and protection of workers against exploitation. Labour welfare aims at improving the working and living conditions of labourers, while social security protects workers against economic risks such as sickness, unemployment, disablement, old age and maternity.

#### **Meaning and Definition of Labour Welfare**

Labour welfare refers to the various services, facilities and amenities provided to workers for improving their working conditions, health, efficiency and standard of living.

According to the International Labour Organization:

“Labour welfare includes services, facilities and amenities established in or near undertakings to enable employees to perform their work in healthy, safe and congenial surroundings.”

According to Oxford Dictionary:

“Efforts to make life worth living for workmen.”

According to Arthur James Todd:

Welfare includes all measures for the comfort, intellectual and social improvement of workers beyond wages.

Thus, labour welfare includes:

- medical facilities,
- sanitation,
- housing,
- maternity benefits,
- provident fund,
- social insurance,
- canteens,
- recreational facilities etc.

In simple words:

**Labour Welfare = Protection + Care + Development of Workers**

## **Characteristics of Labour Welfare**

1. It is comprehensive and covers physical, mental, moral and economic welfare of workers.
2. It is dynamic and changes according to industrial and social developments.
3. It includes both:
  - intra-mural welfare (within workplace),
  - extra-mural welfare (outside workplace).
4. It is supplementary to wages.
5. It is based on the principle of social justice.

## **Constitutional Dimensions of Social Security in India**

The constitutional dimensions of social security can be understood through:

1. Preamble,
2. Fundamental Rights,
3. Directive Principles of State Policy (DPSPs).

### **I. Role of the Preamble**

The Preamble provides the philosophical foundation for labour welfare and social security by securing:

- social justice,
- economic justice,
- equality of status and opportunity,
- dignity of the individual.

These principles form the basis of labour welfare legislations and social security laws in India.

### **II. Fundamental Rights and Social Security**

#### **1. Article 14 – Equality before Law**

Article 14 guarantees equality before law and equal protection of laws. It prevents arbitrary discrimination in wages and employment benefits.

#### **Case Law:**

#### **Randhir Singh v. Union of India**

The Supreme Court recognized the principle of “equal pay for equal work” under Articles 14 and 16.

## **2. Article 15**

Prohibits discrimination on grounds of religion, race, caste, sex or place of birth.

Article 15(3) permits special provisions for women and children, forming the basis for welfare legislations.

## **3. Article 16**

Provides equality of opportunity in matters of public employment.

## **4. Article 19(1)(c) – Freedom of Association**

Guarantees the right to form associations and trade unions.

### **Case Law:**

#### **Damayanti v. Union of India**

The Court held that the right to form associations includes the right to continue associations without interference.

Trade unions play an important role in securing labour welfare and social security rights.

## **5. Article 21 – Right to Life**

Article 21 guarantees right to life with dignity. The Supreme Court has expanded its scope to include:

- right to livelihood,
- health,
- humane working conditions,
- social security.

### **Case Laws:**

#### **Olga Tellis v. Bombay Municipal Corporation**

The Court held that right to livelihood is part of Article 21.

#### **Consumer Education and Research Centre v. Union of India**

The Court held that workers’ health and medical care are part of Article 21.

#### **Bandhua Mukti Morcha v. Union of India**

The Court held that bonded labour violates Articles 21 and 23.

### **6. Article 23 – Prohibition of Forced Labour**

Prohibits begar and all forms of forced labour.

#### **Case Law:**

#### **People’s Union for Democratic Rights v. Union of India**

The Supreme Court held that payment below minimum wages amounts to forced labour under Article 23.

### **7. Article 24 – Prohibition of Child Labour**

Prohibits employment of children below 14 years in hazardous industries.

#### **Case Law:**

#### **M.C. Mehta v. State of Tamil Nadu**

The Court emphasized protection of children from hazardous employment.

## **III. Directive Principles of State Policy (DPSPs)**

The DPSPs form the core constitutional basis for labour welfare and social security legislation.

### **1. Article 38**

Directs the State to promote social, economic and political justice.

### **2. Article 39**

Provides:

- adequate means of livelihood,
- equal pay for equal work,
- protection of workers’ health,
- prevention of exploitation of labour.

### **3. Article 41 – Right to Work and Public Assistance**

Directs the State to provide:

- right to work,
- public assistance in cases of unemployment,
- sickness,
- disablement,
- old age.

This Article forms the constitutional basis of social security schemes.

#### **4. Article 42**

Provides for:

- just and humane conditions of work,
- maternity relief.

#### **5. Article 43**

Directs the State to ensure:

- living wage,
- decent standard of life,
- social and cultural opportunities for workers.

#### **6. Article 43A**

Provides participation of workers in management of industries.

#### **7. Article 47**

Imposes duty on the State to improve public health and standard of living.

### **Link with Modern Labour Law**

The constitutional vision of social security is implemented through the:

#### **Code on Social Security, 2020**

The Code:

- consolidates various labour laws,
- extends protection to unorganised workers,

- recognizes gig and platform workers,
- provides social security schemes and welfare measures.

## **Conclusion**

Thus, labour welfare and social security are constitutional obligations of the State. The Fundamental Rights protect workers against exploitation and ensure dignity and equality, while the Directive Principles provide the framework for labour welfare and social security legislation. Judicial decisions have further strengthened workers' rights and promoted social justice. Modern reforms like the Code on Social Security, 2020 reflect the continuing effort of the State to realize the constitutional vision of a welfare State.

## **2. Explain the impact of International Labour Organization on Indian labour welfare legislations.**

### **Introduction**

The International Labour Organization (ILO) is an international organization established in 1919 under the Treaty of Versailles. India is a founding member of the ILO. The ILO plays an important role in promoting labour welfare, social justice and internationally accepted labour standards.

The labour welfare legislations in India are greatly influenced by ILO conventions and recommendations.

### **Objectives of ILO**

The major objectives of the ILO are:

- promotion of social justice,
- protection of workers,
- improvement of working conditions,
- abolition of forced labour,
- elimination of child labour,
- promotion of equality and social security.

### **Structure of ILO**

ILO has a tripartite structure consisting of:

- representatives of governments,
- employers,
- workers.

Its main organs are:

1. International Labour Conference
2. Governing Body
3. International Labour Office

## **Impact of ILO on Indian Labour Welfare Legislations**

### **1. Regulation of Working Conditions**

ILO conventions influenced Indian laws relating to:

- working hours,
- safety,
- health,
- welfare measures.

Example:

- Factories Act, 1948
- Occupational Safety, Health and Working Conditions Code, 2020

### **2. Abolition of Forced Labour**

ILO Forced Labour Convention influenced:

- Bonded Labour System (Abolition) Act, 1976.

Article 23 of the Constitution also reflects ILO principles.

### **3. Child Labour Protection**

ILO conventions regarding child labour influenced:

- Child Labour (Prohibition and Regulation) Act, 1986,
- prohibition of hazardous child labour.

### **4. Equal Remuneration**

ILO Equal Remuneration Convention influenced:

- Equal Remuneration Act, 1976,
- principle of equal pay for equal work.

## **5. Social Security Legislations**

ILO recommendations influenced:

- Employees' State Insurance laws,
- Provident Fund laws,
- Maternity Benefit laws,
- Gratuity provisions,
- Social Security Code, 2020.

## **6. Maternity Protection**

ILO Maternity Protection Convention influenced:

- Maternity Benefit Act, 1961.

## **7. Trade Union Rights**

ILO conventions influenced:

- Trade Unions Act, 1926,
- collective bargaining rights.

## **8. Occupational Safety and Health**

ILO standards influenced:

- workplace safety measures,
- welfare standards,
- health regulations under the OSH Code, 2020.

## **Important Case Laws Relating to International Labour Standards**

### **1. Vishaka v. State of Rajasthan**

#### **Facts**

The case arose after the brutal gang rape of Bhanwari Devi, a social worker in Rajasthan who was attempting to prevent child marriage. At that time, there was no specific law in India dealing with sexual harassment of women at the workplace.

#### **Issue**

Whether women employees are entitled to protection against sexual harassment at the workplace under the Constitution and international conventions.

### **Decision**

The Supreme Court held that sexual harassment at the workplace violates the fundamental rights guaranteed under Articles 14, 15, 19(1)(g), and 21 of the Constitution.

The Court relied upon the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other international conventions to formulate the famous Vishaka Guidelines, which were to operate until Parliament enacted a suitable law.

### **Significance**

- Recognized sexual harassment as a violation of fundamental rights.
- Demonstrated the importance of international labour and human rights standards in Indian law.
- Led to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- Established safe and dignified working conditions as an essential labour right.

## **2. People's Union for Democratic Rights v. Union of India**

### **Facts**

The case concerned labourers employed in the construction projects connected with the Asian Games in Delhi. It was alleged that workers were paid less than the statutory minimum wages and were subjected to exploitative working conditions.

### **Issue**

Whether payment of wages below the prescribed minimum wage and exploitative labour practices amounted to forced labour prohibited by the Constitution.

### **Decision**

The Supreme Court held that non-payment of minimum wages amounts to forced labour within the meaning of Article 23 of the Constitution.

The Court emphasized that workers must be provided with humane working conditions and fair wages in accordance with constitutional principles and international labour standards.

### **Significance**

- Expanded the meaning of forced labour.
- Strengthened protection of workers' rights.
- Reinforced the principle of humane conditions of work.
- Reflected the influence of international labour standards on constitutional interpretation.

### **3. Bandhua Mukti Morcha v. Union of India**

#### **Facts**

Bandhua Mukti Morcha, a social action organization, filed a petition highlighting the miserable conditions of bonded labourers working in stone quarries in Haryana.

#### **Issue**

Whether the existence of bonded labour violated the fundamental rights guaranteed under the Constitution.

#### **Decision**

The Supreme Court held that bonded labour is unconstitutional and violates Articles 21 and 23 of the Constitution. The Court directed the Government to identify, release, and rehabilitate bonded labourers and ensure compliance with labour welfare legislation.

#### **Significance**

- Recognized freedom from bonded labour as a fundamental human right.
- Strengthened enforcement of the Bonded Labour System (Abolition) Act, 1976.
- Emphasized India's obligation to uphold international human rights and labour standards.
- Established that the right to live with dignity is part of Article 21.

These landmark decisions demonstrate how the Indian judiciary has relied upon international labour standards and human rights principles to protect workers. The cases of Vishaka, People's Union for Democratic Rights, and Bandhua Mukti Morcha significantly contributed to the development of labour jurisprudence in India by promoting dignity of labour, humane working conditions, gender equality, and protection against exploitation. These judgments continue to serve as important precedents in labour and employment law.

#### **Conclusion**

The ILO has significantly influenced Indian labour welfare legislations and labour policies. Indian labour laws relating to wages, maternity benefit, social security, equality, child labour and occupational safety reflect ILO conventions and recommendations. Therefore, the ILO plays a vital role in promoting labour welfare and social justice in India.

### **3. Define “workman” and explain the concept of “arising out of and in the course of employment” under Employees’ Compensation provisions.**

#### **Introduction**

The law relating to Employees’ Compensation is a welfare legislation intended to provide financial protection to employees who suffer personal injury, disability, or death due to

accidents connected with their employment. The principle underlying the law is that an employer must compensate an employee for injuries sustained in the course of employment.

For an employer to be liable, two conditions must generally be satisfied:

1. The injured person must be an employee (formerly called a workman).
2. The accident must arise out of and in the course of employment.

These expressions are of fundamental importance because compensation becomes payable only when both requirements are fulfilled.

### **Meaning of Workman / Employee**

The Employees' Compensation Act, 1923 has now been incorporated into the Code on Social Security, 2020. Under Section 2(26) of the Code, an employee means a person employed on wages in any establishment or employment covered by the provisions relating to Employees' Compensation.

The definition is broad and includes persons employed in various occupations involving manual, technical, operational, supervisory, clerical, or skilled work.

### **Categories of Employees Covered**

The following categories are generally covered:

- Factory workers
- Railway employees
- Construction workers
- Drivers
- Mechanics
- Electricians
- Miners
- Transport workers
- Employees engaged in hazardous occupations
- Workers employed in specified industries

The purpose of the legislation is to provide protection to employees exposed to employment-related risks.

### **Persons Generally Excluded**

The following persons may not ordinarily be covered:

- Persons employed casually and not for the purposes of the employer's business
- Independent contractors
- Persons specifically excluded by law
- Volunteers not employed for wages

Whether a person is an employee depends on the facts of each case and the existence of an employer-employee relationship.

### Employer's Liability for Compensation

An employer becomes liable to pay compensation when:

1. Personal injury is caused to an employee.
2. The injury results from an accident.
3. The accident arises out of employment.
4. The accident occurs in the course of employment.

Thus, the expressions "arising out of employment" and "in the course of employment" form the foundation of employer liability.

### **Meaning of “Arising Out of Employment”**

The expression "arising out of employment" refers to the origin or cause of the accident.

An accident arises out of employment when there is a causal connection between the employment and the injury suffered by the employee.

In other words, the employment must contribute to, expose the employee to, or create the risk that caused the injury.

### **Essential Elements**

#### 1. Causal Connection

There must be a direct or indirect connection between employment and the accident.

#### 2. Employment as Contributing Factor

The employment should have contributed to the occurrence of the accident.

#### 3. Employment-Related Risk

The employee must have been exposed to a risk because of his employment.

### **Illustration**

A driver meets with an accident while driving a company vehicle during duty hours.

The accident arises out of employment because driving the vehicle is part of his employment duties.

### **Illustration**

A worker is injured while operating machinery in a factory.

Since the injury results from a risk associated with employment, it arises out of employment.

### **Meaning of “In the Course of Employment”**

The expression "in the course of employment" refers to the time, place, and circumstances under which the accident occurred.

An accident occurs in the course of employment when it takes place while the employee is performing duties connected with his employment.

### **Factors Considered by Courts**

#### 1. Time

The accident should occur during working hours or a period reasonably connected with employment.

#### 2. Place

The accident should occur at the workplace or at a place where the employee is required to be for employment purposes.

#### 3. Circumstances

The employee should be engaged in duties related to employment or activities incidental to employment.

### **Illustration**

A factory worker suffers injury while operating a machine during working hours.

The accident occurs in the course of employment.

### **Illustration**

A delivery driver is injured while delivering goods assigned by the employer.

The accident occurs in the course of employment.

## Difference Between the Two Expressions

Arising Out of Employment	In the Course of Employment
Relates to cause of accident	Relates to time, place, and circumstances
Requires causal connection	Requires employment connection
Focuses on origin of injury	Focuses on occurrence of injury
Concerned with employment risk	Concerned with employment activity

Both conditions must normally coexist for compensation to be awarded.

## Principles Governing Employer Liability

### 1. Doctrine of Causal Connection

The employee must establish a connection between employment and the accident.

The accident should not be entirely unrelated to employment.

#### Example

A worker exposed to harmful chemicals develops a disease because of that exposure.

The injury has a causal connection with employment.

### 2. Doctrine of Notional Extension

The employment may extend beyond the strict limits of the workplace or working hours.

Courts recognize that employment does not always begin and end precisely at the factory gate.

If an employee is performing something incidental to employment, he may still be considered within the course of employment.

#### Example

An employee is injured while entering the employer's premises shortly before duty hours.

The accident may still be treated as occurring in the course of employment.

### 3. Occupational Risk Principle

When employment exposes the employee to special risks not faced by the general public, injuries resulting from such risks may attract compensation.

Example

A miner exposed to dangerous underground conditions suffers injury due to a cave-in.

The risk is directly connected with employment.

## **Important Case Laws**

### **1. Mackinnon Mackenzie & Co. Pvt. Ltd. v. Ibrahim Mahmmed Issak**

#### **Facts**

The employee died due to an accident, and compensation was claimed by his dependants.

#### **Decision**

The Supreme Court held that there must be a causal connection between the employment and the accident.

The claimant must show that the accident arose because of a risk incidental to employment.

#### **Principle**

An employer is liable only when a clear nexus exists between employment and injury.

### **2. Saurashtra Salt Manufacturing Co. v. Bai Valu Raja**

#### **Facts**

Workers met with an accident while travelling to the workplace.

#### **Decision**

The Court discussed the doctrine of notional extension and held that employment may extend beyond the actual workplace in appropriate circumstances.

#### **Principle**

The employment relationship may continue even outside the physical limits of the workplace if the employee is engaged in activities incidental to employment.

### **3. Regional Director, ESI Corporation v. Francis De Costa**

#### **Facts**

An employee met with an accident while travelling to work.

#### **Decision**

The Supreme Court emphasized that there must be a clear nexus between the accident and employment.

#### **Principle**

Mere occurrence of an accident before reaching the workplace does not automatically make the employer liable unless employment contributed to the risk.

### **Judicial Approach**

Courts generally adopt a liberal interpretation of welfare legislation.

The objective is:

- To protect workers,
- To provide social security,
- To compensate employment-related injuries,
- To promote social justice.

Where two interpretations are possible, courts usually favour the one that advances the welfare of employees.

### **Conclusion**

The concept of "arising out of and in the course of employment" is central to the law of Employees' Compensation. An employer becomes liable only when the accident has a causal connection with employment and occurs during the period and circumstances of employment. Through doctrines such as causal connection, occupational risk, and notional extension, courts have interpreted these expressions broadly to ensure that employees receive adequate protection and compensation. As a beneficial piece of social welfare legislation, the law seeks to secure justice for workers who suffer injury while serving their employers.

## **4. Explain the powers, functions and appointment of competent authorities under Employees' Compensation provisions.**

### **Introduction**

The Employees' Compensation provisions, originally contained in the Employees' Compensation Act, 1923 and now incorporated into the Code on Social Security, 2020, provide compensation to employees who suffer injury, disablement, occupational disease, or death arising out of and in the course of employment.

To ensure speedy adjudication of compensation claims and effective implementation of the law, the Code provides for the appointment of a Competent Authority. The Competent Authority acts as a specialized quasi-judicial officer entrusted with the responsibility of deciding disputes relating to compensation and safeguarding the interests of employees and their dependants.

The institution of the Competent Authority is important because labour welfare legislation aims at providing quick and inexpensive relief to injured workers without compelling them to undergo lengthy civil litigation.

### **Meaning of Competent Authority**

A Competent Authority is an officer appointed by the appropriate Government to administer and enforce the Employees' Compensation provisions.

The authority performs judicial as well as administrative functions and acts as a specialized forum for deciding compensation claims.

It serves as a bridge between employers and employees and ensures that compensation is awarded in accordance with the law.

The appropriate Government is empowered to appoint Competent Authorities for specified territorial areas and classes of cases.

Different authorities may be appointed for different regions depending upon administrative requirements.

### **Qualifications**

Generally, persons possessing:

- Judicial experience,
- Legal qualifications,
- Knowledge of labour laws,
- Administrative expertise,

are appointed as Competent Authorities.

The objective is to ensure that compensation disputes are decided by persons having adequate legal knowledge and experience.

### **Territorial Jurisdiction**

The Government may specify:

- The geographical area,
- The industries covered,
- The categories of employees,

over which a particular Competent Authority shall exercise jurisdiction.

## **Nature of the Competent Authority**

The Competent Authority is not an ordinary administrative officer.

It is a quasi-judicial authority because:

- It hears disputes,
- Examines evidence,
- Determines rights and liabilities,
- Passes binding orders.

Its proceedings resemble those of a civil court though they are generally simpler and less technical.

## **Powers of the Competent Authority**

The Competent Authority enjoys several powers similar to those of a Civil Court.

### **1. Power to Receive and Decide Compensation Claims**

This is the most important power.

The authority may adjudicate disputes relating to:

- Employer's liability,
- Employee's entitlement,
- Nature of injury,
- Extent of disablement,
- Amount of compensation payable,
- Dependants' claims in death cases.

### **2. Power to Summon Witnesses**

The authority may summon:

- Employers,
- Employees,
- Medical experts,
- Witnesses,

for the purpose of determining the facts of the case.

This power ensures proper investigation of compensation claims.

### **3. Power to Examine Witnesses on Oath**

The authority may record oral evidence and examine witnesses under oath.

This helps in determining the true circumstances of the accident.

### **4. Power to Require Production of Documents**

The authority may direct parties to produce:

- Wage records,
- Employment records,
- Medical certificates,
- Accident reports,
- Insurance documents,
- Attendance registers.

These documents assist in determining liability and compensation.

### **5. Power to Direct Medical Examination**

Where the nature or extent of injury is disputed, the authority may order medical examination of the employee.

Medical reports play an important role in assessing:

- Permanent total disablement,
- Permanent partial disablement,
- Temporary disablement,
- Occupational diseases.

### **6. Power to Determine Compensation**

The Competent Authority calculates compensation according to statutory provisions.

While determining compensation, it considers:

- Monthly wages,
- Age of employee,
- Nature of injury,
- Percentage of disablement,

- Relevant statutory factors.

## **7. Power to Register Compensation Agreements**

Employers and employees may enter into agreements regarding compensation.

The Competent Authority has power to:

- Examine such agreements,
- Verify their fairness,
- Register them officially.

This prevents exploitation of workers.

## **8. Power to Review Compensation**

The authority may review compensation in cases involving:

### (a) Change in Condition

When the physical condition of the employee improves or deteriorates.

### (b) Mistake

Where compensation was calculated incorrectly.

### (c) Fraud or Misrepresentation

Where the award was obtained through fraudulent means.

## **9. Power to Recover Compensation**

If an employer fails to pay compensation, the authority may take steps to recover the amount.

The compensation may be recovered as arrears in accordance with the law. This ensures effective enforcement of compensation awards.

## **10. Power to Impose Penalty and Interest**

Where compensation is not paid within the prescribed period, the authority may direct the employer to pay:

- Interest on the delayed amount,
- Additional penalty in appropriate cases.

This discourages delay and promotes timely payment.

## **Functions of the Competent Authority**

Apart from adjudicatory powers, the authority performs several important functions.

### **1. Settlement of Compensation Disputes**

The primary function is to decide disputes between:

- Employer and employee,
- Employer and dependants,
- Employer and insurer.

This helps in resolving conflicts quickly and efficiently.

### **2. Protection of Employees**

The authority acts as a guardian of labour welfare by ensuring that workers receive compensation guaranteed by law. Being a welfare legislation, the provisions are generally interpreted in favour of employees.

### **3. Determination of Compensation Amount**

The authority calculates and awards compensation in accordance with statutory formulas. This prevents arbitrary determination of compensation.

### **4. Registration of Compensation Agreements**

The authority scrutinizes agreements to ensure that employees are not deprived of their lawful rights.

### **5. Distribution of Compensation**

In cases involving death of an employee, compensation is distributed among legal dependants.

The authority determines:

- Eligible dependants,
- Their shares,
- Mode of payment.

### **6. Ensuring Compliance with Law**

The authority supervises implementation of compensation provisions and ensures compliance by employers.

## **7. Promotion of Social Justice**

The authority plays an important role in achieving the social welfare objectives of labour legislation. It seeks to provide financial security to workers and their families.

### **Procedure Before the Competent Authority**

The proceedings before the Competent Authority are generally simpler than ordinary civil proceedings.

The procedure usually involves:

1. Filing of application.
2. Issue of notice to employer.
3. Submission of evidence.
4. Medical examination, if necessary.
5. Hearing of parties.
6. Determination of compensation.
7. Passing of award.

The objective is speedy disposal of claims.

### **Appeal Against Orders**

An appeal against the order of the Competent Authority generally lies before the High Court.

However, an appeal is maintainable only when:

- A substantial question of law is involved, and
- Other statutory requirements are satisfied.

Pure questions of fact are ordinarily not re-examined by the High Court.

### **Important Case Law**

#### **Pratap Narain Singh Deo v. Srinivas Sabata**

##### **Facts**

A workman suffered serious injury during employment and became permanently disabled. The employer disputed liability.

## **Decision**

The Supreme Court held that the employer's liability to pay compensation arises immediately upon the occurrence of the accident resulting in injury. The employer cannot postpone payment until determination by the Competent Authority.

## **Principle**

Compensation becomes due as soon as the accident occurs and results in compensable injury. This case remains one of the leading authorities under Employees' Compensation law.

## **Importance of Competent Authority**

The Competent Authority is significant because it:

1. Provides speedy justice.
2. Reduces procedural complexity.
3. Protects workers' rights.
4. Ensures timely compensation.
5. Prevents exploitation of employees.
6. Promotes social welfare and labour justice.

## **Conclusion**

The Competent Authority occupies a central position in the administration of Employees' Compensation law. Appointed by the appropriate Government, it performs important judicial and administrative functions such as adjudicating compensation claims, recording evidence, determining compensation, reviewing awards, imposing penalties, and protecting workers' interests. By providing a specialized and efficient mechanism for dispute resolution, the Competent Authority ensures the effective implementation of labour welfare legislation and advances the constitutional goal of social justice.

## **5. A worker developed lung disease due to prolonged exposure to chemicals in the workplace. Examine the employer's liability for occupational disease.**

### **Facts**

A worker was employed in a workplace where he was continuously exposed to harmful chemicals over a prolonged period. As a result of such exposure, he developed a serious lung disease. The question is whether the employer is liable to pay compensation under the Employees' Compensation provisions.

## **Issue**

Whether the employer is liable to compensate a worker who develops lung disease due to prolonged exposure to hazardous chemicals in the course of employment.

## **Reasoning**

Under the Employees' Compensation provisions of the Code on Social Security, 2020, an employer is liable to pay compensation when an employee suffers an injury or occupational disease arising out of and in the course of employment.

An occupational disease is a disease contracted by a worker due to the nature of his employment or exposure to harmful substances at the workplace. Diseases such as silicosis, asbestosis, chemical poisoning, and lung diseases caused by toxic chemicals are recognized occupational diseases.

For employer liability to arise, the following conditions must be satisfied:

1. There must be an employer-employee relationship.
2. The worker must be employed in an occupation involving exposure to hazardous substances.
3. The disease must be connected with the nature of employment.
4. There must be a causal connection between the working conditions and the disease.

In the present case, the worker developed lung disease due to continuous exposure to chemicals in the workplace. The disease is directly connected with the employment and arose because of the hazardous conditions under which the worker was required to perform his duties.

The law treats occupational disease as an employment injury and deems it to have arisen out of and in the course of employment. Therefore, the employer cannot escape liability merely because the disease developed gradually rather than through a sudden accident.

## **Relevant Case Laws**

### **Consumer Education and Research Centre v. Union of India**

The Supreme Court held that protection of workers' health and occupational safety forms part of the right to life under Article 21 of the Constitution. Employers have a duty to protect workers from occupational hazards.

### **Mackinnon Mackenzie & Co. v. Ibrahim Mahmmed Issak**

The Court held that there must be a causal connection between employment and the injury or disease. Once such connection is established, compensation becomes payable.

## **Judgment**

The employer will be liable to pay compensation because the worker's lung disease was caused by prolonged exposure to hazardous chemicals during the course of employment. The disease has a direct connection with the nature of work and therefore qualifies as an occupational disease arising out of and in the course of employment.

Accordingly, the worker is entitled to compensation and other benefits available under the Employees' Compensation provisions of the Code on Social Security, 2020.

## UNIT II

### **1. Explain the object, scope and evolution of Employees' State Insurance under the Code on Social Security, 2020.**

#### **Introduction**

The concept of social security is one of the cornerstones of modern labour welfare legislation. Industrial workers are often exposed to risks such as sickness, maternity, employment injuries, disablement, and death, which may adversely affect their earning capacity and economic security. To protect employees against such contingencies, India introduced the Employees' State Insurance (ESI) Scheme.

The ESI Scheme is a comprehensive social insurance programme that provides medical and financial benefits to employees and their dependants. Originally governed by the Employees' State Insurance Act, 1948, the scheme is now incorporated into the Code on Social Security, 2020, which consolidates and rationalizes various social security laws in India.

The ESI Scheme represents the constitutional vision of a welfare state and seeks to ensure social justice by providing economic protection to workers during periods of need.

#### **Meaning of Employees' State Insurance**

Employees' State Insurance is a statutory social insurance scheme under which both employers and employees contribute to a common fund. From this fund, employees receive various benefits in cases of sickness, maternity, disablement, employment injury, and death.

Unlike private insurance, the ESI Scheme is compulsory and operates on the principle of collective social security.

#### **Object of Employees' State Insurance**

The primary object of ESI is to provide protection against economic hardship arising from employment-related risks and unforeseen contingencies.

The major objectives are as follows:

## **1. To Provide Social Security to Employees**

The foremost objective of ESI is to provide a safety net to employees and their families against risks that may reduce or destroy earning capacity.

## **2. To Provide Medical Care**

The scheme ensures comprehensive medical treatment to insured employees and their dependants during illness.

Medical benefits include:

- Out-patient treatment,
- Hospitalization,
- Specialist consultation,
- Medicines and diagnostic services.

## **3. To Provide Sickness Benefits**

Employees who are unable to work due to illness receive periodical cash payments during the period of certified sickness.

This prevents loss of income during temporary incapacity.

## **4. To Provide Maternity Protection**

Women employees are entitled to maternity benefits during:

- Pregnancy,
- Childbirth,
- Miscarriage,
- Related medical conditions.

This promotes maternal health and welfare.

## **5. To Provide Employment Injury Benefits**

Employees suffering injuries arising out of and in the course of employment receive compensation and medical care. The scheme protects workers against occupational risks.

## **6. To Provide Disablement Benefits**

Employees suffering temporary or permanent disablement are entitled to financial assistance depending on the extent of disability.

### **7. To Provide Dependants' Benefits**

Where an employee dies due to employment injury, dependants receive financial support from the ESI fund. This protects the family from sudden economic distress.

### **8. To Promote Labour Welfare and Industrial Peace**

The existence of a social security system improves employee morale, productivity, and industrial harmony. It strengthens the employer-employee relationship and contributes to social stability.

## **Evolution of Employees' State Insurance in India**

### **1. International Influence**

The concept of social insurance originated in Europe, particularly in Germany under the social insurance reforms introduced by Chancellor Otto von Bismarck.

Subsequently, the idea gained worldwide recognition through the efforts of the International Labour Organization, which advocated social security measures for workers.

ILO conventions and recommendations significantly influenced India's labour welfare policies.

### **2. Recommendations of the Adarkar Committee**

Before independence, the Government of India appointed the Adarkar Committee to examine health insurance for industrial workers.

The Committee recommended the establishment of a compulsory social insurance scheme.

These recommendations laid the foundation for the ESI legislation.

### **3. Enactment of the Employees' State Insurance Act, 1948**

Following independence, India enacted the Employees' State Insurance Act, 1948.

It was one of the earliest and most significant social welfare legislations in India.

The Act introduced compulsory insurance for industrial workers against:

- Sickness,
- Maternity,

- Employment injury,
- Death due to employment injury.

#### 4. Expansion of Coverage

Over the years, the scope of ESI expanded beyond factories to include:

- Shops,
- Hotels,
- Restaurants,
- Cinemas,
- Educational institutions,
- Private establishments.

This reflected the growing need for broader social protection.

#### 5. Codification under the Code on Social Security, 2020

The Government enacted the Code on Social Security, 2020 to consolidate and simplify multiple social security laws.

The ESI Act, 1948 was subsumed into the Code.

The objectives of codification include:

- Simplification of labour laws,
- Uniformity in implementation,
- Ease of compliance,
- Wider social security coverage,
- Inclusion of emerging categories of workers.

#### **Scope of Employees' State Insurance**

The ESI Scheme has a wide scope and covers various establishments and categories of employees.

##### Coverage of Establishments

The scheme applies to:

- Factories,
- Industrial establishments,

- Shops,
- Commercial establishments,
- Educational institutions,
- Medical institutions,
- Other establishments notified by the Government.

### Coverage of Employees

The scheme generally applies to employees earning wages within the prescribed wage ceiling.

Both permanent and temporary employees may be covered if statutory conditions are satisfied.

### Extension to New Categories of Workers

One of the significant features of the Social Security Code, 2020 is the power of the Government to extend social security benefits to:

- Gig workers,
- Platform workers,
- Unorganised workers.

This reflects the changing nature of employment in the digital economy.

## **Important Features of the ESI Scheme**

### 1. Compulsory Social Insurance

Participation is mandatory for covered establishments and employees.

Both employer and employee contribute to the ESI Fund.

### 2. Contributory Scheme

The scheme is financed through contributions from:

- Employers,
- Employees,
- Government support in specified cases.

### 3. Statutory Protection

Benefits are guaranteed by law and cannot be denied arbitrarily.

### 4. Comprehensive Coverage

The scheme provides protection against multiple contingencies including:

- Sickness,
- Maternity,
- Employment injury,
- Disablement,
- Death.

### 5. Medical and Cash Benefits

Employees receive both:

- Medical treatment, and
- Monetary benefits.

This makes ESI a comprehensive welfare measure.

### **Administration** of the ESI Scheme

The scheme is administered by the:

Employees' State Insurance Corporation

The Corporation is a statutory body responsible for the management and implementation of the scheme.

### Composition of ESIC

The Corporation consists of representatives of:

- Central Government,
- State Governments,
- Employers,
- Employees,
- Medical profession,
- Parliament.

This ensures balanced representation of all stakeholders.

## **Important Benefits under the ESI Scheme**

The major benefits available under ESI include:

### 1. Medical Benefit

Comprehensive medical care for insured persons and dependants.

### 2. Sickness Benefit

Cash payments during certified sickness.

### 3. Maternity Benefit

Financial assistance during maternity-related absence.

### 4. Disablement Benefit

Compensation for temporary or permanent disablement.

### 5. Dependants' Benefit

Support for dependants of deceased employees.

### 6. Funeral Expenses

Financial assistance towards funeral costs.

## **Important Case Laws**

### **Regional Director, ESI Corporation v. Francis De Costa**

#### Principle

The Supreme Court explained the meaning of "employment injury" and emphasized that there must be a connection between the employment and the injury.

The decision clarified the scope of ESI benefits in employment injury cases.

### **ESI Corporation v. Ramanuja Match Industries**

#### Principle

The Supreme Court held that ESI legislation is a beneficial and social welfare legislation and must receive liberal interpretation in favour of employees.

## **Significance of ESI in a Welfare State**

The ESI Scheme promotes:

- Social justice,
- Economic security,

- Labour welfare,
- Human dignity,
- Industrial peace.

It gives practical effect to the Directive Principles of State Policy, particularly the obligation of the State to secure assistance in cases of sickness, disablement, and unemployment.

## **Conclusion**

Employees' State Insurance is one of the most significant social security measures in India. Originating from international labour welfare principles and initially enacted through the Employees' State Insurance Act, 1948, it now forms an integral part of the Code on Social Security, 2020. By providing medical care, income security, maternity protection, disablement benefits, and dependants' benefits, the ESI Scheme safeguards workers against economic hardship and advances the constitutional goal of a welfare state. It remains a vital instrument for ensuring social protection, labour welfare, and social justice in modern India.

## **2. Define “factory”, “employee”, “insured person” and “employment injury” under ESI provisions.**

### **Introduction**

The Employees' State Insurance (ESI) Scheme under the **Code on Social Security, 2020** is one of India's most important social security measures. The applicability of the scheme and the entitlement to various benefits depend upon certain key statutory definitions. Among the most important are the definitions of **Factory**, **Employee**, **Insured Person**, and **Employment Injury**.

These definitions determine:

- The establishments covered under the scheme,
- The categories of persons entitled to benefits,
- The circumstances in which compensation and medical benefits become payable.

Since ESI is a beneficial welfare legislation, courts generally interpret these definitions liberally to extend maximum protection to workers.

### **1. Factory**

#### **Definition**

Under the ESI provisions, a **Factory** generally means any premises where a manufacturing process is carried on with or without the aid of power and where the prescribed number of persons are employed.

A factory is the primary unit to which the ESI Scheme applies.

## **Essential Elements of a Factory**

### **1. Premises**

There must be a definite premises or establishment where activities are carried on.

### **2. Manufacturing Process**

A manufacturing process must be conducted in the establishment.

Examples include:

- Producing goods,
- Altering products,
- Repairing articles,
- Packing goods,
- Processing materials.

### **3. Employment of Workers**

The establishment must employ the minimum number of workers prescribed under the law.

### **4. Use of Power or Without Power**

The manufacturing process may be carried on:

- With the aid of power, or
- Without the aid of power.

## **Importance of the Definition**

The classification of an establishment as a factory determines:

- Applicability of ESI provisions,
- Employer's contribution liability,
- Employees' entitlement to social security benefits.

## **2. Employee**

### **Definition**

Section 2(26) of the Code on Social Security, 2020 defines an employee as a person employed for wages in any establishment or employment covered by the Code.

The term has a broad meaning and includes persons employed directly or indirectly in connection with the work of an establishment.

## **Persons Included**

The definition generally includes:

### **1. Direct Employees**

Persons directly employed by the principal employer.

Example:

A machine operator employed directly by a factory owner.

### **2. Employees Employed Through Contractors**

Workers supplied by contractors or immediate employers.

Example:

Security guards supplied through a security agency.

### **3. Clerical Employees**

Office staff working in connection with the establishment.

Example:

Accountants, clerks, typists.

### **4. Technical Employees**

Persons engaged in technical work.

Example:

Engineers, technicians, mechanics.

### **5. Supervisory Staff**

Supervisory employees falling within prescribed wage limits may also be covered.

## **Importance of the Definition**

Only a person qualifying as an employee becomes entitled to:

- ESI registration,
- Medical benefits,
- Sickness benefits,

- Maternity benefits,
- Disablement benefits,
- Dependants' benefits.

### **3. Insured Person**

#### **Definition**

An **Insured Person** means a person who is registered under the ESI Scheme and for whom contributions are payable or have been paid. It is only after registration that an employee acquires the status of an insured person.

#### **Essential Requirements**

##### **1. Registration Under ESI**

The employee must be enrolled under the ESI Scheme.

##### **2. Contribution**

Contributions must be payable or paid in respect of the employee.

##### **3. Coverage Under the Scheme**

The employee must belong to an establishment covered by the ESI provisions.

#### **Rights of an Insured Person**

An insured person becomes entitled to various statutory benefits such as:

##### **Medical Benefit**

Free medical treatment for self and dependants.

##### **Sickness Benefit**

Cash payments during certified sickness.

##### **Maternity Benefit**

Financial support during maternity leave.

##### **Disablement Benefit**

Compensation for employment-related injuries.

##### **Dependants' Benefit**

Financial assistance to dependants in case of death due to employment injury.

## **Significance**

The status of an insured person is crucial because ESI benefits are available only to insured persons and their eligible dependants.

## **4. Employment Injury**

### **Definition**

Section 2(28) defines **Employment Injury** as a personal injury caused to an employee by accident or occupational disease arising out of and in the course of employment.

This is one of the most important concepts in ESI law because entitlement to several benefits depends upon whether an injury qualifies as an employment injury.

### **Essential Ingredients of Employment Injury**

#### **1. Personal Injury**

There must be an injury suffered by the employee.

The injury may be:

- Physical,
- Mental,
- Temporary,
- Permanent.

Examples:

- Fracture,
- Burns,
- Loss of eyesight,
- Occupational disease.

#### **2. Injury Must Arise Out of Employment**

There must be a causal connection between employment and injury.

The employment should contribute to or expose the employee to the risk resulting in injury.

#### **Example**

A worker injured while operating machinery in a factory.

### **3. Injury Must Occur In the Course of Employment**

The accident must occur:

- During working hours,
- At the workplace,
- While performing duties connected with employment.

### **Occupational Diseases as Employment Injury**

The law also treats certain occupational diseases as employment injuries.

Examples include:

- Silicosis,
- Asbestosis,
- Lung diseases caused by chemicals,
- Industrial poisoning.

Where the disease results from the nature of employment, compensation becomes payable.

### **Judicial Interpretation of Employment Injury**

#### **1. Regional Director, ESI Corporation v. Francis De Costa**

##### **Principle**

The Supreme Court emphasized that there must be a causal connection between the employment and the injury.

Merely being an employee is not sufficient; the injury must arise out of employment.

#### **2. Saurashtra Salt Manufacturing Co. v. Bai Valu Raja**

##### **Principle**

The Court explained the doctrine of notional extension of employment.

Employment may extend beyond the exact workplace and working hours where the circumstances justify such extension.

This principle broadens protection available to workers.

### **Relationship Among the Four Definitions**

These four definitions are interconnected:

<b>Term</b>	<b>Importance</b>
Factory	Determines coverage of establishment
Employee	Determines coverage of worker
Insured Person	Determines eligibility for benefits
Employment Injury	Determines entitlement to compensation and disablement benefits

Together they form the foundation of the ESI Scheme.

### **Importance of Liberal Interpretation**

Since ESI legislation is a social welfare measure, courts generally interpret these definitions broadly to advance the object of the law.

The purpose is to:

- Protect workers,
- Promote social security,
- Ensure economic justice,
- Fulfil the constitutional vision of a welfare state.

### **Conclusion**

The definitions of **Factory**, **Employee**, **Insured Person**, and **Employment Injury** form the backbone of the Employees' State Insurance Scheme under the Code on Social Security, 2020. A factory determines the coverage of establishments, an employee determines the category of persons protected, an insured person acquires statutory benefits, and employment injury forms the basis for compensation and other welfare benefits. Through liberal judicial interpretation, these concepts ensure effective social security protection and uphold the welfare objectives of labour legislation.

## **3. Discuss the various benefits available under the Employees' State Insurance Scheme.**

### **Introduction**

The Employees' State Insurance (ESI) Scheme is one of the most significant social security measures introduced for the welfare of workers in India. It is a contributory social insurance scheme designed to provide protection to employees against various contingencies such as sickness, maternity, disablement, employment injury, and death arising out of employment.

Originally introduced under the Employees' State Insurance Act, 1948, the scheme is now incorporated under the Code on Social Security, 2020. The ESI Scheme aims to provide comprehensive medical and financial assistance to insured employees and their families, thereby ensuring social security and promoting the welfare of labour.

The scheme is administered by the Employees' State Insurance Corporation (ESIC), a statutory body established by the Central Government.

### **Objectives of the ESI Scheme**

The main objectives of the ESI Scheme are:

1. To provide social security protection to employees.
2. To provide medical care during sickness and injury.
3. To compensate employees for loss of wages during periods of incapacity.
4. To provide maternity protection to women workers.
5. To provide financial support to dependants in case of employment-related death.
6. To promote labour welfare and social justice.

### **Various Benefits Available under the ESI Scheme**

The Code on Social Security, 2020 provides several benefits to insured employees and their dependants. These benefits are discussed below:

#### **1. Sickness Benefit**

Sickness Benefit is a cash benefit payable to an insured employee during periods of certified sickness.

#### **Features**

- It is paid when the employee is unable to work due to illness.
- The sickness must be certified by an authorized medical practitioner.
- The employee must have contributed to the ESI fund for the prescribed contribution period.

#### **Purpose**

The benefit compensates for loss of wages during temporary illness and ensures financial stability during sickness.

#### **Example**

If an insured employee is hospitalized due to fever or a medical condition and is unable to attend work, he may receive sickness benefit during the period of certified illness.

## **2. Extended Sickness Benefit**

Extended Sickness Benefit is provided for employees suffering from long-term and serious diseases requiring prolonged treatment.

### **Diseases Covered**

Examples include:

- Tuberculosis
- Cancer
- Leprosy
- Chronic renal failure
- Mental disorders
- Other long-term diseases notified by the Government

### **Features**

- Payable for a longer duration than ordinary sickness benefit.
- Intended to support workers suffering from severe illnesses.

### **Importance**

This benefit protects employees from financial hardship caused by prolonged inability to work.

## **3. Enhanced Sickness Benefit**

Enhanced Sickness Benefit is a special benefit granted to insured persons undergoing family welfare procedures.

### **Situations Covered**

- Sterilization operations
- Vasectomy
- Tubectomy

### **Purpose**

The benefit encourages participation in family welfare programmes by providing full wage compensation during recovery.

## **4. Medical Benefit**

Medical Benefit is one of the most important features of the ESI Scheme.

### **Scope of Medical Benefit**

The insured employee and eligible family members are entitled to:

- Outpatient treatment
- Hospitalization
- Specialist consultation
- Diagnostic services
- Medicines and drugs
- Surgical treatment
- Emergency medical care

### **Importance**

This benefit ensures access to quality healthcare without imposing financial burden on workers and their families.

### **Beneficiaries**

Medical facilities are generally available to:

- Insured employees
- Spouses
- Children
- Dependent parents

## **5. Maternity Benefit**

Maternity Benefit is provided to insured women employees during pregnancy and childbirth.

### **Benefits Include**

- Paid maternity leave
- Medical care during pregnancy
- Assistance during confinement
- Care during miscarriage
- Treatment for pregnancy-related complications

### **Object**

The objective is to protect the health of both mother and child while ensuring income security during maternity.

### **Importance**

This benefit promotes maternal health and reflects the constitutional commitment to social welfare.

## **6. Disablement Benefit**

Disablement Benefit is payable when an employee suffers employment injury resulting in temporary or permanent disability.

### **(A) Temporary Disablement Benefit**

This benefit is payable when the employee is temporarily incapable of performing work due to employment injury.

#### **Features**

- Paid throughout the period of certified incapacity.
- Available irrespective of contribution period.

#### **Example**

A worker suffers a fracture due to an industrial accident and remains unable to work for several months.

### **(B) Permanent Disablement Benefit**

This benefit is granted when employment injury causes permanent loss of earning capacity.

#### **Types**

1. Permanent Total Disablement
2. Permanent Partial Disablement

#### **Purpose**

To compensate employees for long-term or lifelong loss of earning capacity resulting from employment injury.

## **7. Dependants' Benefit**

Dependants' Benefit is payable when an insured employee dies as a result of employment injury or occupational disease.

#### **Eligible Dependants**

- Widow
- Minor children
- Widowed mother

- Other eligible dependants as prescribed

### **Nature of Benefit**

Dependants receive periodical payments to compensate for the loss of financial support caused by the employee's death.

### **Importance**

This benefit provides economic security to families who lose their primary breadwinner.

## **8. Funeral Expenses**

The ESI Scheme provides funeral expenses upon the death of an insured person.

### **Purpose**

The benefit assists the family in meeting immediate funeral costs.

### **Payable To**

- Dependants, or
- The person who actually incurs the funeral expenses.

### **Importance**

This benefit offers immediate financial relief during a difficult period.

## **9. Rehabilitation Allowance**

The scheme also provides vocational rehabilitation and rehabilitation allowance for disabled employees.

### **Purpose**

- To assist disabled workers in regaining employability.
- To facilitate reintegration into the workforce.

### **Services Include**

- Vocational training
- Rehabilitation programmes
- Skill development assistance

### **Importance**

This benefit helps injured workers rebuild their professional lives after disability.

## **Nature and Characteristics of ESI Benefits**

The benefits under the ESI Scheme possess the following characteristics:

### **1. Statutory Benefits**

The benefits are guaranteed by law and cannot be arbitrarily denied.

### **2. Contributory Benefits**

Both employer and employee contribute to the ESI fund.

### **3. Social Insurance Benefits**

Benefits are provided irrespective of the individual financial condition of the employee.

### **4. Welfare-Oriented Benefits**

The scheme is designed to advance labour welfare and social justice.

### **5. Comprehensive Protection**

The scheme covers medical, financial, maternity, disablement, and dependent-related risks.

## **Important Judicial Decision**

### **Employees' State Insurance Corporation v. Ramanuja Match Industries**

#### **Facts**

The dispute concerned the interpretation of provisions relating to the ESI Scheme.

#### **Judgment**

The Supreme Court held that the Employees' State Insurance legislation is a beneficial social welfare statute and must receive a liberal interpretation.

#### **Principle**

Whenever two interpretations are possible, courts should adopt the interpretation that advances the welfare of employees and promotes the objectives of social security legislation.

## **Significance of the ESI Scheme**

The ESI Scheme plays a vital role in:

- Protecting workers from economic insecurity.
- Promoting industrial peace.
- Improving public health.
- Ensuring income security during contingencies.
- Advancing the constitutional goals of social justice and labour welfare.

The scheme reflects the principles embodied in Articles 38, 39, 41, 42 and 43 of the Constitution of India.

## **Conclusion**

The Employees' State Insurance Scheme is a comprehensive social security mechanism that provides medical, financial and welfare benefits to insured employees and their dependants. Through benefits such as sickness benefit, maternity benefit, medical benefit, disablement benefit, dependants' benefit, funeral expenses and rehabilitation assistance, the scheme protects workers against various employment-related risks and hardships. As a welfare-oriented legislation, the ESI Scheme plays a crucial role in promoting social justice, labour welfare and economic security in India.

## **4. Explain the provisions relating to dispute and claim settlement under Employees' State Insurance.**

### **Introduction**

The Employees' State Insurance (ESI) Scheme is one of the most important social security measures introduced for the welfare of employees in India. The scheme provides various benefits such as sickness benefit, maternity benefit, disablement benefit, medical benefit and dependants' benefit to insured employees and their families.

Since disputes may arise regarding contribution, entitlement to benefits, employment injury, employee status and employer liability, the Code on Social Security, 2020 provides a special mechanism for adjudication and settlement of such disputes and claims. The objective of the dispute settlement machinery is to ensure speedy, effective and specialized resolution of issues arising under the ESI Scheme.

The provisions relating to dispute and claim settlement are primarily contained in Sections 48 to 52 of the Code on Social Security, 2020.

### **Need for a Special Dispute Settlement Mechanism**

The ESI Scheme is a welfare legislation intended to protect employees against social and economic risks. Ordinary civil courts may not always be suitable for resolving specialized disputes involving employment injury, disablement, insurance contributions and social security benefits.

Therefore, a special forum known as the Employees' Insurance Court is established to adjudicate disputes efficiently and expeditiously.

## **Nature of Disputes under ESI**

Various disputes may arise between:

- Employer and employee,
- Employer and Employees' State Insurance Corporation,
- Employee and ESI authorities,
- Dependants and ESI authorities.

Common disputes include:

### **1. Disputes Regarding Employee Status**

Questions may arise as to whether a particular person is an employee covered under the ESI Scheme.

### **2. Disputes Regarding Contributions**

Disputes may occur concerning:

- Liability to pay contributions,
- Amount of contribution payable,
- Recovery of contributions.

### **3. Disputes Regarding Wages**

Questions may arise regarding the calculation of wages for contribution purposes.

### **4. Disputes Regarding Employment Injury**

Disputes may arise concerning:

- Whether the injury arose out of employment,
- Whether the injury occurred in the course of employment,
- Nature and extent of disablement.

### **5. Disputes Regarding Entitlement to Benefits**

Employees may dispute the denial of:

- Sickness benefit,
- Maternity benefit,
- Disablement benefit,
- Dependants' benefit,
- Medical benefit.

### **6. Disputes Regarding Employer Liability**

Questions may arise regarding the liability of employers to contribute to the ESI Fund or provide information required under the law.

## **Employees' Insurance Court**

### **Constitution of the Court**

The appropriate Government is empowered to establish Employees' Insurance Courts for specified areas.

The Court generally consists of judicial officers possessing the qualifications prescribed by law.

The purpose of constituting a separate court is to provide specialized adjudication of ESI-related disputes.

### **Jurisdiction of the Employees' Insurance Court**

The Employees' Insurance Court has exclusive jurisdiction over disputes arising under the ESI provisions.

The Court decides questions relating to:

#### **1. Employee Status**

Whether a person is an employee covered under the ESI Scheme.

#### **2. Liability to Pay Contributions**

Whether the employer is liable to pay contributions and the amount payable.

#### **3. Rate of Contributions**

Determination of the correct rate and amount of contribution.

#### **4. Entitlement to Benefits**

Whether an employee or dependant is entitled to receive benefits under the scheme.

#### **5. Employment Injury Claims**

Whether an injury qualifies as an employment injury under the law.

#### **6. Disablement Issues**

Determination of:

- Nature of disablement,
- Extent of disablement,
- Duration of disablement.

#### **7. Recovery Proceedings**

Disputes concerning recovery of contributions and dues by the Corporation.

## **8. Employer Liability**

Questions regarding obligations and responsibilities of employers under the ESI Scheme.

### **Procedure for Settlement of Claims**

The settlement of claims generally follows a structured process.

#### **1. Submission of Claim**

The insured employee or eligible dependant must submit a claim in the prescribed form.

Claims may relate to:

- Sickness benefit,
- Maternity benefit,
- Disablement benefit,
- Dependants' benefit,
- Medical benefit.

Necessary documents must accompany the claim application.

#### **2. Verification of Documents**

The authorities verify:

- Insurance records,
- Contribution records,
- Employment details,
- Medical certificates,
- Supporting documents.

The purpose is to establish eligibility under the scheme.

#### **3. Medical Examination**

Where the claim involves injury, disease or disablement, the employee may be required to undergo medical examination.

Medical Boards or Medical Referees may determine:

- Nature of injury,
- Degree of disability,

- Extent of loss of earning capacity.

This ensures accurate assessment of entitlement.

#### **4. Investigation and Inquiry**

The authorities may conduct inquiries regarding:

- Employment relationship,
- Circumstances of accident,
- Occupational disease,
- Contribution history.

Evidence may be collected from employers, employees and witnesses.

#### **5. Adjudication of Dispute**

If a dispute persists, the matter may be referred to the Employees' Insurance Court.

The Court examines:

- Evidence,
- Medical reports,
- Witness testimony,
- Statutory provisions.

The Court then determines rights and liabilities of the parties.

#### **6. Award of Benefits**

After adjudication, the Court may:

- Direct payment of benefits,
- Order payment of contributions,
- Determine liability of employer,
- Grant other appropriate relief.

The decision becomes binding on the parties.

#### **Powers of the Employees' Insurance Court**

The Employees' Insurance Court enjoys powers similar to those of a Civil Court.

These powers include:

### **1. Power to Summon Witnesses**

The Court may require witnesses to appear and give evidence.

### **2. Power to Record Evidence**

The Court may record oral and documentary evidence.

### **3. Power to Enforce Attendance**

The Court may compel attendance of parties and witnesses.

### **4. Power to Order Production of Documents**

The Court may require production of:

- Employment records,
- Wage registers,
- Contribution records,
- Medical documents.

### **5. Power to Examine Witnesses on Oath**

Witnesses may be examined under oath to ensure truthful testimony.

### **6. Power to Decide Questions of Fact and Law**

The Court has authority to determine both factual and legal issues arising under the ESI Scheme.

## **Appeal against Orders**

The Code provides a right of appeal against decisions of the Employees' Insurance Court.

### **Appeal Lies to the High Court**

An appeal may be filed before the High Court.

### **Condition for Appeal**

Appeal is maintainable only when a substantial question of law is involved.

Questions of pure fact are generally not reopened by the appellate court.

This limitation ensures speedy resolution of disputes.

## **Importance of the Dispute Settlement Mechanism**

The dispute resolution framework under ESI serves several important purposes:

### **1. Speedy Disposal of Claims**

Specialized forums facilitate quicker resolution of disputes.

## **2. Protection of Workers**

Employees can obtain benefits without lengthy litigation.

## **3. Uniform Interpretation**

Specialized courts ensure consistency in application of ESI provisions.

## **4. Effective Enforcement**

The mechanism ensures compliance by employers and authorities.

## **5. Promotion of Social Justice**

It strengthens the welfare objectives of labour legislation.

## **Important Judicial Decision**

### **Regional Director, ESI Corporation v. Francis De Costa**

#### **Facts**

The dispute concerned whether an injury sustained by an employee could be treated as an employment injury under ESI law.

#### **Judgment**

The Supreme Court examined the meaning of the expression "arising out of and in the course of employment."

#### **Principle Laid Down**

The Court emphasized that ESI legislation is a beneficial welfare legislation and should be interpreted liberally to advance the objective of social security for workers.

This case remains an important authority regarding employment injury disputes under ESI law.

## **Welfare Nature of ESI Adjudication**

The Employees' State Insurance Scheme is based on the principles of:

- Social security,
- Social justice,
- Labour welfare,
- Human dignity.

Therefore, courts generally adopt a beneficial and liberal approach while interpreting ESI provisions so that employees are not deprived of legitimate benefits on technical grounds.

## Conclusion

The provisions relating to dispute and claim settlement under the Employees' State Insurance Scheme provide a specialized and effective mechanism for resolving disputes concerning contributions, benefits, employment injuries and employer liability. The Employees' Insurance Court plays a crucial role in ensuring speedy adjudication and protection of workers' rights. Through its welfare-oriented approach and specialized jurisdiction, the ESI dispute resolution system promotes social justice, labour welfare and effective implementation of social security legislation in India.

## 5. Define “Maternity Benefit”. Explain the nature, scope and objectives of maternity protection laws in India.

### Introduction

Maternity protection is an essential component of labour welfare and social security legislation. The welfare of women workers during pregnancy and childbirth has been recognized as a matter of social justice and human rights. Pregnancy is a natural biological function, and society has an obligation to ensure that women do not suffer economic hardship or employment discrimination because of motherhood.

In India, maternity protection is provided under **Chapter VI of the Code on Social Security, 2020**, which has incorporated and replaced the provisions of the **Maternity Benefit Act, 1961**. The law aims to safeguard the health of women workers and their children by providing paid maternity leave and other related benefits.

### Meaning and Definition of Maternity Benefit

Maternity Benefit refers to the payment made by an employer to a woman employee during the period of her absence from work due to pregnancy, childbirth, miscarriage, adoption, or other maternity-related circumstances.

It is a statutory right intended to ensure that a woman employee does not lose her wages or employment because of motherhood.

Maternity benefits generally include:

- Paid maternity leave
- Medical bonus
- Nursing breaks
- Leave for miscarriage or medical termination of pregnancy
- Protection against dismissal during maternity period
- Creche facilities in certain establishments

Thus, maternity benefit is both a labour welfare measure and a social security benefit designed to protect the dignity and health of working women.

## **Nature of Maternity Protection Laws**

Maternity protection laws possess the following characteristics:

### **1. Social Welfare Legislation**

Maternity laws are welfare-oriented statutes enacted to improve the living and working conditions of women employees.

They recognize that motherhood is a social function and that society must bear part of the responsibility for protecting mothers and children.

### **2. Protective Legislation**

These laws are designed to protect:

- The physical health of pregnant women;
- The health and development of newborn children; and
- The reproductive rights of women workers.

The law ensures that women are not compelled to work under conditions harmful to their health during pregnancy.

### **3. Humanitarian Legislation**

Maternity protection laws are based on humanitarian considerations.

A woman during pregnancy requires rest, medical care, and financial support. Therefore, the law grants maternity leave with wages so that she can recover from childbirth without economic insecurity.

### **4. Social Security Measure**

Maternity benefits form an important part of social security.

They protect women employees against loss of income during maternity and ensure economic stability for the family.

### **5. Beneficial Legislation**

Courts have consistently held that maternity laws are beneficial legislation and should receive liberal interpretation in favour of women employees.

Whenever there is ambiguity, courts generally adopt an interpretation that advances the purpose of maternity protection.

## **Scope of Maternity Protection Laws**

The scope of maternity protection laws is broad and covers various aspects of employment and welfare.

### **1. Applicability to Establishments**

The provisions apply to various establishments including:

- Factories
- Mines
- Plantations
- Shops and commercial establishments
- Government establishments
- Other notified institutions

### **2. Coverage of Women Employees**

The law protects eligible women employees who satisfy the prescribed conditions relating to employment and service.

Benefits may also extend to:

- Adoptive mothers
- Commissioning mothers
- Women suffering miscarriage or pregnancy-related illness

### **3. Maternity Leave**

One of the most important features is paid maternity leave.

The law provides maternity leave before and after childbirth, enabling women to take adequate rest and care for their newborn children.

### **4. Medical Benefits**

Women employees are entitled to medical assistance and medical bonus where appropriate facilities are not provided by the employer.

### **5. Nursing Breaks**

After returning to work, a woman employee is entitled to nursing breaks to feed her child.

These breaks are treated as part of working hours.

## **6. Protection Against Dismissal**

The employer cannot dismiss, discharge, or otherwise penalize a woman employee merely because she is pregnant or on maternity leave.

This ensures job security during the maternity period.

## **7. Creche Facilities**

Large establishments employing the prescribed number of employees are required to provide creche facilities to support working mothers.

This promotes a balance between employment and childcare responsibilities.

## **Objectives of Maternity Protection Laws**

The maternity benefit legislation serves several important objectives.

### **1. Protection of Maternal Health**

The foremost objective is to protect the health of pregnant women before and after childbirth.

Pregnancy often requires medical attention, rest, and recovery, which the law seeks to facilitate.

### **2. Protection of Child Welfare**

The legislation also aims to protect the health and welfare of newborn children.

Adequate maternity leave enables mothers to provide proper care, nutrition, and attention during the early stages of a child's life.

### **3. Financial Security**

Maternity leave without wages could result in severe financial hardship.

The law therefore guarantees wage protection during maternity leave and ensures economic security for working women.

### **4. Prevention of Discrimination**

Maternity protection laws seek to eliminate discrimination against women in employment.

Women should not be denied employment opportunities or suffer adverse treatment because of pregnancy or motherhood.

## **5. Promotion of Gender Equality**

The legislation encourages equal participation of women in the workforce by creating supportive working conditions.

It helps women balance their professional and family responsibilities.

## **6. Advancement of Social Justice**

Maternity protection reflects the constitutional commitment to social justice and welfare.

It recognizes motherhood as a social function deserving legal protection.

## **Constitutional Basis of Maternity Protection**

### **Article 42**

Article 42 of the Constitution directs the State to make provisions for:

- Just and humane conditions of work; and
- Maternity relief.

This Article forms the constitutional foundation of maternity benefit legislation in India.

### **Article 21**

The right to life under Article 21 includes:

- Right to health,
- Right to dignity,
- Right to safe motherhood.

Maternity protection laws help realize these constitutional rights.

### **Article 15(3)**

Article 15(3) permits the State to make special provisions for women and children.

Maternity benefit legislation is a valid exercise of this constitutional power.

## **Important Case Laws**

### **1. Municipal Corporation of Delhi v. Female Workers**

The Supreme Court held that even casual and daily-wage women workers are entitled to maternity benefits.

The Court emphasized that maternity relief is a fundamental aspect of social justice and human dignity.

**Principle:**

Maternity benefits should not be restricted only to permanent employees.

**2. B. Shah v. Presiding Officer, Labour Court**

The Supreme Court held that maternity benefit legislation must be interpreted liberally in favour of women employees.

**Principle:**

Beneficial labour legislation should receive a liberal and purposive interpretation.

**Conclusion**

Maternity protection laws constitute one of the most significant labour welfare measures in India. The provisions contained in the Code on Social Security, 2020 seek to ensure that women workers receive adequate medical care, financial assistance, and employment security during pregnancy and childbirth. These laws uphold the constitutional ideals of social justice, dignity, equality, and welfare, while promoting the health and well-being of both mother and child. Consequently, maternity benefit legislation remains an indispensable pillar of labour welfare and social security in modern India.

**6. Discuss the powers, duties and functions of Inspectors under maternity benefit provisions.**

**Introduction**

Maternity protection is an essential component of labour welfare legislation in India. The provisions relating to maternity benefits are incorporated under the **Code on Social Security, 2020**, which seeks to safeguard the health, dignity, and employment rights of women workers during pregnancy and childbirth.

To ensure effective implementation of these provisions, the Code provides for the appointment of **Inspector-cum-Facilitators**. These officers play a crucial role in monitoring compliance, preventing violations, investigating complaints, and protecting the rights of women employees. They act as an important link between the Government, employers, and employees in enforcing maternity benefit laws.

**Appointment of Inspectors**

Under the provisions of the **Code on Social Security, 2020**, the appropriate Government may appoint Inspector-cum-Facilitators for specified areas and establishments.

The Inspectors are appointed to:

- Ensure compliance with maternity benefit provisions.
- Conduct inspections and inquiries.
- Prevent violations of labour welfare legislation.
- Facilitate implementation of social security measures.

Inspectors appointed under the Code are deemed to be **public servants** within the meaning of law and are vested with statutory powers necessary for effective enforcement.

## **Powers of Inspectors**

The Inspector-cum-Facilitator is entrusted with various powers to ensure that employers comply with maternity benefit laws.

### **1. Power of Entry and Inspection**

The Inspector may enter any establishment, factory, shop, mine, plantation, or other workplace covered under the Code at reasonable times.

The purpose of entry is:

- To verify compliance with legal provisions.
- To examine working conditions.
- To ensure that maternity benefits are being provided.

This power enables the Inspector to detect violations and prevent exploitation of women workers.

### **2. Power to Examine Records and Registers**

The Inspector may inspect and examine:

- Attendance registers,
- Wage registers,
- Leave records,
- Maternity benefit records,
- Notices and returns,
- Employment documents.

These documents help determine whether eligible women employees are receiving maternity benefits as required by law.

### **3. Power to Demand Information**

The Inspector may require employers to furnish information relating to:

- Employment of women workers,
- Payment of maternity benefits,
- Leave records,
- Medical bonus,
- Nursing breaks,
- Other statutory benefits.

Failure to provide such information may attract legal consequences.

### **4. Power to Examine Persons**

The Inspector may question:

- Employers,
- Managers,
- Supervisors,
- Employees,
- Witnesses.

Such examination assists in verifying facts and investigating complaints relating to denial of maternity benefits.

### **5. Power to Investigate Complaints**

One of the most important powers of an Inspector is the authority to investigate complaints made by women employees.

Complaints may relate to:

- Refusal of maternity benefit,
- Non-payment of wages during maternity leave,
- Denial of medical bonus,
- Illegal termination during pregnancy,
- Discrimination against women workers,
- Failure to provide statutory facilities.

After investigation, the Inspector may take appropriate action as provided by law.

## **6. Power to Conduct Inquiries**

The Inspector may conduct detailed inquiries into violations of maternity provisions.

Such inquiries may include:

- Collection of documentary evidence,
- Recording statements,
- Verification of employment records,
- Examination of workplace conditions.

The inquiry helps determine whether an employer has violated any statutory obligation.

## **7. Power to Initiate Proceedings**

Where violations are discovered, the Inspector may initiate appropriate legal proceedings against the employer in accordance with the provisions of the Code.

This power acts as a deterrent against non-compliance and promotes effective enforcement.

## **Duties and Functions of Inspectors**

Apart from statutory powers, Inspectors perform several important duties and functions.

### **1. Enforcement of Maternity Benefit Laws**

The primary duty of an Inspector is to ensure that employers comply with maternity benefit provisions.

This includes monitoring:

- Payment of maternity benefits,
- Grant of maternity leave,
- Nursing breaks,
- Medical facilities,
- Protection against dismissal.

### **2. Protection of Women Employees**

Inspectors act as guardians of labour welfare by protecting the rights and interests of women workers.

They ensure that pregnant employees receive all benefits guaranteed under law.

### **3. Prevention of Exploitation**

The Inspector helps prevent unfair labour practices such as:

- Denial of maternity leave,
- Reduction of wages,
- Forced resignation,
- Discrimination on grounds of pregnancy.

Such intervention promotes workplace equality and dignity.

### **4. Conducting Investigations and Enquiries**

Whenever violations are reported, the Inspector conducts investigations and inquiries to ascertain the facts and recommend corrective measures.

### **5. Guidance and Awareness**

Modern labour administration emphasizes not only enforcement but also facilitation.

Therefore, Inspector-cum-Facilitators educate employers and employees regarding:

- Legal rights,
- Statutory obligations,
- Compliance requirements,
- Best labour practices.

This promotes voluntary compliance with the law.

### **6. Submission of Reports**

Inspectors submit reports to the appropriate Government regarding:

- Compliance status,
- Violations detected,
- Enforcement measures taken,
- Recommendations for improvement.

These reports assist the Government in policy formulation and labour administration.

### **Importance of Inspectors under Maternity Benefit Laws**

The Inspector-cum-Facilitator system is essential for the effective implementation of maternity protection legislation because it:

- Ensures enforcement of statutory rights.
- Protects women employees from discrimination.
- Promotes safe and humane working conditions.
- Prevents denial of maternity benefits.
- Strengthens labour welfare administration.
- Encourages compliance by employers.

Without effective inspection machinery, maternity protection laws would remain merely theoretical and ineffective.

### **Important Case Law**

#### **Municipal Corporation of Delhi v. Female Workers**

The Supreme Court emphasized the importance of maternity protection and held that maternity benefits are an important aspect of social justice and labour welfare.

The Court observed that maternity relief is intended to preserve the dignity of motherhood and protect women workers from economic hardship during pregnancy.

#### **Principle**

Maternity benefit legislation must be implemented effectively and interpreted liberally in favour of women employees.

#### **Conclusion**

Inspectors under the maternity benefit provisions of the Code on Social Security, 2020 play a crucial role in ensuring effective implementation of labour welfare legislation. Through their powers of inspection, investigation, inquiry, and enforcement, they safeguard the rights of women workers and ensure compliance by employers. Their functions contribute significantly to the constitutional goals of social justice, gender equality, and protection of motherhood. Therefore, the Inspector-cum-Facilitator serves as an indispensable mechanism for the successful enforcement of maternity protection laws in India.

## UNIT III

### **1. Explain the object, scope and salient features of Employees' Provident Fund under the Code on Social Security, 2020.**

#### **Introduction**

The Employees' Provident Fund (EPF) is one of the most significant social security measures available to employees in India. It is designed to provide financial security and economic stability to workers after retirement and during unforeseen contingencies. The scheme promotes a habit of compulsory savings among employees and ensures that workers have a source of income when they are no longer earning regular wages.

The provisions relating to the Employees' Provident Fund are incorporated in **Chapter III of the Code on Social Security, 2020**, which consolidates and replaces various social security laws, including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The Code seeks to strengthen social security coverage and improve the administration of provident fund schemes.

#### **Meaning of Employees' Provident Fund**

A Provident Fund is a compulsory savings scheme under which both the employer and employee contribute a prescribed percentage of wages to a common fund. The accumulated amount, together with interest, is paid to the employee upon retirement, resignation, disablement, or other specified circumstances.

The EPF acts as a financial safeguard against old age, unemployment, disability, and other economic hardships.

#### **Object of Employees' Provident Fund**

The Employees' Provident Fund Scheme serves several important objectives.

##### **1. To Provide Financial Security after Retirement**

The primary objective of EPF is to ensure that employees have sufficient financial resources after retirement.

The accumulated provident fund amount acts as a retirement corpus and helps employees maintain their standard of living after they cease employment.

##### **2. To Encourage Compulsory Savings**

Many employees may find it difficult to save regularly from their earnings.

The EPF Scheme promotes disciplined and compulsory savings through mandatory monthly contributions by both employer and employee.

### **3. To Provide Social Security during Old Age**

The scheme protects workers from economic insecurity in old age and reduces dependence on others after retirement.

### **4. To Provide Assistance during Emergencies**

The provident fund serves as an important source of financial support during emergencies such as:

- Serious illness,
- Permanent disability,
- Unemployment,
- Natural calamities,
- Family emergencies.

### **5. To Protect Dependants and Family Members**

In the event of the employee's death, the accumulated provident fund amount is payable to the nominee or legal heirs, thereby providing financial security to the family.

### **6. To Promote Labour Welfare**

The scheme reflects the welfare-state philosophy embodied in the Constitution and aims to improve the social and economic conditions of workers.

## **Scope of Employees' Provident Fund**

The scope of the EPF Scheme is wide and covers various aspects of social security.

### **1. Applicability to Establishments**

The provisions generally apply to:

- Factories,
- Industrial establishments,
- Commercial establishments,
- Other notified organizations employing the prescribed number of employees.

The Government may extend the scheme to additional establishments through notification.

### **2. Coverage of Employees**

The scheme covers eligible employees working in establishments to which the Code applies.

The provisions regulate:

- Employee contributions,
- Employer contributions,
- Maintenance of accounts,
- Withdrawal of funds,
- Settlement of claims,
- Nomination and transfer facilities.

### **3. Social Security Coverage**

The EPF Scheme forms part of a broader social security framework that includes:

- Provident Fund,
- Pension Scheme,
- Employees' Deposit Linked Insurance Scheme.

Together, these schemes provide comprehensive protection to employees and their dependants.

### **Salient Features of Employees' Provident Fund**

#### **1. Compulsory Contributory Scheme**

The EPF is a contributory social security scheme.

Both:

- Employer, and
- Employee

contribute a prescribed percentage of wages to the Provident Fund account.

This ensures regular accumulation of savings throughout the employee's service period.

#### **2. Statutory Social Security Measure**

The scheme is established by law and enjoys statutory protection.

Employers are legally obligated to comply with contribution requirements.

Failure to contribute may attract penalties and legal action.

### **3. Retirement Benefit**

The accumulated balance, together with interest, becomes payable upon:

- Retirement,
- Superannuation,
- Resignation,
- Permanent disablement.

This provides financial stability after the employee's working life.

### **4. Pension Benefits**

A portion of contributions may be utilized for pension purposes, enabling employees to receive periodic financial support after retirement.

The pension component strengthens long-term social security protection.

### **5. Family Protection**

In case of death of the employee, the benefits may be paid to:

- Nominees,
- Widow,
- Children,
- Other legal dependants.

This protects the family against sudden financial hardship.

### **6. Partial Withdrawal Facility**

One of the most useful features of EPF is the facility for partial withdrawal under specified circumstances.

Employees may withdraw funds for:

- Medical treatment,
- Purchase or construction of house,
- Repayment of housing loans,
- Marriage expenses,
- Higher education,
- Natural calamities.

This enhances the practical utility of the scheme.

### **7. Interest on Provident Fund Deposits**

The amount standing to the credit of employees earns interest at rates determined from time to time.

This enables employees to build substantial savings over a long period.

### **8. Universal Account Number (UAN)**

The introduction of the Universal Account Number has modernized the administration of EPF.

The UAN enables employees to:

- Retain the same account throughout their career,
- Transfer balances easily,
- Track contributions online,
- Access services digitally.

### **9. Protection from Attachment**

The provident fund amount enjoys statutory protection and is generally exempt from attachment by courts for recovery of debts.

This ensures that employees' retirement savings remain secure.

### **10. Nomination Facility**

Employees may nominate family members to receive provident fund benefits in the event of their death.

This facilitates quick settlement of claims.

### **Administration of the Provident Fund Scheme**

The Employees' Provident Fund Scheme is administered by the:

#### **Employees' Provident Fund Organisation**

The administration is carried out through the Central Board of Trustees, which consists of representatives of:

- Central Government,

- State Governments,
- Employers,
- Employees.

The Board is responsible for:

- Managing provident fund accounts,
- Investment of funds,
- Settlement of claims,
- Enforcement of statutory provisions.

### **Importance of Employees' Provident Fund**

The EPF Scheme plays a vital role in:

- Promoting financial discipline,
- Ensuring retirement security,
- Protecting workers against economic risks,
- Supporting dependants,
- Advancing labour welfare and social justice.

It is regarded as one of the most successful social security mechanisms in India.

### **Important Case Laws**

#### **Organo Chemical Industries v. Union of India**

The Supreme Court held that provident fund legislation is a beneficial social welfare legislation and should receive a liberal interpretation in favour of workers.

#### **Principle:**

Social security laws must be interpreted in a manner that advances labour welfare.

#### **Regional Provident Fund Commissioner v. Hooghly Mills Co. Ltd.**

The Court emphasized the importance of timely payment of provident fund contributions and recognized the social welfare character of the legislation.

#### **Principle:**

Employers must strictly comply with statutory obligations relating to provident fund contributions.

## **Conclusion**

The Employees' Provident Fund under the Code on Social Security, 2020 is one of the most important pillars of social security in India. It provides financial protection during retirement, disability, unemployment, and other contingencies while encouraging long-term savings among employees. Through compulsory contributions, statutory safeguards, pension benefits, and family protection measures, the EPF Scheme promotes labour welfare, economic security, and social justice. Therefore, it remains a cornerstone of India's social security framework and an essential instrument for protecting the future of workers and their families.

## **2. Discuss the various Provident Fund Schemes and authorities under Provident Fund law.**

### **Introduction**

The Provident Fund provisions under the Code on Social Security, 2020 (chapter III) provide various social security schemes to ensure financial security and welfare of employees and their families. These schemes help employees save for retirement, provide pension benefits, and offer insurance protection in case of death during service.

To administer these schemes effectively, the Code establishes various authorities responsible for implementation, supervision, and enforcement.

### **Various Provident Fund Schemes (Section 15)**

The Central Government may frame the following schemes:

#### **1. Employees' Provident Fund Scheme (EPF)**

This is the primary savings scheme designed to provide financial security after retirement.

#### **Features**

- Compulsory contributions by both employer and employee.
- Contributions are deposited in the employee's provident fund account.
- Interest is credited periodically.
- Accumulated amount is payable on retirement, resignation, or under specified circumstances.
- Partial withdrawals are permitted for:
  - medical treatment,
  - housing,
  - marriage,
  - education,
  - other emergencies.

## Objective

To promote long-term savings and provide financial support during old age.

## 2. Employees' Pension Scheme (EPS)

This scheme provides pensionary benefits to employees and their dependants.

### Benefits

- Superannuation pension after retirement.
- Widow pension.
- Children pension.
- Orphan pension.
- Disablement pension.

## Objective

To ensure regular income and financial stability after retirement and provide protection to the family of a deceased employee.

## 3. Employees' Deposit Linked Insurance Scheme (EDLI)

This scheme provides insurance coverage linked to the employee's provident fund membership.

### Benefits

- Financial assistance to dependants upon the death of an employee during service.
- No separate contribution is required from the employee.
- Insurance amount is paid to the nominee or legal heirs.

## Objective

To provide social security and financial protection to the employee's family.

## **Authorities under Provident Fund Law**

### 1. Central Board of Trustees

The Central Government constitutes a Central Board for administration of Provident Fund Schemes.

### Composition

The Board consists of representatives of:

- Central Government,
- State Governments,
- Employers,
- Employees.

#### Functions

- Administration of Provident Fund Schemes.
- Management and investment of funds.
- Policy formulation.
- Supervision of implementation.

### 2. Central Provident Fund Commissioner

The Central Provident Fund Commissioner acts as the Chief Executive Officer of the Provident Fund Organisation.

#### Functions

- Overall supervision of the schemes.
- Implementation of Board policies.
- Administration of provident fund operations.
- Monitoring collection and disbursement of funds.

### 3. Additional, Deputy and Regional Provident Fund Commissioners

These officers assist the Central Provident Fund Commissioner in administration and enforcement.

#### Functions

- Inspection of establishments.
- Collection of contributions.
- Investigation of defaults.
- Settlement of disputes.
- Enforcement of statutory obligations.

### 4. Inspectors-cum-Facilitators

Inspectors are appointed to ensure compliance with Provident Fund provisions.

## Functions

- Inspection of establishments.
- Verification of records and registers.
- Examination of contribution accounts.
- Detection of violations.
- Advising employers regarding compliance requirements.

## **Powers and Duties of Authorities**

The authorities have powers to:

1. Collect provident fund contributions.
2. Conduct inquiries and investigations.
3. Inspect establishments and records.
4. Recover unpaid contributions and arrears.
5. Impose damages and penalties for defaults.
6. Enforce compliance with statutory provisions.
7. Protect the interests of employees and beneficiaries.

## **Important Case Law**

### **Organo Chemical Industries v. Union of India**

Facts:

The employer defaulted in depositing provident fund contributions and challenged the damages imposed by the authorities.

Held:

The Supreme Court held that provident fund legislation is a beneficial social welfare legislation intended to protect workers. Strict enforcement of provident fund obligations is necessary to safeguard employees' interests.

Principle:

Provident Fund laws must receive a liberal interpretation in favour of employees, and employers must strictly comply with contribution requirements.

## **Conclusion**

The Provident Fund provisions under the Code on Social Security, 2020 establish a comprehensive social security framework through the Employees' Provident Fund Scheme, Employees' Pension Scheme, and Employees' Deposit Linked Insurance Scheme. The

effective functioning of authorities such as the Central Board of Trustees, Central Provident Fund Commissioner, Regional Commissioners, and Inspectors ensures proper implementation of these schemes and promotes the financial security and welfare of employees and their families.

### **3. Define “contribution” and explain the law relating to contribution by employer and employee.**

#### **Introduction**

Contribution is the foundation of the Provident Fund Scheme. Both employer and employee are required to make contributions towards social security benefits under the Code on Social Security, 2020.

#### **Meaning of Contribution (sec 17)**

Contribution means:

- the amount payable by employer and employee to the provident fund and related schemes.

It is generally calculated as prescribed percentage of wages.

#### **Employer’s Contribution**

The employer must contribute prescribed percentage of:

- basic wages,
- dearness allowance,
- retaining allowance.

Employer contribution includes allocation towards:

- provident fund,
- pension scheme,
- insurance scheme.

#### **Employee’s Contribution**

The employee also contributes prescribed percentage of wages.

The contribution is deducted from employee’s salary by employer and deposited into the fund.

## **Duties of Employer**

The employer must:

1. deduct employee contribution,
2. add employer contribution,
3. deposit amount within prescribed time,
4. maintain records and returns.

Failure attracts:

- damages,
- penalties,
- prosecution.

## **Recovery of Contribution**

Authorities may recover unpaid contribution as arrears.

Methods include:

- attachment,
- recovery proceedings,
- prosecution.

## **Delayed Contribution**

If employer fails to deposit contribution:

- interest,
- damages,
- penalties  
may be imposed.

## **Importance of Contribution**

Contribution ensures:

- retirement security,
- pension benefits,
- insurance protection,

- financial welfare of employees.

## **Important Case Laws**

### **1. Organo Chemical Industries v. Union of India**

The Court upheld validity of damages imposed for delayed contribution.

### **2. Employees' State Insurance Corporation v. Harrison Malayalam Pvt. Ltd.**

The Court emphasized employer's statutory obligation to deposit contributions promptly.

## **Conclusion**

Contribution by employer and employee is essential for effective functioning of provident fund schemes. Strict compliance ensures social security and financial stability for workers.

## **4. Discuss the powers and functions of authorities under Provident Fund provisions.**

### **Introduction**

The Provident Fund provisions under the Code on Social Security, 2020 establish various authorities for effective administration and enforcement of provident fund schemes (sec 14).

These authorities perform administrative, supervisory and quasi-judicial functions.

### **Authorities under Provident Fund Law**

- 1. Central Board of Trustees**
- 2. Central Provident Fund Commissioner**
- 3. Regional Provident Fund Commissioners**
- 4. Inspectors and Enforcement Officers**

### **Powers of Authorities**

#### **1. Power to Conduct Enquiries**

Authorities may conduct enquiries regarding:

- applicability of law,
- employee strength,
- contribution liability.

## **2. Power of Inspection**

Inspectors may:

- enter establishments,
- inspect registers,
- verify contribution records.

## **3. Power to Recover Dues**

Authorities may recover unpaid dues through:

- attachment,
- recovery certificates,
- legal proceedings.

## **4. Power to Impose Damages**

Damages and interest may be imposed for default.

## **5. Power to Examine Witnesses**

Authorities have powers similar to Civil Courts regarding:

- summoning witnesses,
- production of documents,
- recording evidence.

## **6. Power to Initiate Prosecution**

Authorities may prosecute employers violating provident fund provisions.

## **Functions of Authorities**

### **1. Administration of Schemes**

Ensure implementation of provident fund schemes.

### **2. Protection of Employees' Rights**

Safeguard workers' social security benefits.

### **3. Maintenance of Accounts**

Maintain contribution and fund accounts.

### **4. Awareness and Guidance**

Educate employers and employees regarding legal obligations.

### **5. Settlement of Claims**

Process withdrawal and pension claims.

### **Important Case Law**

#### **Organo Chemical Industries v. Union of India**

The Supreme Court held that strict enforcement of provident fund provisions is necessary to protect workers.

### **Conclusion**

The provident fund authorities play a crucial role in implementing social security measures and ensuring compliance with labour welfare legislation.

## **5. Explain the concept and objectives of gratuity under the Code on Social Security, 2020.**

### **Introduction**

Gratuity is a statutory retirement benefit paid by employer to employee as a reward for long and continuous service. The gratuity provisions are incorporated under Chapter V of the Code on Social Security, 2020.

Gratuity is considered an important social security measure for employees.

### **Concept of Gratuity**

Gratuity means:

- a lump sum payment made by employer,
- to employee on termination of employment,
- for long and meritorious service.

It is payable:

- on retirement,
- resignation,
- superannuation,
- death,
- disablement.

## **Nature of Gratuity**

### **1. Statutory Right**

Gratuity is a legal right and not a charity.

### **2. Social Security Measure**

Provides financial assistance after retirement.

### **3. Reward for Continuous Service**

Recognizes employee's loyal service.

## **Objectives of Gratuity**

### **1. Financial Security after Retirement**

Helps employees maintain livelihood after retirement.

### **2. Reward for Long Service**

Encourages stable and continuous employment.

### **3. Social Welfare**

Promotes labour welfare and social justice.

### **4. Protection in Old Age**

Provides economic support during old age.

### **5. Assistance to Family**

In death cases, family members receive gratuity.

## **Conditions for Payment**

Generally payable after:

- completion of continuous service,
- prescribed qualifying period.

Exception:

- death,
- disablement.

## **Forfeiture of Gratuity**

Gratuity may be forfeited:

- for riotous conduct,
- moral turpitude,
- causing damage to employer's property.

## **Important Case Laws**

### **1. Delhi Cloth and General Mills Co. v. Workmen**

The Court recognized gratuity as reward for long and continuous service.

### **2. State of Kerala v. M. Padmanabhan Nair**

The Court held that gratuity is a valuable statutory right.

## **Conclusion**

Gratuity is an important retirement benefit ensuring social and economic security to employees. The Code on Social Security, 2020 strengthens gratuity as a labour welfare measure.

## **6. Discuss the provisions relating to nomination and determination of gratuity amount.**

### **Introduction**

The gratuity provisions under the Code on Social Security, 2020 contain rules regarding nomination and determination of gratuity amount to ensure smooth payment and protection of employee interests (sections 55,56).

## **Nomination under Gratuity Law**

### **Meaning of Nomination**

Nomination means appointment of a person by employee to receive gratuity after employee's death.

### **Procedure for Nomination**

#### **1. Eligible Employee**

Employee who completes prescribed service may nominate.

#### **2. Form of Nomination**

Nomination must be:

- in prescribed form,
- signed by employee,
- submitted to employer.

#### **3. Family Requirement**

If employee has family, nomination must generally be in favour of family member.

#### **4. Modification of Nomination**

Employee may modify nomination after change in family circumstances.

### **Importance of Nomination**

Nomination:

- avoids disputes,
- ensures speedy payment,
- protects dependants.

### **Determination of Gratuity Amount**

#### **Calculation of Gratuity**

Gratuity is calculated based on:

- last drawn wages,
- years of continuous service.

Common formula:

$$\text{Gratuity} = \frac{15 \times \text{Last Drawn Wages} \times \text{Years of Service}}{26}$$

$$G = \frac{15 \times W \times Y}{26}$$

Where:

- $G$ = gratuity,
- $W$ = last drawn wages,
- $Y$ = years of service.

### **Duties of Employer**

Employer must:

1. determine gratuity amount,
2. issue notice,
3. pay gratuity within prescribed period.

### **Disputes regarding Gratuity**

Disputes may arise regarding:

- amount,
- eligibility,
- nomination.

Such disputes are decided by controlling authority.

### **Interest for Delayed Payment**

If employer delays payment without justification, interest may be payable.

### **Important Case Laws**

#### **1. State of Kerala v. M. Padmanabhan Nair**

The Court held that delayed payment of gratuity attracts interest.

## **2. Delhi Cloth and General Mills Co. v. Workmen**

The Court emphasized gratuity as reward for continuous service.

### **Conclusion**

Nomination and proper determination of gratuity amount are essential for effective implementation of gratuity law. These provisions protect employees and ensure financial security after termination of employment.

## **UNIT IV**

### **1. Explain the duties of employers and employees relating to occupational safety and health.**

#### **Introduction**

The Occupational Safety, Health and Working Conditions Code, 2020 was enacted to consolidate and regulate laws relating to occupational safety, health and working conditions of workers. The Code imposes duties upon both employers and employees to ensure safe and healthy workplaces.

#### **Duties of Employers relating to Occupational Safety and Health [chapter 3 (6 – 15)]**

The employer has primary responsibility to maintain safety, health and welfare of workers.

##### **1. Duty to Provide Safe Workplace**

The employer must provide:

- safe working environment,
- safe machinery,
- proper ventilation,
- cleanliness and sanitation.

The workplace should be free from hazards likely to affect workers.

##### **2. Duty to Ensure Occupational Safety**

Employers must:

- identify workplace hazards,
- prevent accidents,
- maintain safety standards,
- conduct safety audits where necessary.

### **3. Duty to Provide Health Measures**

Health measures include:

- clean drinking water,
- washing facilities,
- disposal of wastes,
- prevention of overcrowding,
- adequate lighting.

### **4. Duty to Provide Welfare Facilities**

The employer must provide:

- canteens,
- rest rooms,
- first aid facilities,
- welfare officers,
- crèche facilities in prescribed establishments.

### **5. Duty to Provide Protective Equipment**

Workers exposed to hazardous processes must be provided:

- gloves,
- helmets,
- masks,
- protective clothing,
- safety devices.

## **6. Duty to Inform Workers**

The employer must:

- inform workers about workplace hazards,
- provide training,
- conduct awareness programmes.

## **7. Duty regarding Working Hours**

The employer must comply with:

- prescribed working hours,
- weekly holidays,
- leave provisions,
- overtime regulations.

## **8. Duty to Report Accidents**

The employer must notify authorities regarding:

- accidents,
- dangerous occurrences,
- occupational diseases.

## **Duties of Employees**

Employees also have obligations to maintain workplace safety.

### **1. Duty to Follow Safety Instructions**

Employees must comply with:

- safety standards,
- lawful instructions,
- workplace regulations.

### **2. Duty to Use Safety Equipment**

Workers must properly use:

- protective devices,
- safety appliances,
- emergency equipment.

### **3. Duty to Avoid Misuse**

Employees should not:

- misuse safety devices,
- damage protective equipment,
- act negligently.

### **4. Duty to Report Hazards**

Workers should report:

- unsafe conditions,
- accidents,
- defective machinery.

### **5. Duty to Cooperate with Employer**

Employees must cooperate in implementation of safety measures.

## **Constitutional Dimensions**

### **Article 21**

Right to life includes:

- health,
- safe working conditions,
- dignity of labour.

### **Article 42**

Directs the State to ensure humane conditions of work.

## **Important Case Laws**

### **1. Consumer Education and Research Centre v. Union of India**

The Supreme Court held that occupational health and medical care are part of Article 21.

## **2. Bandhua Mukti Morcha v. Union of India**

The Court emphasized humane working conditions and protection of labour.

### **Conclusion**

The Occupational Safety, Health and Working Conditions Code, 2020 imposes important duties upon employers and employees to maintain safe and healthy workplaces. These provisions promote labour welfare, industrial safety and social justice.

## **2. Discuss the provisions relating to welfare measures and working conditions under the OSH Code.**

### **Introduction**

The Occupational Safety, Health and Working Conditions Code, 2020 contains detailed provisions relating to welfare measures and working conditions of workers. The objective is to ensure humane, safe and healthy conditions at workplaces.

### **Welfare Measures under the OSH Code ( cha VI – sec 24)**

#### **1. Washing Facilities**

Employers must provide:

- adequate washing facilities,
- separate facilities for men and women where required.

#### **2. Drinking Water**

Suitable arrangements for:

- safe and clean drinking water  
must be provided at convenient places.

#### **3. Canteen Facilities**

Certain establishments employing prescribed number of workers must maintain canteens for workers.

#### **4. Rest Rooms and Shelters**

Employers must provide:

- rest rooms,
- shelters,
- lunch rooms.

These facilities are especially important for contract labour and migrant workers.

## **5. First Aid Facilities**

Every establishment must maintain:

- first aid boxes,
- medical facilities,
- trained personnel for emergency treatment.

## **6. Crèche Facilities**

Establishments employing prescribed number of employees must provide crèche facilities for children of workers.

## **7. Welfare Officers**

Large establishments may be required to appoint welfare officers.

## **Working Conditions under the OSH Code (cha VII)**

### **1. Working Hours**

The Code regulates:

- daily working hours,
- weekly working hours,
- overtime.

Workers cannot be compelled to work beyond prescribed limits except according to law.

### **2. Weekly Holidays**

Workers are entitled to:

- weekly rest day,
- holidays as prescribed.

### **3. Annual Leave with Wages**

Workers who complete prescribed service are entitled to annual leave with wages.

### **4. Occupational Safety Measures**

Employers must maintain:

- safety standards,
- ventilation,
- cleanliness,
- proper machinery safeguards.

### **5. Employment of Women**

Women may work in all establishments subject to:

- safety measures,
- consent,
- prescribed safeguards.

### **6. Hazardous Processes**

Special precautions are required in hazardous industries.

### **7. Health Measures**

The Code provides for:

- cleanliness,
- ventilation,
- disposal of waste,
- prevention of overcrowding.

## **Constitutional Basis**

### **Article 42**

Provides for humane conditions of work.

## **Article 21**

Protects right to health and safe environment.

## **Important Case Law**

### **Consumer Education and Research Centre v. Union of India**

The Supreme Court held that workers' health protection is part of fundamental right under Article 21.

## **Conclusion**

The welfare and working condition provisions under the OSH Code aim to ensure healthy, safe and dignified working conditions for labourers. The Code reflects constitutional principles of labour welfare and social justice.

## **3. Discuss the powers and functions of Inspector-cum-Facilitator under the OSH Code.**

### **Introduction**

The Occupational Safety, Health and Working Conditions Code, 2020 introduced the concept of Inspector-cum-Facilitator(Cha IX) replacing the traditional "Inspector" system.

The objective is to ensure both:

- enforcement of labour laws,
- facilitation of compliance.

### **Appointment of Inspector-cum-Facilitator**

The appropriate Government appoints Inspector-cum-Facilitators for specified areas and establishments.

They are public servants under law.

### **Powers of Inspector-cum-Facilitator**

#### **1. Power of Entry**

The Inspector-cum-Facilitator may enter workplace at reasonable times for inspection.

#### **2. Power of Inspection**

They may inspect:

- factories,
- establishments,
- machinery,
- records,
- registers,
- notices.

### **3. Power to Examine Persons**

They may:

- question employer and employees,
- examine witnesses,
- record statements.

### **4. Power to Demand Information**

They may require production of:

- documents,
- registers,
- safety records,
- employment details.

### **5. Power to Conduct Inquiry**

May investigate:

- accidents,
- occupational diseases,
- safety violations.

### **6. Power to Seize Documents**

Relevant records may be seized where violations are suspected.

### **7. Power to Issue Directions**

They may direct employer to:

- rectify defects,
- improve safety standards,
- comply with legal requirements.

## **Functions of Inspector-cum-Facilitator**

### **1. Enforcement of Labour Laws**

Ensure implementation of:

- safety provisions,
- welfare measures,
- working condition standards.

### **2. Facilitation of Compliance**

Guide employers regarding:

- statutory duties,
- compliance procedures,
- welfare obligations.

### **3. Protection of Workers**

Safeguard:

- health,
- safety,
- welfare of workers.

### **4. Prevention of Industrial Accidents**

Monitor hazardous processes and recommend preventive measures.

### **5. Submission of Reports**

Submit inspection and inquiry reports to government authorities.

## **Significance of the New Concept**

The term “facilitator” indicates:

- cooperative compliance,
- transparency,
- ease of doing business,  
while maintaining worker protection.

## **Important Case Law**

### **Consumer Education and Research Centre v. Union of India**

The Court emphasized strict implementation of occupational health and safety measures.

## **Conclusion**

Inspector-cum-Facilitators play an important role in implementing the OSH Code by balancing labour welfare and industrial compliance. Their powers help ensure safe and humane working conditions.

## **4. Discuss the offences and penalties prescribed under the Occupational Safety, Health and Working Conditions Code, 2020.**

### **Introduction**

The Occupational Safety, Health and Working Conditions Code, 2020 prescribes various offences and penalties to ensure compliance with occupational safety, health and welfare standards.

These provisions aim to prevent exploitation and industrial accidents.

### **Offences under the OSH Code (Chap XII)**

#### **1. Violation of Safety Provisions**

Failure to maintain:

- safety standards,
- health measures,
- welfare facilities  
constitutes an offence.

#### **2. Non-Compliance with Working Conditions**

Violation relating to:

- working hours,
- leave,
- employment conditions may attract penalties.

### **3. Obstruction of Inspector-cum-Facilitator**

Obstructing inspection or refusing to produce records is punishable.

### **4. Failure to Report Accidents**

Failure to notify authorities regarding:

- accidents,
- dangerous occurrences,
- occupational diseases is an offence.

### **5. Contravention regarding Hazardous Processes**

Violation of provisions relating to hazardous industries attracts severe penalties.

### **6. Employment Violations**

Illegal employment practices regarding:

- women workers,
- contract labour,
- migrant workers may result in prosecution.

## **Penalties under the OSH Code**

### **1. Monetary Fines**

The Code prescribes fines for:

- safety violations,
- non-maintenance of records,

- welfare violations.

## **2. Imprisonment**

Serious violations causing:

- death,
- serious bodily injury  
may attract imprisonment.

## **3. Enhanced Penalty for Repeated Offences**

Repeat offenders are liable for higher punishment.

## **4. Compounding of Offences**

Certain offences may be compounded according to prescribed procedure.

## **5. Liability of Companies**

Where offence is committed by company:

- persons in charge,
- directors,
- managers  
may also be held liable.

## **Purpose of Penalties**

The penalties aim to:

- ensure compliance,
- prevent industrial accidents,
- protect worker safety,
- enforce labour welfare standards.

## **Important Case Laws**

### **1. Consumer Education and Research Centre v. Union of India**

The Court emphasized employer responsibility for occupational safety.

## **2. M.C. Mehta v. Union of India**

The Supreme Court stressed strict responsibility in hazardous industries.

### **Conclusion**

The offences and penalties under the OSH Code ensure effective enforcement of occupational safety and welfare measures. They promote accountability of employers and protection of workers' rights.

## **UNIT V**

### **1. Discuss the provisions relating to Inter-State Migrant Workers under the Occupational Safety, Health and Working Conditions Code, 2020.**

#### **Introduction**

The Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code) consolidates and rationalizes various labour laws relating to safety, health and working conditions of workers. It contains special provisions for the protection and welfare of Inter-State Migrant Workers under chapter XI (part two), who are often vulnerable to exploitation due to migration, lack of bargaining power, poverty and unfamiliarity with local conditions.

The Code seeks to ensure fair treatment, welfare measures, occupational safety and social security for such workers.

#### **Meaning of Inter-State Migrant Worker**

Under the OSH Code, an Inter-State Migrant Worker means a person who:

- has migrated from one State to another State for employment;
- is employed directly or through a contractor; and
- earns wages within the limit prescribed by the Central Government.

The Code also recognizes self-employed migrant workers who migrate for employment.

#### **Important Provisions Relating to Inter-State Migrant Workers**

##### **1. Registration of Establishments**

Every establishment employing inter-state migrant workers must:

- obtain registration under the Code;

- maintain prescribed records;
- comply with statutory obligations relating to health, safety and welfare.

This ensures proper monitoring and protection of migrant workers.

## **2. Licensing of Contractors**

Contractors recruiting or supplying migrant workers must obtain a valid licence from the competent authority.

The licensing system helps to:

- regulate recruitment practices;
- prevent exploitation and abuse;
- ensure compliance with labour welfare measures.

## **3. Journey Allowance**

Inter-state migrant workers are entitled to:

- journey allowance for travel from their native State to the place of employment and back;
- reimbursement of travel expenses as prescribed.

This provision reduces the financial burden of migration.

## **4. Displacement Allowance**

Workers recruited from another State may be entitled to displacement allowance to compensate for the inconvenience and hardship caused by migration.

## **5. Wage Protection**

The Code guarantees:

- payment of wages without discrimination;
- equal wages for similar work;
- timely payment of wages;
- protection against unfair deductions.

## **6. Welfare Facilities**

Employers are required to provide adequate welfare facilities such as:

- suitable accommodation where required;
- drinking water;
- sanitation facilities;
- first-aid facilities;

- medical assistance;
- protective equipment and safety measures.

### **7. Portability of Benefits**

The Code promotes portability of benefits so that migrant workers can continue to access:

- public distribution system benefits;
- social security benefits;
- welfare schemes across States.

### **8. Database and Record Maintenance**

The Central and State Governments may maintain:

- electronic databases of migrant workers;
- records relating to employment and welfare.

This facilitates implementation of welfare measures and policy planning.

### **9. Occupational Safety and Health Protection**

Inter-state migrant workers are entitled to:

- safe working conditions;
- protection from occupational hazards;
- health and safety measures prescribed under the Code;
- access to welfare facilities at the workplace.

### **Constitutional Basis**

The provisions relating to migrant workers are supported by the Constitution of India:

#### **Article 21**

Guarantees the right to life and personal liberty, including the right to live with dignity.

#### **Article 23**

Prohibits forced labour and exploitation.

#### **Article 39(e) and (f)**

Direct the State to protect the health and strength of workers and safeguard their welfare.

#### **Article 42**

Provides for just and humane conditions of work.

## **Important Case Laws**

### **1. Bandhua Mukti Morcha v. Union of India**

The Supreme Court emphasized the protection of vulnerable labourers and directed the State to prevent exploitation and ensure humane working conditions.

### **2. People's Union for Democratic Rights v. Union of India**

The Court held that payment of wages below the statutory minimum wage amounts to forced labour under Article 23 and emphasized protection of migrant and contract workers.

## **Conclusion**

The Occupational Safety, Health and Working Conditions Code, 2020 provides comprehensive protection to Inter-State Migrant Workers through provisions relating to registration, licensing, wage protection, journey allowance, welfare facilities, portability of benefits and occupational safety. These measures promote social justice, labour welfare and the constitutional goal of protecting vulnerable sections of the workforce.

## **2. Explain the applicability, facilities and benefits available to Inter-State Migrant Workers.**

### **Introduction**

Inter-State Migrant Workers are an important part of India's labour force. They often work in construction, factories, mines and other industries under difficult conditions. The Occupational Safety, Health and Working Conditions Code, 2020 provides legal protection and welfare measures for such workers.

### **Applicability of the Provisions**

The provisions apply to:

- establishments employing inter-state migrant workers,
- contractors recruiting workers from one State to another.

The Code covers both:

- directly employed migrant workers,
- contractor-employed migrant workers.

### **Facilities Available to Inter-State Migrant Workers**

#### **1. Accommodation Facilities**

Employers must provide:

- suitable accommodation,
- hygienic living conditions.

## **2. Medical Facilities**

Workers are entitled to:

- medical treatment,
- first aid,
- occupational health protection.

## **3. Protective Equipment**

Employers must provide:

- helmets,
- gloves,
- masks,
- safety devices,  
especially in hazardous work.

## **4. Drinking Water and Sanitation**

Provision for:

- safe drinking water,
- toilets,
- washing facilities  
must be ensured.

## **5. Canteen and Welfare Facilities**

Certain establishments must provide:

- canteens,
- rest rooms,
- welfare amenities.

## **Benefits Available to Inter-State Migrant Workers**

## **1. Wage Protection**

Workers are entitled to:

- fair wages,
- equal treatment,
- timely payment.

## **2. Journey Allowance**

Workers receive travel expenses for journey between workplace and native place.

## **3. Displacement Allowance**

Allowance may be paid when workers are displaced from their home State.

## **4. Social Security Benefits**

Eligible workers may receive:

- provident fund,
- insurance,
- social security benefits.

## **5. Occupational Safety Protection**

Workers are protected against:

- unsafe work conditions,
- hazardous employment,
- industrial accidents.

## **6. Legal Protection against Exploitation**

The law regulates:

- contractors,
- recruitment,
- working conditions.

## **Constitutional Support**

### **Article 21**

Right to life includes humane working conditions.

### **Article 23**

Prohibits forced labour.

### **Article 42**

Provides humane conditions of work.

## **Important Case Laws**

### **People's Union for Democratic Rights v. Union of India**

The Supreme Court protected rights of migrant labourers and emphasized labour welfare measures.

## **Conclusion**

The OSH Code provides important welfare facilities and social security protections for Inter-State Migrant Workers. These measures help reduce exploitation and promote dignity of labour.

## **3. Discuss the legal protections available to Building and Construction Workers under the Code on Social Security, 2020.**

### **Introduction**

Building and construction workers constitute one of the largest sections of the unorganized workforce in India. They are exposed to hazardous working conditions, occupational accidents, irregular employment and economic insecurity. To safeguard their welfare, the Code on Social Security, 2020 provides various social security and welfare measures for Building and Other Construction Workers (BOCW) under chapter VIII (sections 100 to 108).

The Code consolidates and continues the welfare protections that were previously available under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act and related welfare legislations.

### **Meaning of Building and Construction Worker**

A building and construction worker is a person employed in any building or construction work such as:

- construction of buildings,

- roads,
- bridges,
- dams,
- canals,
- railways,
- pipelines,
- power projects, and
- other construction activities.

## **Legal Protections Available to Building and Construction Workers**

### **1. Registration of Workers**

Eligible building and construction workers may register themselves under the prescribed welfare schemes.

Registration enables workers to:

- avail welfare benefits,
- receive financial assistance,
- obtain social security coverage.

Registration is generally subject to fulfillment of prescribed eligibility conditions.

### **2. Constitution of Welfare Boards**

The appropriate Government may establish Welfare Boards for Building and Construction Workers.

Functions of Welfare Boards include:

- registration of workers,
- maintenance of records,
- administration of welfare schemes,
- distribution of welfare benefits,
- management of welfare funds.

These Boards act as the primary agency for implementing welfare measures.

### **3. Social Security Benefits**

Registered workers may be entitled to various social security benefits, including:

- accident assistance,
- disability benefits,
- pension benefits,
- medical assistance,
- insurance coverage,
- maternity benefits,
- educational assistance for children,
- housing assistance,
- financial aid during emergencies.

#### **4. Safety and Health Protection**

Construction work involves significant occupational risks.

Workers are entitled to:

- safe working conditions,
- safety equipment,
- protective clothing,
- helmets,
- gloves,
- safety harnesses,
- measures against occupational hazards.

Employers are required to ensure compliance with prescribed safety standards.

#### **5. Welfare Facilities at Worksites**

Employers must provide basic welfare facilities such as:

- drinking water,
- sanitation facilities,
- washing facilities,
- rest rooms,
- shelters,

- first-aid facilities,
- canteen facilities where required.

These measures ensure humane working conditions.

## **6. Compensation for Employment Injury**

Where a worker suffers injury arising out of and in the course of employment, he may be entitled to:

- compensation,
- disablement benefits,
- medical assistance.

In case of death, dependants may receive statutory benefits.

## **7. Protection Against Exploitation**

The Code seeks to prevent exploitation by regulating:

- contractors,
- employment conditions,
- wage payments,
- working hours,
- welfare obligations of employers.

Workers are protected against unfair labour practices and unsafe employment conditions.

## **8. Welfare Fund and Cess**

A Welfare Fund is maintained for financing welfare schemes.

The fund may be utilized for:

- medical assistance,
- pension schemes,
- education assistance,
- accident relief,
- housing schemes,
- other welfare measures.

The collection of cess from construction activities contributes to the welfare of workers.

## **9. Maternity and Family Welfare Benefits**

Women construction workers may receive:

- maternity assistance,
- healthcare benefits,
- financial support during maternity,
- child welfare assistance under welfare schemes.

### **Constitutional Basis**

#### **Article 21**

Guarantees the right to life with dignity and protection of health.

#### **Article 39(e)**

Directs the State to protect the health and strength of workers.

#### **Article 41**

Provides for public assistance in cases of unemployment, old age and disablement.

#### **Article 42**

Requires the State to secure just and humane conditions of work.

### **Important Case Law**

#### **Bandhua Mukti Morcha v. Union of India**

The Supreme Court emphasized that workers engaged in vulnerable occupations must be protected against exploitation and must be provided humane working conditions consistent with constitutional principles.

### **Conclusion**

The Code on Social Security, 2020 provides comprehensive legal protection to Building and Construction Workers through registration, welfare boards, social security benefits, accident compensation, safety measures, welfare funds and protection against exploitation. These provisions strengthen labour welfare and promote the constitutional goals of social justice, dignity of labour and humane conditions of work.

**4. Discuss the social security measures available for gig workers and platform workers under the Code on Social Security, 2020.**

## **Introduction**

The rapid growth of the digital economy has led to the emergence of gig workers and platform workers who provide services through online platforms. Unlike traditional employees, these workers generally do not have a conventional employer-employee relationship and therefore remain outside many labour welfare protections.

Recognizing this gap, the Code on Social Security, 2020 is the first comprehensive labour legislation in India to specifically recognize gig workers and platform workers and provide a framework for their social security and welfare under chapter IX from sections 109 to 114..

## **Meaning of Gig Worker and Platform Worker**

### **Gig Worker**

Under the Code, a gig worker is a person who performs work or participates in a work arrangement and earns from such activities outside the traditional employer-employee relationship.

Examples:

- Freelancers
- Independent consultants
- Temporary service providers

### **Platform Worker**

A platform worker is a person engaged in work arrangements outside a traditional employment relationship through an online platform.

Examples:

- Food delivery workers
- Ride-sharing drivers
- E-commerce delivery personnel
- Online service providers

## **Social Security Measures under the Code**

### **1. Formulation of Welfare Schemes**

The Central Government and State Governments may formulate welfare schemes for gig workers and platform workers relating to:

- life and disability cover,
- accident insurance,
- health and maternity benefits,

- old-age protection,
- provident fund benefits where applicable,
- educational and welfare support.

This is one of the most significant innovations of the Code.

## **2. Registration of Workers**

Gig and platform workers are required to register on the prescribed portal.

Registration enables workers to:

- become eligible for welfare schemes,
- access social security benefits,
- receive government assistance.

The maintenance of a national database facilitates identification and welfare delivery.

## **3. Creation of Social Security Funds**

The Code provides for establishment of Social Security Funds for financing welfare schemes.

Sources of funding include:

- contributions by the Central Government,
- contributions by State Governments,
- contributions from aggregators,
- grants and donations,
- other prescribed sources.

## **4. Contribution by Aggregators**

A unique feature of the Code is the obligation imposed upon aggregators to contribute towards social security.

Aggregators include:

- ride-sharing platforms,
- food delivery platforms,
- e-commerce platforms,
- logistics and service platforms.

Their contribution forms an important source for welfare funding.

## **5. Insurance and Health Benefits**

The Code enables schemes providing:

- health insurance,
- accident insurance,
- medical assistance,
- disability benefits,
- compensation in case of injury arising during work.

These benefits are particularly important because gig work often involves occupational risks.

## **6. Life and Disability Cover**

Workers may receive:

- life insurance protection,
- compensation in case of permanent disability,
- financial assistance to dependants in case of death.

Such protection provides economic security to workers and their families.

## **7. Maternity and Family Welfare Benefits**

The Code empowers Governments to introduce schemes relating to:

- maternity assistance,
- family welfare measures,
- support for dependent family members.

These provisions promote social protection and gender justice.

## **8. Skill Development and Training**

Governments may formulate schemes for:

- skill development,
- vocational training,
- upskilling and reskilling,
- employability enhancement.

Such measures improve earning capacity and long-term employment opportunities.

## **9. Old-Age Protection**

The Code contemplates schemes relating to:

- pension benefits,
- retirement assistance,
- old-age protection and welfare.

This addresses the absence of retirement security in most gig work arrangements.

## **10. Digital Database and Identification**

The Code facilitates:

- maintenance of worker databases,
- digital registration,
- monitoring of welfare delivery,
- identification of beneficiaries.

This helps in effective implementation of social security schemes.

## **Importance of these Measures**

The social security framework aims to:

- reduce economic insecurity,
- extend labour welfare to the informal sector,
- provide protection against workplace risks,
- promote social justice,
- recognize changing forms of employment in the digital economy.

## **Challenges in Implementation**

Despite legal recognition, certain challenges remain:

- absence of clear employer-employee relationship,
- irregular and fluctuating income,
- difficulties in contribution collection,
- lack of awareness among workers,

- implementation and enforcement issues.

## **Constitutional Basis**

### **Article 21**

Guarantees protection of life, livelihood and human dignity.

### **Article 41**

Directs the State to provide public assistance in cases of sickness, disablement and old age.

### **Article 43**

Promotes a decent standard of life and social security for workers.

### **Article 38**

Directs the State to promote social welfare and reduce inequalities.

## **Significance of the Code**

The Code on Social Security, 2020 marks a significant shift in Indian labour law because, for the first time, workers in the platform economy have been formally recognized and brought within the framework of social security legislation.

## **Conclusion**

The Code on Social Security, 2020 provides an important framework for extending social security protection to gig workers and platform workers through welfare schemes, registration, social security funds, aggregator contributions, insurance benefits, health protection, skill development and old-age security. These measures represent a major step towards achieving labour welfare and social justice in India's rapidly expanding digital economy.

## **5. Explain the role of welfare boards and social security schemes for unorganised workers.**

### **Introduction**

Unorganised workers constitute a major portion of India's labour force. These workers generally lack:

- job security,
- fixed wages,
- social protection.

The Code on Social Security, 2020 provides for welfare boards and social security schemes to improve their living and working conditions.

### **Meaning of Unorganised Workers**

Unorganised workers include:

- agricultural labourers,
- domestic workers,
- street vendors,
- construction workers,
- home-based workers,
- self-employed persons.

### **Role of Welfare Boards**

#### **1. Registration of Workers**

Welfare Boards maintain records and registration of eligible workers.

#### **2. Administration of Welfare Schemes**

Boards implement:

- pension schemes,
- insurance schemes,
- welfare assistance programmes.

#### **3. Collection and Utilisation of Funds**

Boards manage welfare funds collected through:

- cess,
- government grants,
- contributions.

#### **4. Distribution of Benefits**

Boards distribute:

- medical assistance,

- educational aid,
- maternity benefits,
- disability assistance.

## **5. Awareness and Welfare Activities**

Boards create awareness regarding:

- labour rights,
- welfare schemes,
- social security benefits.

## **Social Security Schemes for Unorganised Workers**

### **1. Health and Medical Benefits**

Schemes provide:

- medical insurance,
- healthcare support.

### **2. Old Age Protection**

Workers may receive:

- pension,
- financial assistance after retirement age.

### **3. Life and Disability Cover**

Insurance schemes provide compensation in case of:

- death,
- accident,
- disability.

### **4. Maternity Benefits**

Women workers may receive maternity assistance and healthcare support.

## **5. Educational Assistance**

Scholarships and educational support may be provided for children of workers.

## **6. Housing and Welfare Assistance**

Certain schemes provide:

- housing aid,
- welfare grants,
- livelihood assistance.

## **Importance of Welfare Boards**

Welfare Boards help:

- reduce exploitation,
- improve living standards,
- extend social security to vulnerable workers.

## **Constitutional Basis**

### **Article 38**

Promotes social justice.

### **Article 41**

Provides assistance in unemployment, sickness and old age.

### **Article 43**

Ensures decent standard of life.

## **Important Case Law**

### **Bandhua Mukti Morcha v. Union of India**

The Supreme Court emphasized State responsibility towards welfare of vulnerable labourers.

## **Conclusion**

Welfare Boards and social security schemes play a vital role in protecting unorganised workers from economic insecurity and exploitation. They are important instruments for achieving social justice and labour welfare in India.

