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LEGAL ENVIRONMENT OF BUSINESS

COURSE CODE: B23NE03AN

Undergraduate Programme in Nano Entrepreneurship
Ancillary Course
Self Learning Material

SREENARAYANAGURU OPEN UNIVERSITY

The State University for Education, Training and Research in Blended Format, Kerala

SREENARAYANAGURU OPEN UNIVERSITY

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To increase access of potential learners of all categories to higher education, research and training, and ensure equity through delivery of high quality processes and outcomes fostering inclusive educational empowerment for social advancement.

Mission

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Pathway

Access and Quality define Equity.

Legal Environment of Business

Course Code: B23NE03AN

Semester - IV

Ancillary Course
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Self Learning Material
(With Model Question Paper Sets)

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MESSAGE FROM VICE CHANCELLOR

Dear learner,

I extend my heartfelt greetings and profound enthusiasm as I warmly welcome you to Sreenarayanaguru Open University. Established in September 2020 as a state-led endeavour to promote higher education through open and distance learning modes, our institution was shaped by the guiding principle that access and quality are the cornerstones of equity. We have firmly resolved to uphold the highest standards of education, setting the benchmark and charting the course.

The courses offered by the Sreenarayanaguru Open University aim to strike a quality balance, ensuring students are equipped for both personal growth and professional excellence. The University embraces the widely acclaimed "blended format," a practical framework that harmoniously integrates Self-Learning Materials, Classroom Counseling, and Virtual modes, fostering a dynamic and enriching experience for both learners and instructors.

The University aims to offer you an engaging and thought-provoking educational journey. The BA Nano Entrepreneurship program is structured to address the growing demand for innovative entrepreneurs, particularly focused on nano businesses. The program's curriculum is crafted with a balanced blend of theoretical insights and practical exposure, ensuring that learners are equipped to navigate the challenges and opportunities of this dynamic sector. Special attention has been given to the inclusion of real-world examples and case studies, enhancing learners' understanding of nano entrepreneurship's unique landscape. Moreover, the curriculum fosters a holistic approach to entrepreneurship that nurtures creativity, innovation, and strategic thinking. Through practical application and industry-driven examples, learner's will develop the skills necessary to succeed in this cutting-edge field. The Self-Learning Material has been meticulously crafted, incorporating relevant examples to facilitate better comprehension.

Rest assured, the university's student support services will be at your disposal throughout your academic journey, readily available to address any concerns or grievances you may encounter. We encourage you to reach out to us freely regarding any matter about your academic programme. It is our sincere wish that you achieve the utmost success.

Regards,
Dr. Jagathy Raj V.P.

01-02-2026

Contents

BLOCK 01

Labour Laws

Unit 1

Welfare Legislation

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

◊ explain the meaning, purpose, and scope of the POSH Act, 2013 and its relevance in modern workplaces.

◊ identify behaviours that constitute sexual harassment according to Section 2(n) and Supreme Court guidelines.

◊ describe the roles of the Internal Committee (IC) and Local Complaints Committee (LCC).

◊ Comprehend the legal requirements of the POSH Act for nano businesses and small establishments to ensure workplace safety.

◊ Aware of Contract Labour Act, Child & Adolescent Labour Act and Welfare legislation philosophy

Prerequisite

A small textile workshop where workers stitch clothes for long hours, sometimes 12 to 14 hours a day. The owner decides the wages on his own; there are no safety precautions, and women workers lose their jobs when they become pregnant. In such a situation, workers have no power to demand fairness because there are no rules to support them. Now imagine the same workshop after welfare legislation is introduced. Under laws like the Factories Act and Minimum Wages Act, the workshop must provide safe equipment, fixed working hours, fair wages, and clean restrooms. Women receive paid maternity leave under the Maternity Benefit Act, and workers get compensation for injuries through the Employees' Compensation Act. (INFORMAL TONE) As a result, the workplace becomes safer, more organised, and more respectful of workers' rights. The owner benefits from having healthy, satisfied workers who improve productivity and reduce conflicts.

This simple illustration shows that welfare legislation is not just about rules; it is about ensuring dignity, safety, and fairness for everyone. These laws act as a bridge between economic growth and social justice, ensuring that development benefits both employers and employees. This unit focuses on three important welfare laws:

1. Contract Labour (Regulation and Abolition) Act, 1970
2. The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
3. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Keywords

Sexual Harassment, POSH Act, Internal Complaints Committee, Workplace Safety, Local Complaints Committee

Discussion

1.1.1 Welfare Legislation

Welfare legislation refers to the set of laws enacted by the government to protect, promote, and improve the physical, social, and economic well-being of individuals, particularly workers and vulnerable groups. These laws aim to ensure fair wages, safe working conditions, reasonable working hours, social security benefits, and protection against exploitation. Through welfare legislation, the State seeks to create a just and humane society where the rights, dignity, and welfare of all citizens are safeguarded.

In India, welfare legislation specifically addresses the protection of workers' rights, ensuring fair working conditions, and maintaining human dignity at the workplace. Key aspects include health and safety measures, maternity and child care benefits, minimum wages, working hours regulation, and social security provisions.

1.1.1.1 Constitutional Basis of Labour Welfare Legislation in India

Labour welfare legislation in India finds its roots in the Indian Constitution, which lays down fundamental rights, directive principles, and state policies that guide the formulation of laws for worker protection and welfare. The main constitutional provisions include:

1. Articles 14, 15, and 16 – Equality and Non-Discrimination

i. **Article 14** guarantees equality before the law and equal protection of laws for all citizens, ensuring that workers are treated fairly in employment and are not discriminated against.

ii. **Article 15** prohibits discrimination on grounds of religion, caste, sex, or place of birth, which influences policies related to equal opportunities in employment.

iii. **Article 16** ensures equality of opportunity in public employment, forming the basis for non-discriminatory hiring and promotion practices.

2. Article 23 – Prohibition of Forced Labour

i. **Article 23** prohibits trafficking in human beings and forced labour. It provides a constitutional foundation for laws against bonded labour, child labour, and exploitative employment practices, protecting workers' dignity and freedom.

3. Article 42 – Provision for Just and Humane Conditions of Work

i. **Article 42** directs the State to make provisions for securing just and humane conditions of work and for providing maternity relief. This forms the basis for laws related to working hours, rest periods, leave, and occupational safety.

4. Other Relevant Constitutional Provisions

i. Directive Principles of State Policy (Part IV, Articles 39, 41, 43)

   a. **Article 39(a) & (d):** Ensure that citizens, including workers, have an adequate standard of living and opportunities for work with just remuneration.

   b. **Article 41:** Promotes the right to work, education, and public assistance in case of unemployment or old age.

   c. **Article 43:** Promotes living wages, conditions of work, and social welfare of workers.

The constitutional provisions provide the legal and moral foundation for labour welfare legislation in India. They ensure that the State enacts laws that protect workers from exploitation, provide fair working conditions, and promote social security and well-being. Consequently, modern labour laws in India, covering areas such as industrial safety, minimum wages, social security schemes, maternity benefits, and the prohibition of child labour, are rooted in these constitutional ideals.

1.1.2 Importance of Welfare Legislation in Nano Business

Even small or home-based ventures such as a tailoring unit, a small carpentry shop, a neighbourhood food-service business, or a gig-based delivery service, may sometimes hire one or two helpers, apprentices or contract-workers. In such cases, welfare legislation becomes relevant because:

i. **Protecting Workers' Rights and Dignity:** Even if there are only a few workers, labour laws ensure they are treated fairly i.e., getting fair wages, safe working conditions, reasonable working hours and basic social security (if applicable). This prevents exploitation of those working in informal or tiny setups.

ii. **Reducing Legal and Financial Risk :** Non-compliance with statutory labour/welfare laws can lead to fines, legal notices, or even forced closure/licence revocation. Small units often lack the resources to deal with such consequences, which can be financially devastating.

iii. **Building a Trustworthy Reputation :** Ethical labour practices, even in micro or nano enterprises, foster trust and goodwill among workers, customers, and possibly future clients or partners. Workers feel secure, customers believe in fair treatment, and potential collaborators prefer businesses with clean compliance records.

iv. **Better Stability and Productivity :** When workers feel safe, fairly treated, and respected, they are more likely to stay loyal, work consistently, and give quality output. High worker morale often means better service or production, crucial for small-scale ventures relying on personal reputation.

v. **Easier Access to Growth Opportunities:** Many larger companies, institutions, or government tender-givers look for suppliers or contractors who follow labour laws. A compliant nano business is more likely to be trusted as a vendor or partner.

vi. **Long-term Sustainability and Social Legitimacy:** As enterprises grow (even slightly), compliance keeps them "future-ready." Regulatory changes, such as new labour codes or audits, affect small units too; early compliance helps avoid abrupt disruption.

In sum, welfare legislation is not only a concern for large factories or big companies. Even the smallest business ventures benefit when they respect workers' rights and ensure fair labour practices. For a nano business, compliance is both a protective shield (against legal risk) and a growth enabler (through trust, stability, and reputation). In that sense, welfare legislation helps tiny enterprises become more ethical, stable, and sustainable.

1.1.3 Contract Labour (Regulation and Abolition) Act, 1970

1.1.3.1 Meaning of Contract Labour

Contract labour refers to workers who are engaged through an intermediary (contractor) instead of being hired directly by the business owner or principal employer. These workers often perform supportive or non-core tasks such as cleaning, packing, loading, and housekeeping. For example, a nano entrepreneur running a small online bakery may hire a cleaner or delivery helper through a contractor instead of employing them directly.

According to Section 2(b) of the Act, a contractor is any person who undertakes to produce a given result through contract labour or supplies contract workers for any work in an establishment. This arrangement allows small and large businesses to outsource certain tasks while maintaining flexibility.

1.1.3.2 Applicability of the Act

The Contract Labour (Regulation and Abolition) Act, 1970 applies to:

i. Every establishment employing 20 or more contract workers, and

ii. Every contractor who engages 20 or more contract workers on any day of the preceding twelve months.

Although nano enterprises generally employ fewer than 20 workers, understanding the Act is important because:

i. As the business expands, the number of workers may increase, making the Act applicable.

ii. Many government tenders, MSME schemes, and corporate partnerships demand compliance with labour regulations, even for small suppliers.

iii. Awareness of legal responsibilities ensures ethical and safe labour practices from the beginning.

1.1.3.3 Objectives of the Act

The Act was introduced to protect contract workers who often face job insecurity, low wages, and a lack of welfare facilities. Major objectives include:

1. **Regulating employment :** This objective focuses on bringing clarity, accountability, and fairness to the way contract workers are hired and managed. By mandating registration of establishments and licensing of contractors, the Act ensures that both parties follow legal procedures. It prevents arbitrary hiring, ensures proper documentation, and promotes ethical labour practices, thereby protecting workers from irregular or exploitative employment arrangements.

2. **Providing welfare facilities :** The Act recognises that contract workers often work in difficult conditions with limited access to basic amenities. To address this, it mandates essential welfare facilities at the workplace, such as safe drinking water, sanitation, restrooms, washing spaces, first aid boxes, and canteens where required. These facilities help maintain workers' health, safety, dignity, and productivity, ensuring humane working conditions across all establishments.

3. **Preventing exploitation :** Contract labour is vulnerable to delayed payments, unsafe environments, and poor supervision. To prevent these issues, the Act requires timely wage disbursement, adherence to minimum wage laws, and compliance with safety norms. Importantly, it places joint responsibility on the contractor and the principal employer, ensuring workers are not left unprotected if one party fails to meet obligations. This promotes fairness and reduces exploitation.

4. **Abolishing contract labour:** The Act empowers the government to abolish the use of contract labour in permanent tasks, core to the organisation, or prone to exploitation. This prevents employers from replacing regular jobs with contract positions to avoid paying benefits. In such cases, the government can mandate direct employment, ensuring stability, job security, and fair treatment for workers performing essential and year-round duties.

1.1.3.4 Important Provisions

a. **Registration of Establishment (Section 7) :** Under Section 7, any establishment employing 20 or more contract workers must register with the appropriate government authority. Registration creates an official record of the business, the nature of work, and the extent of contract labour used. This ensures transparency and enables government monitoring of labour practices. Without registration, the employment of contract workers becomes illegal, and the principal employer may face penalties or cancellation of operations.

b. **Licensing of Contractors (Section 12) :** Section 12 requires every contractor engaging 20 or more contract workers to obtain a valid licence. The licence specifies critical details such as the maximum number of workers, nature of assigned work, wage rates, and duration of the contract. These conditions prevent exploitation, restrict unauthorised contracting, and ensure proper record-keeping. Licensing also allows authorities to monitor whether contractors are complying with legal standards and providing fair, lawful employment.

c. **Welfare Facilities :** The principal employer is legally responsible for ensuring contract workers receive essential welfare amenities, even if the contractor fails to provide them. These include safe drinking water, clean sanitation and washroom facilities, rest rooms or shelters, first aid equipment, and canteens where 100 or more workers are employed. These facilities safeguard workers' health, comfort, and dignity, ensuring humane working conditions regardless of the temporary or outsourced nature of their employment.

d. **Payment of Wages :** Contract workers must be paid on time, at wage rates that meet or exceed the minimum wages prescribed under law. Though wages are typically disbursed by the contractor, the principal employer carries ultimate responsibility for ensuring payment. If a contractor defaults or delays wages, the principal employer must pay the workers directly and later recover the amount. This provision protects workers from wage theft, irregular payments, and financial insecurity.

e. **Prohibition of Contract Labour (Section 10) :** Section 10 empowers the government to prohibit the use of contract labour in certain types of work. This applies when the work is perennial in nature, core or essential to the business, or not incidental or intermittent. In such cases, contract labour cannot be used to perform permanent functions. For example, if a manufacturing unit uses contract workers for year-round production, the government may order the employer to hire workers directly.

Case Study: Air India Statutory Corporation vs. United Labour Union (1997)

Background

The Contract Labour (Regulation and Abolition) Act, 1970 was enacted to protect contract workers from exploitation and, where necessary, abolish the contract system in essential or perennial activities. However, for many years, contract workers across industries faced uncertainty about whether they would be absorbed as regular employees if the government abolished contract labour in certain tasks. This case became a landmark ruling addressing this question.

Facts of the Case

Air India Statutory Corporation had engaged contract workers for cleaning, sweeping, and maintenance activities at its establishments. These tasks were not temporary or seasonal but perennial in nature, occurring daily as part of Air India's regular functioning. The contract workers claimed that they were being paid lower wages and deprived of benefits given to permanent staff, despite performing essential duties. The government issued a notification abolishing contract labour for cleaning and sweeping operations in Air India. After the abolition, the workers demanded absorption as regular employees. Air India refused, arguing that the Act did not obligate them to absorb contract workers even if contract labour was abolished.

Issues Raised

1. Whether the abolition of contract labour under Section 10 of the Act automatically entitles workers to be absorbed as regular employees.
2. Whether cleaning and sweeping at Air India were perennial and therefore justified the abolition of contract labour.
3. Whether workers performing essential duties should be granted the same benefits as regular staff.

Judgment of the Supreme Court

In 1997, the Supreme Court ruled in favour of the contract workers. The Court held that:

i. Cleaning and sweeping activities in Air India were continuous, essential, and integral to the organisation's functioning.

ii. Since the government had abolished contract labour for these tasks, the workers must be absorbed as regular employees.

iii. The purpose of the Act was not just regulation but the protection of workers' rights and the prevention of exploitation.

Thus, the Court directed Air India to grant these workers permanent employment and ensure they received benefits on par with regular employees.

Court's Reasoning

1. The Court emphasised that contract labour is often used to avoid financial responsibilities such as provident fund, gratuity, leave benefits, and job security.
2. When contract labour is abolished, absorption is not automatic and depends on subsequent judicial interpretation, particularly after the SAIL judgment (2001).
3. The principle of social justice, in line with Articles 38 and 43 of the Constitution, requires providing fair wages and livelihood security.
4. Therefore, absorption was necessary to prevent exploitation and uphold the welfare objectives of labour legislation.

Significance of the Case

This judgment became a milestone in protecting the rights of contract workers in India. It established that:

i. When contract labour is abolished in essential or perennial tasks, the workers should be absorbed as regular employees.

ii. Employers cannot use contract labour as a means to avoid statutory obligations.

iii. The ruling strengthened the interpretation of labour rights under the Constitution.

Although later judgments, particularly SAIL vs. National Union Waterfront Workers (2001), modified the automatic absorption principle, this case remains a foundational decision highlighting labour welfare objectives.

1.1.3.5 Relevance of Contract Labour (Regulation and Abolition) Act, 1970 to Nano Businesses

Even though most nano businesses operate with fewer than 20 workers and may not fall directly under the Act, its principles are highly relevant. Nano entrepreneurs often hire delivery helpers, freelance social media assistants, packaging helpers, or cleaning staff through small contractors or platforms. These workers must receive at least the minimum wages, and the entrepreneur should check that contractors pay them fairly and on time.

Nano enterprises also have a responsibility to ensure basic welfare facilities such as clean drinking water, rest space, and hygienic surroundings. They should avoid using contract labour for core or long-term activities, such as food preparation in a home bakery or assembly work in a micro-manufacturing unit, as this may raise compliance and ethical issues. Keeping simple records of payments, identity proofs, and working hours ensures transparency and protects the business during inspections or disputes.

1.1.3.6 Critical Issues in Implementation of Welfare Legislation

While India has enacted a comprehensive set of labour welfare laws, their effective implementation remains a significant challenge, particularly in the unorganised and nano business sectors. Several critical issues hinder the realisation of intended benefits for workers:

1. **Poor Enforcement of Labour Laws :** One of the foremost challenges is the weak enforcement of welfare legislation. Limited resources, inadequate monitoring mechanisms, and a shortage of labour inspectors often result in non-compliance by employers. In many small-scale and unorganised enterprises, the enforcement machinery struggles to ensure that statutory provisions such as minimum wages, working hours, occupational safety, and social security are followed.

2. **Self-Certification and Regulatory Loopholes :** Many businesses, especially in the nano and micro sectors, rely on self-certification mechanisms to demonstrate compliance with labour welfare laws. While intended to reduce administrative burden, self-certification often leads to misreporting or partial compliance, as these small businesses may lack the awareness, capacity, or incentive to fully implement welfare measures.

3. **Unorganised Sector Vulnerabilities :** Workers in the unorganised sector, including domestic help, construction labour, and small-scale manufacturing units, frequently operate outside formal legal frameworks. This makes it difficult to enforce provisions such as health and safety measures, social security contributions, and grievance redressal mechanisms. Consequently, a large proportion of the workforce remains unprotected and vulnerable to exploitation.

4. **Resource Constraints :** Limited financial and administrative resources among regulatory authorities affect the capacity to conduct inspections, enforce compliance, and provide awareness campaigns. Small employers often cite financial constraints as a reason for partial or non-compliance with welfare legislation.

5. **Lack of Awareness and Education :** Both employers and employees often have limited knowledge of their rights and obligations under welfare laws. Workers may be unaware of benefits such as maternity leave, provident fund contributions, or health and safety entitlements, reducing demand for enforcement and enabling violations to persist.

6. **Cultural and Structural Barriers :** Traditional work practices, informal employment contracts, and resistance to change in workplace culture pose additional obstacles. In some regions, social hierarchies and gender norms further limit the effectiveness of welfare legislation, especially for women and marginalised workers.

1.1.4 The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 is a major labour welfare legislation in India enacted to prohibit the employment of children and to regulate the working conditions of adolescents. The Act aims to safeguard children from exploitation, ensure their right to education, and protect adolescents from hazardous work environments.

Originally passed in 1986, the Act was significantly strengthened by the 2016 Amendment, which aligned it with the Right of Children to Free and Compulsory Education Act, 2009 and international labour standards such as the ILO Conventions on child labour.

1.1.4.1 Key Features

i. Total ban on employing children below 14 years in any occupation or process.

ii. Adolescents (14–18 years) can work only in non-hazardous occupations.

iii. Strict penalties for employers violating the Act.

iv. Special provisions allowing children to help in family enterprises and to work in the entertainment industry under safe conditions.

1.1.4.2 Objective of the Act

i. **Prevent exploitation and physical, emotional, and economic harm to minors:** The Act aims to protect children from all forms of exploitation that may arise due to their vulnerability and economic dependence. It recognises that minors are often pushed into labour that affects their health, dignity, and psychological well-being. By prohibiting child labour and regulating adolescent work, the Act ensures minors are not subjected to unsafe environments, long working hours, or unfair wages.

ii. **Ensure that children below 14 prioritise education over work:** One of the core objectives is to support the child's right to education by keeping children under 14 away from work engagements. The Act aligns with the Right to Education Act by ensuring children spend their time attending school and engaging in learning activities. By discouraging early entry into the workforce, the Act promotes literacy, skill development, and long-term socio-economic growth.

iii. **Prevent adolescents from being forced into hazardous occupations like mining, chemical factories, fireworks, and heavy machinery handling:** The Act recognises that adolescents aged 14–18 may seek work, but they are still physically and mentally developing. Hence, it prohibits their employment in dangerous industries that involve toxic chemicals, explosives, underground work, or heavy equipment. This regulation ensures that adolescents are protected from severe health risks, life-threatening accidents, and long-term disabilities that often arise in hazardous occupations.

1.1.4.3 Key Definitions (as per the 2016 Amendment)

1. **Child -** A person below 14 years : Under the Act, a child is defined as any individual who has not yet completed 14 years of age. This definition is crucial because it forms the basis for the complete prohibition of the employment of children in any occupation or process. It aligns with the Right to Education Act, ensuring that all children in this age group focus on schooling, development, and safe childhood activities rather than entering the workforce prematurely.

2. **Adolescent -** A person aged 14 to 18 years : An adolescent is a person who has completed 14 years but not yet reached 18 years of age. The Act permits adolescents to work only in non-hazardous occupations, recognising that while some may need or choose to work, their physical and mental development requires protection. Therefore, strict restrictions are placed on hazardous industries such as mining, chemical handling, fireworks, and heavy machinery operations to ensure their safety and well-being.

1.1.4.4 Prohibitions Under the Act

A. Employment of Children (below 14 years)

The Act strictly bans the employment of all children below 14 years in any occupation or process, recognising that work at this age can cause serious physical, emotional, and educational harm. However, two limited exceptions exist: children may assist in family-based enterprises after school hours and during vacations, provided it does not affect schooling or health. They may also work in the entertainment industry (such as TV, films, or advertising), but only under strict safety and working-hour regulations. Importantly, employment in circuses is completely banned due to high risks and exploitation.

B. Employment of Adolescents (14–18 years)

Adolescents aged 14–18 years are allowed to work, but only in non-hazardous occupations. The Act protects them from industries that pose risks to their physical safety, mental development, or long-term health. Hence, adolescents cannot be employed in hazardous occupations such as chemical factories, mining, fireworks manufacturing, or operations involving heavy machinery. These sectors involve dangerous substances, explosive materials, or complex mechanical equipment, all of which can lead to accidents, injuries, or chronic health problems. Businesses must verify job roles carefully to maintain compliance.

1.1.4.5 Purpose of the Act

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 strengthened by the 2016 Amendment, was created with specific goals to safeguard the rights, dignity, and development of minors. Its purposes can be understood under the following headings:

A. Protection from Exploitation

The Act aims to protect children and adolescents from physical, emotional, and economic exploitation. Many young workers were historically subjected to long working hours, unsafe tasks, and extremely low wages. By regulating their employment, the law ensures that minors are not forced into harmful or unfair labour arrangements and that their basic rights are upheld.

B. Promotion of Education for Children (Below 14 Years)

One of the core objectives is to ensure that children below 14 prioritise education over work. Compulsory schooling under the Right to Education (RTE) Act supports this principle. By banning child labour in all occupations (with limited family-based exceptions), the Act helps children remain in school, receive proper learning, and avoid early entry into the labour force, which often creates lifelong cycles of poverty.

C. Ensuring Safe Work Conditions for Adolescents (14–18 Years)

The Act recognises that some adolescents may wish or need to work. Therefore, it permits employment only in non-hazardous occupations. Jobs that involve chemicals, mining, fireworks, or heavy machinery are strictly prohibited. This ensures their safety, health, and overall well-being while allowing them to gain experience in safer environments. The law thus balances their need for opportunity with strong safeguards.

1.1.4.6 Penalties

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 imposes strict penalties to discourage employers from engaging minors in work. The penalties are designed to act as a strong deterrent and ensure that both children and adolescents are protected from harm.

A. Penalty for Employing a Child (Below 14 Years)

Any employer found engaging a child in any occupation or process faces a fine between ₹20,000 and ₹50,000. In addition to the fine, the employer may also face imprisonment, depending on the seriousness and circumstances of the violation. This strict measure reinforces the absolute prohibition on child labour.

B. Penalty for Repeat Offences

If an employer commits the violation more than once, the law imposes much stricter punishment. Repeat offenders may receive higher fines and longer imprisonment terms. This ensures that individuals or businesses do not repeatedly exploit minors or escape accountability.

C. Penalty for Parents

The Act generally does not punish parents, acknowledging that poverty may force them into difficult situations. However, if parents knowingly and repeatedly allow their children to be engaged in work illegally, they may face penalties. This clause ensures shared responsibility while still prioritising the welfare of the child.

Case Study: Sivakasi Crackers Child Labour Issue

Sivakasi in Tamil Nadu is known as the "fireworks capital of India," producing a large share of the country's crackers and matchsticks. For many years, investigations revealed that a significant number of children and adolescents were employed in the fireworks units, often working long hours in small, poorly ventilated rooms filled with explosive chemicals. These tasks exposed them to severe risks such as burns, respiratory problems, chemical poisoning, and accidental explosions. Many tragic incidents, including factory blasts, brought the issue to national attention.

Court Intervention and Strict Enforcement of the Act

After multiple reports by NGOs, government agencies, and child rights activists, the Madras High Court and the Supreme Court took strong action. The courts directed strict implementation of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986. As a result:

◊ Illegal and unsafe fireworks units were shut down, especially those operating without licences or employing minors.

◊ Large-scale inspections were carried out by Labour Departments to ensure compliance with child labour laws.

◊ Employers found violating the Act faced penalties, prosecution, and cancellation of licences.

Rehabilitation and Welfare Measures

Following the crackdowns, the government rolled out rehabilitation schemes for rescued children. These included:

◊ Bridge schools and special classes to help former child workers re-join mainstream education.

◊ Financial assistance to families under schemes like the Child Labour Rehabilitation-cum-Welfare Fund.

◊ Support from NGOs to provide counselling, school materials, and midday meals to encourage continuous education.

Impact of the Case

This intervention led to a significant rise in school enrolment in the region, as children moved away from hazardous workspaces and into classrooms. The case also created national awareness about the dangers of employing adolescents in hazardous industries. It reinforced why occupations involving chemicals, explosives, or heavy machinery must be strictly restricted for young workers.

1.1.4.7 Relevance to Nano Businesses

Although nano businesses operate on a very small scale, they are equally responsible for following child and adolescent labour laws. Many such enterprises are home-based, informal, or seasonal, which makes it even more important to ensure ethical and lawful employment practices.

A. No Employment of Children (Below 14 Years)

Nano entrepreneurs must never employ children for any type of work, whether it is production, packaging, delivery assistance, shop support, or household-based commercial activities. Even if the workload appears simple, the law strictly prohibits child employment in all occupations except limited family-based work after school hours. This ensures that children do not lose educational opportunities or get exposed to exploitation.

B. Limited Role for Adolescents (14–18 Years)

Adolescents may assist only in non-hazardous work, and even then, their safety, health, and education must be prioritised. In family-run nano units such as small shops, home-based food businesses, tailoring units, or local service centres, they may help after school hours, provided the tasks do not involve chemicals, fire, weightlifting, sharp tools, or machinery.

C. Importance for Small Units and Home-Based Enterprises

Nano units must be especially careful because many hazardous tasks (like using stoves, chemicals, sharp equipment, or heavy tools) can exist even in small-scale operations. For example, a home-based food unit may involve hot oil, steam, or sharp knives, making it unsafe for adolescents. Ensuring safe practices protects the minor and reduces legal risks for the entrepreneur.

Examples

◊ Not allowed: A small tailoring unit should not employ a 13-year-old to cut cloth or sit near sewing machines, as it violates the Act and poses injury risks.

◊ Allowed: A 16-year-old assisting parents in a family stationery shop is acceptable because the environment is non-hazardous and the activity is safe.

1.1.5 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the POSH Act, is a law enacted by the Government of India to ensure that women can work safely, with dignity, and without fear of harassment. The Act provides a legal framework to prevent, prohibit, and address complaints of sexual harassment at workplaces across all sectors, such as government, private organisations, educational institutions, shops, factories, NGOs, and even small or home-based enterprises.

This law makes it the responsibility of every employer to create a safe, respectful, and gender-sensitive work environment. It also lays down a clear complaint and inquiry mechanism, including the formation of Internal Committees (IC) to handle grievances. The Act protects all women employees, interns, domestic workers, students, helpers, and even clients, ensuring that workplaces remain free from any form of sexual misconduct.

1.1.5.1 International and Comparative Perspective on Workplace Protection

Workplace protection has increasingly become a global concern, with international organisations and national governments framing laws to ensure dignity, equality, and safety at work. A comparative perspective helps in understanding how different countries and global institutions address common labour issues and sets benchmarks for national welfare legislation.

At the international level, the International Labour Organization (ILO) plays a pivotal role in promoting labour rights and social justice. Founded in 1919, the ILO has adopted several core conventions that form the foundation of workplace protection worldwide. Key among them are the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105), which prohibit all forms of forced and bonded labour and affirm workers' freedom and dignity. Similarly, the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) emphasize equality in employment, non-discrimination, and fair treatment irrespective of gender, race, religion, or social origin. These conventions have significantly influenced labour laws in many countries, including India.

From a comparative national perspective, the United Kingdom's Equality Act, 2010 represents a comprehensive legal framework for workplace protection. The Act consolidates earlier anti-discrimination laws and explicitly prohibits discrimination and harassment on grounds such as gender, race, disability, age, sexual orientation, and religion. It also mandates employers to promote equality, provide reasonable adjustments for disabled employees, and ensure a safe and respectful work environment. The UK model highlights a rights-based and enforcement-oriented approach, with strong legal remedies available to victims of workplace harassment and discrimination.

In contrast, countries like India draw heavily from constitutional principles and ILO standards but face challenges in enforcement, especially in the unorganised sector. Nevertheless, Indian labour welfare legislation reflects international commitments through provisions addressing forced labour, equality at work, maternity protection, and occupational safety.

Overall, international and comparative experiences underline that effective workplace protection requires not only legislation but also strong enforcement mechanisms, awareness, and institutional support. The influence of ILO conventions and progressive national laws such as the UK Equality Act, 2010, provides valuable guidance for strengthening labour welfare frameworks and ensuring dignity and justice in workplaces across the world.

1.1.5.2 Purpose of the Act

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was created to guarantee that every woman, regardless of her job role, location, or employment status, can work in an environment that is safe, respectful, and free from any form of sexual harassment. The Act recognises that harassment at work not only affects a woman's dignity but also her physical and emotional well-being, productivity, and career growth. Therefore, it legally mandates employers to prevent such behaviour and provide a fair process for complaints.

A. Ensuring a Safe and Dignified Workplace

The main purpose of the Act is to protect women from unwanted behaviour, physical or verbal, that makes them feel uncomfortable, threatened, or disrespected. It ensures that women can perform their duties confidently without fear of harassment, retaliation, or discrimination. This protection applies to women of all categories—regular staff, part-time workers, interns, volunteers, daily-wage earners, and even customers who interact with an organisation.

B. Wide Applicability Across Workplaces

One of the strengths of the Act is its broad coverage of workplaces. It applies to:

i. Offices and corporate organisations (public and private)

ii. Shops and small businesses

iii. Factories and production units

iv. Home-based enterprises, such as tailoring units or cottage industries

v. Online and digital workplaces, including remote work, virtual meetings, and online communication

vi. Domestic work, protecting domestic workers employed in households

By applying to both traditional and modern workspaces, the Act recognises the changing nature of employment in India.

1.1.5.3 What is Sexual Harassment? (Section 2(n))

The Supreme Court defined sexual harassment in the Vishaka vs. State of Rajasthan (1997) case, where it laid down guidelines that later formed the basis of the POSH Act, 2013 to protect women at the workplace. These guidelines became the foundation for the 2013 POSH Act. The Court emphasised that sexual harassment violates a woman's fundamental rights to equality, dignity, and safe working conditions.

Under Section 2(n) of the POSH Act, sexual harassment refers to any unwelcome behaviour with sexual intent that makes a woman feel uncomfortable, threatened, humiliated, or unsafe. The Act clearly defines what constitutes sexual harassment to ensure that women can identify such behaviour and employers can take immediate action.

A. Forms of Sexual Harassment Recognised in the Act

Sexual harassment includes, but is not limited to, the following acts:

i. Unwelcome physical contact or advances: This includes touching, patting, grabbing, or standing too close without consent.

ii. Demands or requests for sexual favours: For example, offering promotions, job security, or rewards in exchange for sexual acts.

iii. Showing pornography: Forcing or pressuring a woman to view sexual content through mobile, computer, or in person.

iv. Sexually coloured remarks: Comments about a woman's body, dress, appearance, or personal life meant to humiliate or tease her.

v. Any other unwelcome behaviour with sexual intent: This includes gestures, messages, jokes, stalking, or online harassment that has a sexual tone.

1.1.5.4 Applicability of the Act

The POSH Act, 2013 has one of the widest coverages among labour and welfare laws in India. It ensures that every woman, regardless of her job role, employment type, or location, is protected from sexual harassment. This broad applicability helps create a uniform standard of safety across all sectors.

A. Applies to All Workplaces

The Act covers every type of workplace, whether formal or informal, including:

i. Large corporate offices

ii. Small shops and retail outlets

iii. Factories and industrial units

iv. Schools, colleges, and training centres

v. NGOs and charitable organisations

vi. Hospitals, clinics, and home-based care services

vii. Home-based enterprises such as tailoring, baking, or craft units

viii. Virtual and online workplaces, including work-from-home arrangements

This ensures that protection is available wherever work happens, physically or digitally.

B. Covers All Categories of Women Workers

The Act protects every woman who works or interacts in a workplace, including:

i. Full-time and part-time employees

ii. Temporary, casual, and contract workers

iii. Interns and apprentices

iv. Volunteers and trainees

v. Gig and platform workers (such as delivery partners and freelancers)

vi. Domestic workers in households

Protection is available even if the woman is not an employee, such as a visitor, client, or customer.

C. Mandatory for Nano Businesses Too

Even a nano-business that employs just one woman, such as a home bakery, tailoring shop, tuition centre, salon, or small digital marketing unit, is legally required to follow the POSH Act. This ensures that safety and dignity at work are upheld across all levels of the economy, including micro and home-based enterprises.

1.1.5.5 Key Provisions of the POSH Act, 2013

The POSH Act lays down several important measures to prevent sexual harassment and ensure that complaints are handled in a fair and confidential manner. These provisions apply to all types of workplaces, including large offices, small shops, home-based units, and nano businesses.

A. Internal Committee (IC) (As per POSH Act terminology; ICC is colloquial)

The Act requires every organisation with 10 or more employees to set up an Internal Complaints Committee.

a. The IC must include a senior woman employee as the Presiding Officer, two staff members, and one external member from an NGO or legal background.

b. The IC handles complaints confidentially, conducts inquiries, and recommends action.

c. This provision provides women with a trusted internal mechanism for addressing complaints of sexual harassment.

B. Local Complaints Committee (LCC)

For small units or nano businesses with fewer than 10 employees, forming an IC is not required. Instead, complaints must be filed with the Local Complaints Committee (LCC) at the district level.

◊ The LCC is set up by the District Officer and includes trained members.

◊ It handles cases from micro-units, domestic workplaces, and unorganised sectors.

◊ This provision ensures that even the smallest businesses provide a legal route for women to report harassment.

C. Employer Responsibilities

The POSH Act places clear responsibilities on employers to maintain a safe, respectful, and harassment-free work environment. Key duties include:

◊ Creating a safe workplace by addressing risks and ensuring respectful behaviour.

◊ Displaying notices on the premises that clearly state the organisation's zero-tolerance policy for sexual harassment.

◊ Conducting awareness and training sessions so employees understand what constitutes harassment, how to prevent it, and how to report it.

◊ Providing support to the complainant, such as helping her file a complaint, granting leave during the inquiry, or ensuring safety if the accused is a co-worker.

These provisions ensure that protection is not just available on paper but actively practiced in every workplace.

1.1.5.6 Relevance to Nano Businesses

Even small or home-based enterprises must comply with the POSH Act, 2013, ensuring a safe and respectful environment for women workers and clients. Nano entrepreneurs may operate with only a handful of employees, but the responsibility to prevent sexual harassment remains the same. Awareness, preventive measures, and proper complaint mechanisms are essential for legal compliance and ethical business practice.

A. Key Responsibilities for Nano Entrepreneurs

a. Maintain respectful communication: Avoid jokes, comments, or gestures that are gender-based or could be interpreted as inappropriate.

b. Ensure privacy and safety: Design the workspace so that women employees and clients feel secure. For example, separate changing or service areas in a home-based salon.

c. Understand complaint procedures: Even if no Internal Committee exists, entrepreneurs must be aware that complaints can be filed with the Local Complaints Committee (LCC) at the district level.

d. Display a written "Women Safety Policy": Clearly communicate zero-tolerance for harassment, even in small establishments or nano enterprises.

Example

A nano entrepreneur running a home-based beauty service must implement simple yet effective safeguards:

◊ No inappropriate behaviour towards female staff or customers.

◊ CCTV cameras are installed only in common areas, never in private spaces, to protect privacy.

◊ Proper complaint mechanism: Clearly communicate how any complaint can be reported to the LCC, ensuring transparency and safety.

By following these measures, even micro-businesses can maintain safe, respectful, and legally compliant workplaces, promoting trust among workers and clients while avoiding legal liabilities.

1.1.5.7 Contemporary Context: Transition to Labour Codes (2020)

In recent years, India has undertaken a major reform of its labour law framework through the transition to Labour Codes, with the objective of simplifying, consolidating, and modernising labour legislation. This shift marks a significant departure from the earlier system of multiple, fragmented labour laws towards a more streamlined and uniform regulatory structure that balances worker protection with ease of doing business.

A key component of this reform is the Code on Wages, 2019, which subsumes four major wage-related laws such as the Minimum Wages Act, Payment of Wages Act, Payment of Bonus Act, and Equal Remuneration Act. The Code seeks to ensure universal wage protection by extending coverage to workers in both organised and unorganised sectors. It introduces a uniform definition of wages, mandates timely payment, and reinforces the principle of equal remuneration for men and women, thereby strengthening wage equity and transparency.

Another important pillar of the reform is the Occupational Safety, Health and Working Conditions Code (OSH Code), 2020, which consolidates several laws relating to workplace safety, health, and welfare. The OSH Code aims to provide safe and humane working conditions by prescribing standards for occupational safety, health, working hours, leave, and welfare facilities. It also extends legal protection to sectors that were previously less regulated, including contract labour, inter-state migrant workers, and workers in smaller establishments, reflecting the changing nature of work and employment relationships.

In the contemporary context, these labour codes represent an attempt to align India's labour legislation with international labour standards, particularly those advocated by the International Labour Organization (ILO). At the same time, they address emerging challenges such as informalisation of labour, platform-based work, and the growth of micro and nano enterprises. While the labour codes promise greater uniformity and clarity, their effective implementation remains crucial to ensuring that the objectives of labour welfare, workplace dignity, and social justice are fully realised.

Overall, the transition to labour codes signifies a transformative phase in India's labour policy, seeking to modernise workplace regulation while responding to the evolving economic and employment landscape.

Recap

- ◊ **Definition of Sexual Harassment:** Any unwelcome behaviour with sexual intent, including physical, verbal, or digital misconduct.
- ◊ **Purpose of the Act:** Ensures a safe and dignified workplace for all women, including interns, part-time workers, and gig workers.
- ◊ **Applicability:** Applies to all workplaces—formal, informal, digital, and home-based—regardless of size.

- ◊ **IC):** Mandatory for establishments with 10+ employees to handle complaints internally.
- ◊ **Local Complaints Committee (LCC):** Handles complaints from workplaces with fewer than 10 employees, common in nano businesses.
- ◊ **Employer Responsibilities:** Creating safe spaces, displaying policies, conducting training, and supporting complainants.
- ◊ **Relevance to Nano Businesses:** Even micro-units must follow the Act, provide privacy, avoid gendered comments, and maintain complaint mechanisms.

Objective Questions

1. The Contract Labour (Regulation and Abolition) Act was enacted in which year?
2. Who is required to obtain a license under the Act?
3. The Act applies to establishments employing how many contract labourers or more.
4. Under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, a 'child' is defined as a person below the age of:
5. An 'adolescent' under the Act refers to persons aged:
6. Employment of children is strictly prohibited in:
7. What year was the POSH Act enacted?
8. What is the minimum number of employees required to form an ICC?
9. Which committee handles complaints in units with fewer than 10 employees?
10. What landmark case formed the basis of the POSH Act?
11. What section defines sexual harassment?
12. Name one example of unwelcome conduct under the POSH Act.
13. What must employers display to show zero tolerance?
14. Who chairs the Internal Complaints Committee?
15. What type of workplace does the POSH Act apply to?

16. Where should nano business complaints be filed?
17. Can interns file complaints under the POSH Act?
18. What is prohibited in private areas such as washrooms or changing rooms?

Answers

1. 1970
2. Contractor
3. 20
4. 14 years
5. 14–18 years
6. Hazardous occupations
7. 2013
8. Ten employees
9. Local Complaints Committee
10. Vishaka Judgement
11. Section 2(n)
12. Physical contact
13. Safety policy board
14. Presiding Officer
15. All workplaces
16. District LCC
17. Yes, interns file complaints under the POSH Act
18. CCTV cameras

Self-Assessment Questions

1. Explain the objectives, scope, and key provisions of the Contract Labour (Regulation and Abolition) Act, 1970. Discuss the circumstances under which contract labour may be abolished.
2. Describe the main features of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986. Examine the impact of this Act on the protection and rehabilitation of children in India.
3. Discuss the need for regulating contract labour in India. Analyze the rights, responsibilities, and welfare measures provided to contract labourers under the Contract Labour (Regulation and Abolition) Act, 1970.
4. Explain the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Highlight the role of Internal Complaints Committees and employers in ensuring a safe workplace.
5. Critically evaluate the effectiveness of welfare legislation in India with special reference to the Contract Labour Act, the Child and Adolescent Labour Act, and the Sexual Harassment of Women at Workplace Act.

Assignments

1. Explain the purpose and scope of the Sexual Harassment of Women at Workplace Act, 2013.
2. Describe the key forms of sexual harassment under Section 2(n) with suitable examples.
3. Explain the responsibilities of employers under the POSH Act to ensure a safe workplace.
4. Analyse the relevance of the POSH Act for nano and home-based businesses with examples.
5. Prepare a “Women Safety Policy” suitable for a nano business such as a home-based salon or small tailoring unit.
6. Conduct a short survey of 10 women workers and prepare a report on their awareness of the POSH Act.

7. Create a flowchart showing the complaint process under ICand LCC.

8. Identify potential unsafe practices in a small workplace and recommend improvements as per the POSH Act.

9. Draft a poster that can be displayed in small workplaces to communicate zero tolerance for sexual harassment.

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Unit 2

Laws on Wages

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

◊ describe the major wage-related legislations in India and their role in protecting workers from exploitation and promoting fair labour practices.

◊ explain the objectives, key provisions, and relevance of the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, and the Equal Remuneration Act, 1976.

◊ identify employer obligations related to wage fixation, bonus payments, and ensuring equal remuneration for equal work under these legislations.

Prerequisite

Ravi, a young graduate, started a small home-based snack business with two helpers. At first, he paid them whatever he could manage, sometimes ₹150 a day, sometimes less because he believed "small businesses don't need to follow labour laws." One day, a helper left abruptly after discovering that the legally fixed minimum wage in his state was almost double what he was being paid. Ravi realised that even the smallest business establishments are legally required to comply with wage-related labour laws. Even, not only to avoid penalties, but also to build trust, fairness, and a positive work culture. Like Ravi, many young entrepreneurs enter the business world without understanding that laws on wages, bonuses, and equal pay apply to all employers, regardless of size.

To study this unit effectively, learners should have a basic understanding of business operations, employer–employee relationships, and the role of government regulations in business. This unit will help learners appreciate how wage laws protect workers from exploitation while guiding entrepreneurs to operate ethically and legally within India's labour framework.

Keywords

Minimum Wages Act, Payment of Bonus Act, Equal Remuneration Act, Wage Compliance, Labour Welfare

Discussion

1.2.1 Introduction

Wage-related laws ensure that workers receive fair, regular, and non-discriminatory wages. Wage legislation in India is constitutionally grounded in Articles 14 and 16, which guarantee equality before the law and equal opportunity in employment, and Article 23, which prohibits forced labour, thereby ensuring fair wages, non-discriminatory remuneration, and protection of workers from exploitative and coercive employment practices.

These laws protect workers from exploitation and guarantee transparency in salary payments. For nano entrepreneurs, who usually operate with 1–10 workers or occasional helpers, understanding wage laws is important because:

i. Paying wages below the legal minimum can attract penalties.

ii. Wage compliance builds trust and prevents labour disputes.

iii. Many government schemes and start-up benefits require legal compliance.

This unit covers three important wage-related legislations:

1. Minimum Wages Act, 1948
2. Payment of Bonus Act, 1965
3. Equal Remuneration Act, 1976

1.2.2 Minimum Wages Act, 1948

The Minimum Wages Act, 1948, is a labour welfare law enacted by the Government of India to ensure that workers receive fair and minimum wages for the work they perform. The Act protects employees, especially those in unorganised, low-paid, or vulnerable sectors, from exploitation by fixing the lowest wage that employers must legally pay for different types of jobs. The Act is especially important for sectors where workers are often paid irregularly or unfairly, such as agriculture, construction, textiles, small workshops, domestic work, gig work, and nano businesses. It ensures that The Act mandates that all employers, irrespective of size, must pay at least the government-prescribed minimum wage.

1.2.2.1 Objective of the Act

The core objective of the Minimum Wages Act, 1948 is to ensure that no worker is paid below a legally fixed minimum standard of wages. This statutory wage acts as a floor-level protection for workers, especially those in the unorganised sector, where bargaining power is low and exploitation is common. According to S.N. Mishra's *Labour and Industrial Laws* (2019), the Act was intended to guarantee subsistence-level income so that workers can maintain a decent standard of living. It is especially important in small and nano businesses such as tailoring units, micro bakeries, home-based manufacturing, or delivery-based enterprises, where informal employment is prevalent. By mandating a minimum wage, the Act promotes social justice, economic security, and basic human dignity for all categories of labourers.

a. Basic Living Needs

One major objective of the Act is to ensure that the minimum wage enables workers to meet their basic living needs, including food, clothing, and shelter. These essential requirements form the foundation of a decent and healthy life, and wages below this level lead to poverty and malnutrition. For instance, a worker employed in a nano-level pottery unit must at least earn enough to sustain daily meals and housing expenses. As per K.D. Srivastava's commentary on labour laws, wage fixation must consider caloric intake and family subsistence requirements. This provision seeks to ensure a minimum standard of living consistent with human dignity for low-skilled workers .

b. Health and Education

The Act also intends to protect the worker's ability to access healthcare and education, which are fundamental components of human development. Without a minimum wage, workers often compromise on healthcare or withdraw children from school to save money. For example, a helper in a micro food-processing unit should earn enough to afford basic medical treatment and support children's schooling. Mishra emphasises that minimum wages are not merely for survival but for enabling upward social mobility. This aligns with the constitutional principles of social welfare.

c. Social Security

The objective of the Act also includes promoting social security by providing workers with an income level that guards against unexpected hardships such as illness, unemployment, or emergencies. Though the Act does not directly provide social insurance, it establishes wage stability essential for financial planning. For instance, an assistant in a nano retail shop must receive wages that allow saving for emergencies. When workers earn less than minimum wage, they become highly vulnerable to debt traps. Thus, the Act ensures basic financial stability.

d. Economic Security

Economic security, as envisaged under the Act, complements subsistence and social security objectives by ensuring income stability over time . The Minimum Wages Act aims to prevent conditions where workers are trapped in perpetual poverty due to extremely low wages. A delivery boy employed by a home-based food service or cloud kitchen, for example, must receive wages that reflect inflation, workload, and market conditions. As highlighted by Kapoor in Elements of Industrial Law, a minimum wage is essential for livelihood protection and for reducing wage disparities in the informal sector.

e. Improved Living Conditions

This objective reinforces the broader purpose of the Act by linking wage protection with improved living standards, health, and productivity, ensuring access to better nutrition, sanitation, transportation, and general well-being. Low wages push families into overcrowded housing and unhealthy lifestyles. In a nano manufacturing unit, such as a candle-making business, workers must be paid at least the minimum wage so they can afford decent housing and basic comforts. According to labour welfare literature, improved wages directly correlate with higher productivity and reduced absenteeism.

f. Protection from Underpayment

The Act directly prevents underpayment, a common issue in informal or home-based businesses. Without regulation, employers may exploit labour by offering extremely low wages. The Act makes such underpayment illegal, enabling authorities to enforce compliance. For example, an artisan working in a nano handicraft unit cannot legally be paid below the rate fixed by the state government for skilled craftwork. According to S.C. Srivastava's analysis, wage underpayment is a systemic issue the Act seeks to eliminate entirely.

1.2.2.2 What Are Minimum Wages?

Minimum wages are the lowest legally mandated wages that an employer must pay a worker for a specified type of work. These wages are fixed by the government and differ according to skill level, such as unskilled, semi-skilled, and skilled labour and the nature of the work performed. They also vary from state to state and even district to district because living costs differ across regions. For example, Kerala may prescribe ₹350 per day for unskilled workers due to a higher cost of living, whereas Rajasthan may fix ₹250 for the same category. As explained by K.D. Srivastava in *The Law of Wages*, minimum wages act as a baseline to ensure workers receive fair compensation that meets their essential living needs.

1.2.2.3 Who Decides Minimum Wages?

Both the Central and State Governments share the responsibility of fixing, revising, and enforcing minimum wages under the Minimum Wages Act, 1948. The Central

Government sets wages for industries under its authority, such as railways, mines, and oil fields, while State Governments determine wages for local industries within their jurisdiction. Wage rates are decided based on factors such as the type of labour (unskilled, semi-skilled, skilled), nature of occupation, cost-of-living index, inflation, working hours, and job conditions. According to S.N. Mishra's *Labour and Industrial Laws*, these revisions ensure that wages reflect economic realities and protect workers from exploitation, especially in informal and small-scale sectors.

1.2.2.4 Key Provisions of the Act

a. Fixing of Minimum Wages

One of the core provisions of the Minimum Wages Act is the mandatory fixation of minimum wage rates by the appropriate government. The Act requires both Central and State Governments to fix minimum time rates, minimum piece rates, and overtime rates depending on the nature of work. Time rate refers to wages paid per hour or per day, while piece rate applies to work paid according to output. For instance, a tailoring worker in a nano garment unit may be paid ₹300 per day (time rate), whereas an artisan making beaded jewellery at home may be paid ₹5 per piece (piece rate). Overtime must be higher than the normal wage, ensuring workers receive fair compensation for additional labour.

b. Revision of Wages

The Act mandates that minimum wages must be revised at least once every five years to reflect changes in inflation, cost of living, and economic conditions. This ensures that wages remain realistic and meaningful for workers. In practice, many states revise wages more frequently. For example, Kerala and Delhi revise minimum wages every six months by linking them to the Consumer Price Index. A nano food business employing helpers must update their wage payments whenever the government announces revised rates, ensuring compliance and ethical labour practices.

c. Payment in Cash or Kind

The Act specifies that minimum wages should ordinarily be paid in cash. However, the government may permit wages to be paid partly in kind, such as food grains or accommodation, if it is customary in a particular industry or region. For example, in some agricultural units, farmers may provide workers with grains along with cash wages. Similarly, in a small tea estate or farm, helpers may receive a portion of their wage as rice or wheat. However, such in-kind payments must be approved by the government and must be equivalent to the notified minimum wage.

d.Working Hours and Rest Day

The Act establishes clear norms regarding working hours, rest periods, and overtime. A worker cannot be made to work for more than 9 hours in a day, and every employee must be granted one rest day per week, typically Sunday. Any work done beyond normal working hours must be paid at twice the ordinary wage rate. For example, if a helper in a nano bakery earns ₹300 per day, overtime wages must be paid at twice the ordinary rate of wages for the overtime hours worked . These rules prevent overwork and ensure that workers receive adequate rest for health and safety.

e. Penalties

The Act imposes strict penalties on employers who pay workers wages below the legally fixed minimum. Violations may lead to a fine of up to ₹10,000 and imprisonment of up to six months, depending on the severity and frequency of the offence. For example, if a nano entrepreneur running a small printing shop pays a helper ₹150 per day when the notified minimum wage is ₹320, the employer may face legal action from labour authorities. These penalties act as a strong deterrent against exploitation and encourage businesses to maintain lawful wage practices.

Case Study: People's Union for Democratic Rights vs. Union of India (1982) – "Asiad Workers Case"

The *People's Union for Democratic Rights (PUDR) vs. Union of India* case, popularly known as the Asiad Workers Case, is one of the most significant judgments in Indian labour law. The case arose during the construction of the facilities for the 1982 Asian Games in Delhi. Thousands of construction workers, many of them migrants, were engaged through contractors to build stadiums, roads, and supporting infrastructure. Investigations by PUDR revealed that a large number of these workers were being paid wages below the legally notified minimum wages, and some were not paid regularly at all. Many workers were also subjected to long working hours without proper safety equipment or rest.

The matter was brought before the Supreme Court through a public interest litigation (PIL). In a landmark judgement, the Court held that payment of wages below the minimum wage rate amounts to "forced labour" under Article 23 of the Constitution, which prohibits trafficking and forced labour. The Court emphasised that a worker accepting low wages out of poverty, helplessness, or lack of bargaining power is still being forced into exploitative conditions. Therefore, employers, whether government or private, have an absolute duty to ensure payment of minimum wages. The Court also ruled that minimum wages are not merely statutory rights but fundamental rights, essential for preserving human dignity.

This case significantly strengthened wage protection across India, particularly for temporary, migrant, and contract workers, who are often the most vulnerable to exploitation. It set a crucial precedent that employers, including contractors working for the government, cannot escape liability by claiming that workers agreed to lower wages. For nano and small businesses today, the Asiad Workers Case serves as an important reminder that paying less than minimum wage is not only illegal but also a constitutional violation.

1.2.2.5 Relevance to Nano Businesses

a. Paying at Least the State-Fixed Minimum Wage

Nano businesses, even though very small in size, are legally required to pay their workers at least the state-fixed minimum wage for the relevant category, such as unskilled, semi-skilled, or skilled. Minimum wages ensure that workers assisting in small food stalls, home-based units, online delivery support, or local craft production receive fair compensation. For example, if the state minimum wage is ₹320 per day, a nano entrepreneur cannot legally pay ₹150 or ₹200. Minimum wages protect workers from exploitation and ensure their basic living standards.

b. Maintaining Simple Records of Attendance and Wage Payments

Even very small enterprises must maintain simple documentation to show that wages are paid fairly and consistently. These records do not need to be complicated, a small notebook with dates, hours worked, signatures, and daily or weekly wage entries is sufficient. Maintaining such records protects both the worker and the entrepreneur during labour inspections or disputes. For example, a nano tailoring unit hiring one helper can maintain a simple register noting daily attendance and payment to show compliance with the Act.

c. Paying Overtime Properly for Extra Work

Nano entrepreneurs must pay overtime wages at twice the normal rate when workers stay beyond regular working hours. Many small businesses rely on seasonal or peak-time work, during which workers may stay late to complete orders. Legally, any extra time must be compensated fairly. For instance, if a helper in a micro bakery is paid ₹300 per day, and works overtime, the employer must pay ₹600 for that extra day's work or calculate double the hourly rate. This ensures fairness and prevents overwork without compensation.

d. Avoiding Employment Based Only on "Food + Small Cash"

Many nano businesses informally offer workers "food + shelter + small cash" instead of a proper wage. While common in unorganised sectors, such arrangements violate the Minimum Wages Act. Compensation in kind cannot replace the legally required cash wage. For example, a small home-based pickle-making unit cannot pay a worker only with meals and ₹50 pocket money; the employer must provide the minimum wage in cash. This prevents exploitation based on poverty or lack of bargaining power.

Example

Imagine a nano entrepreneur running a small roadside food stall who hires two helpers for cooking, cleaning, and serving. If the state minimum wage is ₹300 per day, paying the helpers only ₹150 per day is illegal, even if the employer provides free meals. To comply with the law, the entrepreneur must pay the notified minimum wage and maintain a simple notebook showing daily payment and attendance. This protects the workers' rights and shields the business owner from fines and legal action.

1.2.3 Payment of Bonus Act, 1965

The Payment of Bonus Act, 1965 is a labour welfare law in India that requires certain employers to pay an annual bonus to their employees based on profits or productivity. The Act ensures that workers receive a fair share of the organisation's earnings, especially in industries where employees contribute significantly to production and service outcomes. The Act encourages fairness, boosts employee morale, and promotes better employer–employee relations by sharing economic benefits with workers.

1.2.3.1 Objective of the Payment of Bonus Act, 1965

The primary objective of the Payment of Bonus Act, 1965 is to ensure that employees receive a fair share of the organisation's profits as a reward for their contribution to productivity. The Act recognises that employees are partners in the success of an enterprise and should benefit when the company performs well. Importantly, the Act guarantees a minimum bonus of 8.33%, even in years where the employer does not make a profit, subject to certain statutory conditions. This ensures financial support and motivates workers, especially those in low-income groups. As noted in labour law texts such as S.N. Mishra's *Labour and Industrial Laws*, the Act promotes industrial peace, reduces inequality, and builds trust between employers and employees.

1.2.3.2 Applicability of the Act

The Payment of Bonus Act applies to every factory and establishment employing 20 or more workers at any time during the financial year. This includes manufacturing units, shops and establishments, service enterprises, and commercial organisations. Employees earning up to the prescribed salary ceiling and working at least 30 days in a year are eligible to receive a bonus. While many nano businesses typically employ fewer than 20 workers, the Act becomes highly relevant once the enterprise expands or becomes more structured. For example, a small home-based food unit or tailoring shop that grows into a medium-sized establishment with 20–25 employees must legally start paying bonuses. Understanding the Act early helps nano entrepreneurs plan wages, maintain proper accounts, and ensure future compliance as the business grows.

1.2.3.3 Eligibility for Bonus

Under the Payment of Bonus Act, 1965, an employee becomes eligible for bonus if they meet two basic criteria. First, the employee must be earning a salary or wage of up to ₹21,000 per month, which is the statutory ceiling notified by the government. Second, the employee must have worked for at least 30 days in the accounting year, even if on daily wages or temporary employment. This ensures that both permanent and casual workers receive a fair share of the profits. For instance, a helper in a small manufacturing workshop who works for 45 days and earns ₹15,000 per month becomes fully eligible for bonus under the Act. As noted by labour law scholars like K.D. Srivastava, these provisions safeguard low-income workers from being excluded by employers.

1.2.3.4 Types of Bonus

a. Minimum Bonus

The Act requires employers to pay a minimum bonus of 8.33% of the employee's annual wages, irrespective of whether the establishment earns profit or incurs loss, subject to certain statutory conditions. This ensures that workers receive a guaranteed additional income for their contribution. For example, if an employee earns ₹1,20,000 annually, the minimum bonus payable is ₹9,996.

b. Maximum Bonus

When the establishment performs well and earns higher profits, the Act allows employers to pay up to 20% of the employee's annual wages as bonus. This upper limit prevents arbitrary or excessive variations and ensures uniformity. For example, an employee earning ₹1,00,000 annually may receive a bonus of up to ₹20,000 in a profitable year.

c. Productivity-Linked Bonus

Some establishments offer a productivity-linked bonus, which is paid in addition to the statutory bonus and depends on the employee's efficiency, output, or performance. This type of bonus encourages higher productivity and rewards employees for exceptional work. For instance, in a small textile unit, workers who finish more stitching units or meet quality targets may receive additional incentives. This approach aligns with modern human resource practices promoting performance-based rewards.

Case Study: Hamid Khan vs. H.R. Textile (1995)

The case of *Hamid Khan vs. H.R. Textile (1995)* is a significant judgment that clarified an important principle under the Payment of Bonus Act, 1965. In this case, the company named H.R. Textile, argued that it had incurred financial losses during the accounting year and therefore, was not liable to pay bonuses to its employees. The management claimed that the bonus was directly linked to profits and that a non-profitable business could not be compelled to pay workers. As a result, employees were denied even the minimum statutory bonus, leading to a dispute that eventually reached the court.

The court examined the provisions of the Payment of Bonus Act, especially Sections 10 and 11, which mandate the payment of a minimum bonus at 8.33% of annual wages, irrespective of profits, provided the company has not officially been declared bankrupt or liquidated. The court held that the company's financial loss does not remove its obligation to pay the minimum bonus. The Act clearly treats minimum bonus as a guaranteed right of employees, acknowledging their continuous contribution to the enterprise's functioning. The obligation may be modified only under specific statutory exceptions, subject to judicial scrutiny .

The court directed H.R. Textile to pay the minimum bonus to all eligible employees, reinforcing the idea that workers must not suffer due to management inefficiency or temporary financial setbacks. This judgement strengthened employee protection and ensured that employers cannot misuse the "no profit" argument to deny statutory benefits. For nano and small businesses today, the principle remains the same: a minimum bonus is compulsory only for establishments that legally fall within the applicability of the Act or profit levels, as long as the establishment legally falls under the Act.

1.2.3.5 Relevance to Nano Businesses

Although the Payment of Bonus Act, 1965 technically applies only to establishments employing 20 or more workers, it is still highly relevant for nano entrepreneurs who aim to grow or maintain a positive work environment. Many nano businesses start small, with two or three helpers—but eventually expand into micro or small enterprises. Understanding the Act from an early stage helps entrepreneurs prepare for future compliance, maintain transparent wage practices, and avoid disputes as their workforce grows. Moreover, the spirit of the Act encourages fairness and acknowledges the contribution of workers in building the business, even at the smallest scale.

a. Bonus Becomes Mandatory When the Business Expands to 20 + Employees

Nano entrepreneurs planning to scale their operations must recognise that the Payment of Bonus Act becomes legally compulsory once the establishment employs 20 or more workers. This typically happens when home-based units grow into small factories, small shops expand into multi-branch retail units, or production-based nano units hire more workers during peak seasons. For example, a small homemade snack business with four helpers may expand into a mini production centre with 22 workers at which point the owner must pay eligible employees the statutory minimum bonus. Understanding this requirement early prevents non-compliance and financial penalties later.

b. Small Festival Bonuses Improve Worker Motivation Even if Not Legally Required

Even when the Act does not apply, nano entrepreneurs can adopt the healthy practice of giving small festival bonuses to retain workers and maintain goodwill. Festival bonuses act as a form of appreciation for workers' loyalty, especially in small enterprises where wages and working conditions may be modest. Paying small amounts during Onam, Diwali, Vishu, Eid, Christmas, or Pongal creates emotional connection, reduces turnover, and increases productivity. Labour studies show that even modest financial recognition strengthens trust and reduces absenteeism in small-scale units.

Example

Consider a nano garment stitching unit run from a home workspace employing three women helpers. Even though the Payment of Bonus Act does not apply because the workforce is below 20, the owner chooses to pay a small festival bonus of ₹2,000 to each helper during Onam or Diwali. This gesture helps boost morale, increases loyalty, and encourages better teamwork. It also prepares the entrepreneur for future compliance when the business grows. Such practices reflect the spirit of labour welfare and contribute to a positive working atmosphere.

1.2.4 Equal Remuneration Act, 1976

The Equal Remuneration Act, 1976 is a labour welfare law enacted by the Government of India to ensure that men and women receive equal pay for equal work. The Act was introduced to eliminate gender-based wage discrimination and promote fairness in employment practices across all sectors like public, private, organised, and unorganised.

1.2.4.1 Key Features

i. Employers cannot pay women less than men for the same type of work.

ii. "Same work" includes tasks requiring similar skills, effort, responsibilities, and working conditions.

iii. Employers cannot discriminate against women during recruitment, promotions, training, or transfers.

iv. Advisory committees may be formed to increase employment opportunities for women.

1.2.4.2 Objective of the Equal Remuneration Act, 1976

a. Ensuring Equal Wages for Men and Women Performing the Same or Similar Work

One of the central objectives of the Act is to ensure that men and women performing the same or similar work receive equal wages without discrimination. "Similar work" refers to tasks requiring equal skill, effort, responsibility, and performed under similar working conditions. This provision aims to eliminate the common practice of paying women lower wages simply because of gender bias. For example, if both a male and female worker pack products in a nano food unit, the employer must pay them the same wage rate. This protects women from systemic wage inequality.

b. Promoting Fair Recruitment, Training, and Promotion Opportunities

Another key objective is to maintain fairness in recruitment, promotions, job assignments, and training opportunities, ensuring that women get equal chances to grow in their careers. Employers cannot choose men over women purely due to gender stereotypes or cultural biases. For example, a nano printing unit cannot refuse to train a female worker in machine handling because of the belief that "women cannot operate machines." This objective encourages equal career development and improves the representation of women in skilled roles.

c. Protecting Women from Discriminatory Job Practices

The Act seeks to prevent women from being unfairly restricted to low-paid or low-skilled jobs solely because of their gender. In many workplaces, women are often assigned cleaning, assisting, or support roles while men handle skilled tasks. The Act prohibits such discriminatory practices in job assignments, ensuring that women receive the same opportunities to work in higher-paying positions if they possess the required skills. For example, a nano bakery cannot assign a woman only to billing and cleaning while allowing only men to handle baking, unless justified by genuine safety reasons.

1.2.4.3 What the Act Prohibits (Check the following numberings)

a. Paying a Woman Less Than a Man for the Same Work

The Act strictly prohibits employers from paying women lower wages than men for performing the same or similar work. This addresses long-standing wage discrimination where women were traditionally paid less despite contributing equally. For example, in a nano tailoring unit, if both a male and female tailor do identical stitching work, the employer cannot pay the woman ₹250 per day and the man ₹350 per day. Such disparity violates the law and the principle of economic fairness.

b. Gender Discrimination in Hiring, Promotion, Training, or Transfers

The Act also prohibits any form of discrimination based on gender during hiring, promotions, training, transfers, or work allocation. This ensures that women are not denied job opportunities simply because employers prefer male workers. For example, a nano grocery shop cannot refuse to hire a woman as a billing assistant claiming that "only men can handle customers better." Similarly, women cannot be excluded from training programs that help workers advance to skilled positions. This promotes workplace equality and enhances women's career growth.

c. Giving Preference to Men Unless Gender is Essential for the Job

The Act forbids employers from giving preference to men over women unless the nature of the job genuinely requires a specific gender. Gender may be essential only in rare cases involving privacy or safety such as appointing male security guards in boys' hostels or female attendants in women's hospitals. For instance, a nano entrepreneur running a small warehouse cannot prefer male workers for packaging unless the work involves a legally defined gender-specific requirement. This rule prevents misuse of "preference" as an excuse to exclude women.

1.2.4.3 Key Provisions of the Act

a. Equal Pay for Equal Work

One of the most important provisions of the Act is the mandate of equal pay for equal work, which requires employers to pay men and women the same wages when they are performing the same or similar duties. "Similar work" means tasks requiring comparable levels of skill, effort, responsibility, and working conditions. For instance, if both a male and female tailor in a nano stitching unit perform identical cutting and sewing tasks, the employer is legally bound to pay them equal wages. Labour law scholars such as S.C. Srivastava emphasise that this provision protects women from systematic underpayment.

b. No Discrimination in Recruitment

This provision ensures that women receive equal opportunities in hiring, promotions, training, and transfers. Employers cannot deny jobs to women simply because of assumptions that "men perform better" or "women are less capable." For example, a nano bakery cannot refuse to hire a woman as a helper by claiming that only men can lift materials. Similarly, women must be given equal access to training programmes that help them develop skills and advance in their roles. This promotes a more inclusive and equitable workforce.

c. Advisory Committees

The Act provides for the formation of Advisory Committees by the government to promote women's employment in various industries. These committees study occupations where women are underrepresented and recommend policies to improve their participation. They may advise on creating safer workplaces, providing training opportunities, or removing barriers that restrict women from entering certain fields. For example, an advisory committee may suggest measures to increase women's employment in textile, food processing, handicrafts, or small manufacturing sectors where nano businesses are common. These committees support long-term gender equality in the labour market.

Case Study: Mackinnon Mackenzie & Co. Ltd vs. Audrey D'Costa (1987)

The *Mackinnon Mackenzie & Co. Ltd vs. Audrey D'Costa (1987)* case is one of the most important judgements in the history of gender equality and labour rights in India. The case involved a group of women stenographers employed by Mackinnon Mackenzie & Co. Ltd., a well-known shipping company. Despite performing the same duties as their male colleagues such as typing, dictation, drafting letters, handling correspondence, preparing reports, and maintaining office records, the women were paid significantly lower wages. They approached the court arguing that this wage disparity amounted to clear discrimination based solely on gender.

The Supreme Court examined the nature of work done by both male and female stenographers and found no difference in skill, effort, responsibility, or working conditions. The Court held that the employer's practice of paying different wages for identical work violated the Equal Remuneration Act, 1976, as well as the constitutional principle of gender equality under Articles 14 and 16. The Court declared that women workers were entitled to the same wages as men, along with payment of arrears for the period during which they were underpaid.

This landmark judgment strengthened the interpretation of "equal pay for equal work" in India and established that employers cannot justify wage differences by relying on irrelevant distinctions or organisational traditions. It also empowered female employees across sectors to challenge discriminatory wage practices and reinforced the legal obligation of employers, big or small, to treat men and women equally in matters of remuneration. The case remains a cornerstone decision promoting workplace equality in both organised and unorganised sectors, including micro and nano enterprises.

1.2.4.5 Relevance to Nano Businesses

Even for very small enterprises, compliance with labour laws, including principles of equal remuneration, is essential. Nano businesses, despite having limited staff and resources, must ensure fair treatment of employees, especially regarding wages and gender equality. The following points highlight the relevance of these principles to nano entrepreneurs:

1. Pay equal wages to male and female helpers

A nano entrepreneur must ensure that men and women performing similar work are paid equally. Wage determination should be based on the nature of the work, skills required, and responsibilities rather than the gender of the employee. For instance, in a small bakery, if both a male and a female helper perform tasks that require similar effort and skill, they must receive the same remuneration. Paying unequal wages not only violates the Equal Remuneration Act, 1976, but can also create dissatisfaction, reduce productivity, and harm the reputation of the nano business.

2. Avoid gender-based job discrimination

Nano entrepreneurs must assign tasks based on competence and suitability rather than gender stereotypes. Gender-based job discrimination, such as giving men more important tasks while relegating women to minor roles, is unlawful. In a nano tailoring shop, for example, both male and female helpers should have the opportunity to operate sewing machines, handle customer orders, or manage inventory if they are capable. Eliminating discrimination fosters a fair work environment, motivates employees, and encourages them to develop their skills.

3. Maintain wage transparency

Transparency in wages ensures that employees understand how their remuneration is determined and reassures them that there is no unfair bias. Nano businesses should communicate the wage structure clearly, possibly in writing or verbally during hiring, and maintain records of payments. For example, in a home-based tiffin service, both male and female helpers should know their rates for different tasks such as cooking, packing, or delivery. Transparent wage practices help build trust, reduce conflicts, and ensure adherence to legal obligations.

Example

Consider a nano bakery employing two helpers: a male helper assigned to mixing dough and a female helper assigned to packaging. If both roles require similar levels of skill, effort, and responsibility, the bakery owner must ensure that their wages are equal. Even though the business is small, paying unequal wages based on gender would violate the law. By following this principle, the nano entrepreneur not only avoids legal penalties but also fosters fairness and inclusivity, encouraging loyalty and productivity among employees.

Recap

- ◊ **Need for Wage Laws:** Wage laws protect workers from underpayment and ensure fair, transparent, and legally compliant remuneration practices.
- ◊ **Minimum Wages Act, 1948:** Establishes the mandatory minimum wage for various occupations to prevent exploitation in organised and unorganised sectors.
- ◊ **Objectives of Minimum Wage:** Ensures subsistence, social security, economic stability, and protection from unfair labour practices.
- ◊ **Provisions of the Act:** Covers wage fixation, revisions, overtime payment, wage in cash/kind, working hours, and penalties.
- ◊ **Relevance to Nano Businesses:** Even very small employers must pay at least the state-fixed minimum wage and maintain simple wage records.
- ◊ **Payment of Bonus Act, 1965:** Requires establishments employing 20+ workers to pay statutory bonuses based on profits or minimum guaranteed rates.
- ◊ **Types of Bonus:** Includes minimum bonus, maximum bonus, and productivity-linked bonuses depending on performance and statutory norms.
- ◊ **Equal Remuneration Act, 1976:** Mandates equal pay for equal work and prohibits gender-based discrimination in wages and employment practices.
- ◊ **Prohibited Practices:** Unequal wages, discriminatory hiring, biased promotions or training based on gender.
- ◊ **Case Laws:** Asiad Workers Case, Hamid Khan Case, and Audrey D'Costa Case strengthened legal protection for wage fairness.

Objective Questions

1. Which Act was enacted in 1948 to fix minimum wages?
2. What is the minimum revision period under the Minimum Wages Act?
3. At what rate must overtime wages be paid?
4. Which Act ensures equal pay for equal work?
5. How many employees are required for the Payment of Bonus Act to apply?
6. What is the minimum bonus percentage under the Payment of Bonus Act?
7. What is the salary eligibility limit for bonus?
8. What factor must be similar in "same work" under the Equal Remuneration Act?
9. Which Article treats payment below minimum wage as forced labour?
10. Who do Advisory Committees under the Equal Remuneration Act focus on?
11. Who approves payment of wages partly in kind?

Answers

1. Minimum Wages Act
2. Five years
3. Twice rate
4. Equal Remuneration Act
5. Twenty employees
6. 8.33 percent
7. Twenty-one thousand
8. Responsibility
9. Article 23

10. Women

11. Appropriate government

Self-Assessment Questions

1. Describe the major provisions of the Minimum Wages Act regarding wage fixation, revision, and overtime.
2. Analyse the importance of the Payment of Bonus Act, 1965 in promoting industrial peace and fairness.
3. Differentiate between minimum bonus and maximum bonus under the Payment of Bonus Act, 1965
4. Discuss the objectives and key features of the Equal Remuneration Act, 1976, with special reference to the principle of equal pay for equal work.
5. Critically examine the role of wage-related welfare legislation in ensuring social justice in India, with reference to the Minimum Wages Act, the Payment of Bonus Act, and the Equal Remuneration Act.

Assignments

1. Explain the key objectives of the Minimum Wages Act, 1948, and discuss their relevance in the unorganised sector.
2. Discuss the major prohibitions under the Equal Remuneration Act, 1976 with suitable examples.
3. Evaluate the significance of the Asiad Workers Case and Audrey D'Costa Case in strengthening wage protection laws in India.
4. Prepare a simple compliance register for a hypothetical nano business showing attendance, daily wages, and overtime calculations based on state minimum wage rates.
5. Write a 2-page analysis of the Asiad Workers Case explaining how the Supreme Court interpreted payment below minimum wage as forced labour.

6. Compare minimum wage rates (skilled, semi-skilled, unskilled) of two Indian states and analyse how cost-of-living differences influence wage fixation.
7. Create three sample employee profiles and calculate the minimum bonus, maximum bonus, and productivity-linked bonus based on the given annual wages.
8. Conduct an audit of a small hypothetical enterprise and prepare a report showing whether equal pay for equal work is ensured for male and female employees.

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BLOCK 02

Social Security Legislation

Unit 1

Employees' Acts

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

◊ describe the purpose, benefits, and applicability of key social security laws for employees in organised sectors.

◊ comprehend how labour welfare legislation strengthens employee protection, workplace equality, and financial security.

◊ explain the major labour welfare laws in India, including ESI, EPF, Gratuity, and Maternity Benefit provisions.

◊ analyse important Supreme Court judgments to understand how labour rights are interpreted and protected.

Prerequisite

Kavya who has recently joined a private company as an accounts assistant. During her first year, she falls seriously ill and needs hospital care, worrying about how she will manage medical expenses and loss of income during her absence. Fortunately, because her company is covered under the Employees' State Insurance (ESI) Act, she receives free medical treatment and a sickness benefit that replaces part of her salary. A few years later, when Kavya decides to start a family, the Maternity Benefit Act ensures she receives paid maternity leave and job security. As she continues her career, her monthly contributions to the Provident Fund gradually grow into a significant amount, helping her build long-term savings for her future. When she completes many years of service, the Gratuity Act guarantees her a lump-sum financial reward that recognises her loyalty to the organisation.

This illustrative example highlights the functional relevance of labour welfare legislation across different phases of employment . Whether it is sickness, maternity, retirement, injury, or long-term financial security, these laws ensure that workers are not left vulnerable during difficult times. Before starting this unit, students only need a basic understanding that employers and employees share certain rights and responsibilities. This unit will help you explore how India's labour legislation creates a safety net that supports millions of workers like Kavya, ensuring fairness, dignity, and protection in the workplace.

Keywords

Social security, provident fund, gratuity, maternity leave, employment injury

Discussion

2.1.1 Introduction

Social security laws in India aim to protect workers against unexpected life situations such as accidents, illness, maternity, old age, retirement, and death. These laws are relevant for small and emerging establishments as they expand and cross statutory employment thresholds , because:

i. Worker safety builds trust and loyalty.

ii. Legal compliance prevents penalties.

iii. Government schemes support small employers who follow rules.

This unit covers five major employee-related Acts:

1. Employees' Compensation Act, 1923
2. Employees' State Insurance Act, 1948
3. Employees' Provident Funds and Miscellaneous Provisions Act, 1952
4. Payment of Gratuity Act, 1972
5. Maternity Benefit (Amendment) Act, 2017

2.1.2 Employees' Compensation Act, 1923 (Formerly the Workmen's Compensation Act)

The Employees' Compensation Act, 1923 (renamed from the Workmen's Compensation Act by the amendment in 2009) provides for payment of compensation to employees who suffer injury, disability, or death due to accidents that occur during the course of employment. The Act ensures that workers and their families receive timely monetary support when they are harmed while performing job-related duties.

The Act applies to employments specified in Schedule II of the Act, irrespective of whether the establishment belongs to the organised or unorganised segment.. The Act was officially renamed from the 'Workmen's Compensation Act' to the Employees' Compensation Act in 2009 to reflect a gender-neutral and more inclusive approach to labor protection

2.1.2.1 Objectives of the Act

Under this Act, the employer must compensate the worker for:

i. Accidental injuries arising out of and in the course of employment

ii. Permanent or temporary disability caused by a workplace accident

iii. Death of an employee caused by an employment-related injury

iv. Certain occupational diseases resulting from exposure to harmful work environments

Compensation is calculated based on the employee's wages and the extent of disability or loss. The law protects workers who may not have insurance or bargaining power, ensuring that their livelihoods are not destroyed by workplace hazards. The Act encourages safer working conditions, responsible employer behaviour, and basic social security for workers performing risky jobs.

2.1.2.2 When is the Employer Liable?

A vital legal concept in determining liability is the Theory of Notional Extension, which extends the 'course of employment' to include the time and place of a commute if the employee is in that specific location solely to fulfill their professional duties. Under the Employees' Compensation Act, 1923 (formerly known as the Workmen's Compensation Act, 1923), an employer becomes legally responsible to compensate a worker when the injury arises "out of and in the course of employment." This principle means that the accident must be directly connected to the job and must occur while the employee is performing duties assigned by the employer. Courts in India have consistently held that employers must ensure workplace safety and bear financial responsibility for occupational risks. For example, in *Regional Director, ESIC vs. Francis De Costa (1997)*, the Supreme Court emphasized that employment must be the cause or contributory factor to the injury. Standard texts such as S.N. Mishra's *Labour and Industrial Laws* and Kapoor's *Elements of Industrial Law* explain this doctrine in detail and highlight that compensation aims to protect workers and their families from sudden financial hardship due to work-related accidents.

1. Accident Happens During Employment

An employer is liable if an accident occurs while the worker is actively engaged in their employment duties or is present at the workplace during working hours. "During employment" includes not only the actual working period but also activities reasonably connected to the job, such as entering or exiting the premises, operating machinery, or traveling for work purposes. For example, if a factory worker slips on an oily floor during their shift and suffers a fracture, the employer must compensate because the accident occurred within work time and work premises. Courts have also considered cases where workers were injured while performing routine tasks like cleaning equipment or preparing the workstation. The logic is that once the worker has reported for duty and is involved in work-related activities, the responsibility shifts to the employer. Books like *Industrial Law* by P.L. Malik highlight that the time and place of injury play a crucial role in establishing liability.

2. Workers Perform Tasks Related to the Job

Employer liability also arises when the worker suffers injury while performing tasks related to or incidental to their job responsibilities. This includes tasks specifically assigned by the employer and duties that are reasonably expected from the nature of employment. Even if the worker voluntarily undertakes a task that benefits the employer, courts may still hold the employer responsible. For example, if a warehouse assistant climbs a ladder to retrieve stock and falls due to structural defects, the employer is liable because the activity is part of job duties. Similarly, if a helper assists in loading goods, even without explicit instructions, and gets injured, the activity is still considered job-related. The principle is well-explained in S.C. Srivastava's *Industrial Relations and Labour Laws*, which notes that the injury must be linked to employment duties to attract compensation.

3. Injury Leads to Disability or Death

Compensation becomes legally mandatory if the injury results in temporary disability, permanent disability, or death. The extent of compensation depends on the severity of disability and its impact on the worker's earning capacity. For example, a driver who suffers partial loss of eyesight after an accident may not be able to continue driving, resulting in loss of livelihood, thus requiring compensation. In fatal cases, the employer must compensate the dependents of the deceased worker. The Schedule of the Employees' Compensation Act classifies various injuries, such as the loss of limbs or sensory organs, and assigns percentages of disability for calculating compensation. Texts like *Labour Laws* by H.L. Kumar emphasize that the Act aims to ensure social security for workers and their families when the accident permanently affects their ability to earn.

2.1.2.3 When is the Employer Not Liable?

While the Act protects workers, it also provides circumstances where employers are not responsible for paying compensation. These exceptions exist to prevent misuse of the law and to ensure that the employer is not held accountable for injuries resulting from the worker's intentional or irresponsible behaviour. If the employee violates safety instructions, engages in prohibited acts, or suffers injury in a manner unrelated to employment duties, the employer may be exempted from liability. As discussed in *Industrial and Labour Laws* by P.K. Padhi, the key idea is that compensation is paid only when the injury is genuinely connected to employment.

1. Injury is Due to Worker's Drunkenness

If the injury is a direct result of the worker being under the influence of alcohol or drugs during work hours, the employer is not liable. Drunkenness impairs judgment and increases the likelihood of accidents that are not attributable to workplace conditions. For example, if a machine operator consumes alcohol during duty hours and injures his hand while mishandling the machine, the employer is exempt from paying compensation because the accident occurred due to the worker's negligence. Courts have upheld that the employer cannot be held responsible for accidents caused by intoxication. This principle is clearly outlined in Kapoor's *Elements of Industrial Law*, which mentions that intoxication breaks the causal connection between employment and injury.

2. Injury is Due to Deliberate Misconduct

Employer liability is also excluded when the worker's injury is due to deliberate or wilful misconduct. This includes knowingly violating safety rules, performing dangerous acts without authorisation, or intentionally engaging in reckless behaviour. For example, if a worker removes machine safety guards despite strict warnings and suffers an injury, the employer is not required to pay compensation. Courts distinguish between ordinary negligence which still allows compensation, and deliberate misconduct, where the worker consciously disregards safety norms. The concept is well explained in Mishra's *Labour and Industrial Laws*, which notes that wilful disobedience of lawful instructions breaks the chain of liability.

3. Injury Does Not Affect Earning Capacity

Even if the injury occurs at the workplace, Compensation is linked to loss of earning capacity; however, temporary disablement resulting in wage loss may still attract compensation under the Act . Minor scratches, bruises, or temporary discomfort that does not interfere with the worker's ability to perform the job do not qualify for compensation under the Act. For example, if a worker experiences a minor cut that heals quickly without affecting attendance or job performance, no compensation is payable. The Employees' Compensation Act is primarily concerned with economic loss due to reduced earning ability. Authors such as H.L. Kumar emphasise that the essence of compensation lies in financial loss, not merely physical injury.

2.1.2.4 Types of Disability

Under the Employees' Compensation Act, 1923 (formerly the Workmen's Compensation Act), injuries sustained during the course of employment are classified into four major disability types. This classification helps determine the amount of compensation payable to the injured worker or their dependents. The assessment of disability is not just medical but also economic, meaning that the loss of earning capacity is central. The Act provides schedules that list injuries and assign percentages of disability, ensuring uniformity in compensation decisions. Standard labour law authors such as S.N. Mishra (*Labour and Industrial Laws*) and P.L. Malik (*Industrial*

Law) explain that the nature of disability significantly influences the compensation amount, alongside factors like the worker's age, monthly wage, and the injury's impact on their long-term earning potential.

1. Temporary Partial Disability

Temporary Partial Disability (TPD) refers to a condition where the worker suffers an injury that temporarily reduces their ability to perform part of their job duties but does not completely prevent them from working. The worker may return to work with restrictions or may be assigned lighter tasks until recovery. For example, if a warehouse worker sprains his ankle while lifting goods, he may be unable to carry heavy loads for several weeks but can still perform tasks like inventory recording. In such cases, the employer must pay compensation for the wage loss during the recovery period. Labour law experts such as H.L. Kumar describe TPD as a transitional stage in which the worker is neither fully disabled nor fully recovered, and compensation aims to bridge income loss during this temporary impairment.

2. Temporary Total Disability

Temporary Total Disability (TTD) arises when the worker is completely unable to perform any job duties for a temporary period due to a work-related injury. Even though the disability is not permanent, it renders the worker incapable of earning wages during the recovery phase. For instance, if a machine operator fractures his arm in an industrial accident, he may be medically advised to rest for several months, making him unable to operate machinery or engage in alternative work. Compensation during TTD is critical because the worker's livelihood is entirely affected during this period. As explained by P.K. Padhi in *Industrial and Labour Laws*, the purpose of TTD compensation is to provide financial support until the worker regains the capacity to resume employment.

3. Permanent Partial Disability

Permanent Partial Disability (PPD) occurs when the worker suffers a permanent physical impairment, but the disability affects only a part of the body and does not completely stop the person from working. However, it does reduce their earning capacity. Examples include the loss of one eye, partial loss of a finger, or permanent stiffness of a joint—situations listed in Schedule I of the Employees' Compensation Act with specific disability percentages. For instance, a carpenter who loses the tip of a finger may continue working but with reduced efficiency, affecting productivity and income. Courts in cases such as *Pratap Narain Singh Deo vs. Srinivas Sabata (1976)* have clarified that even partial loss, if it affects earning ability, must be compensated. This type of disability is especially important because, although the worker can still work, their long-term income potential is permanently diminished.

4. Permanent Total Disability

Permanent Total Disability (PTD) is the most severe classification, referring to a condition where the worker permanently loses the capacity to perform any kind of work that could earn them wages. This includes injuries such as total paralysis, complete loss of eyesight, amputation of both hands, or severe spinal cord damage. When PTD occurs, the employee's ability to engage in any gainful employment is considered lost for the rest of their life. For example, if a construction labourer suffers a severe fall leading to permanent paralysis, the worker becomes fully dependent on compensation and family support. According to explanations in S.N. Mishra's *Labour and Industrial Laws*, PTD attracts the highest compensation because it results in irreversible loss of livelihood. The Act prescribes fixed multipliers based on age to calculate the amount payable for such life-altering conditions.

2.1.2.5 Compensation Depends on Age, Monthly Wage, and Disability Percentage

The Employees' Compensation Act calculates the payable amount using a structured formula combining the injured worker's age, monthly wage, and the percentage of disability. Younger workers receive higher compensation because they have a longer potential work life, while older workers receive comparatively less due to a shorter remaining work span. Monthly wage forms the basis of the calculation; higher wages generally result in higher compensation. Disability percentage, provided in statutory schedules, determines the extent of wage-earning loss. For instance, 30% disability means 30% loss in earning capacity. For example, if a 28-year-old electrician earning ₹15,000 per month suffers a 40% permanent disability, the Act uses an age-based multiplier to compute the exact compensation. Labour law textbooks such as those by P.L. Malik and N.D. Kapoor explain this system in depth, emphasising that compensation aims to restore economic stability for workers and their families after workplace injuries.

Case: Pratap Narain Singh Deo vs. Srinivas Sabata (1976)

In this landmark case, a carpenter named Srinivas Sabata lost his left hand while operating a machine during the course of his employment. Because carpentry requires the full use of both hands, the injury left him unable to continue his trade or earn his livelihood in the same manner as before. When the matter reached the Supreme Court, the Court held that the loss of a hand for someone whose occupation depends entirely on manual skill amounts to *permanent total disablement* under the Workmen's Compensation Act, 1923. The Court further emphasised that the employer's liability to pay compensation arises the moment the injury occurs, not after formal proceedings or delays. The judgment clarified the doctrine of 'functional disablement' by holding that the nature of employment must be considered while assessing permanent total disablement, reinforcing the principle that employers must respond quickly and responsibly when workplace accidents occur.

2.1.3 EMPLOYEES' STATE INSURANCE ACT, 1948 (ESI)

The Employees' State Insurance Act, 1948 is a social security legislation enacted by the Government of India to provide financial protection and medical support to workers in the event of sickness, injury, maternity, disability, or death arising out of employment. It establishes a compulsory insurance scheme for employees working in factories, shops, and certain establishments, where both employers and employees contribute to an ESI fund. This fund is then used to provide a wide range of benefits such as medical care for workers and their families, sickness benefits in the form of cash compensation during absence from work, and support in case of employment-related injuries or occupational diseases. The Act is administered by the Employees' State Insurance Corporation (ESIC), which manages hospitals, dispensaries, and medical facilities across India.

The primary aim of the ESI Act is to ensure that employees and their dependents are not pushed into financial hardship due to illness or accidents, especially for workers in lower- and middle-income categories. By offering long-term disability benefits, dependent benefits, funeral expenses, and maternity benefits, the Act creates a safety net that promotes economic stability and workforce productivity. Over the years, the coverage of ESI has extended to millions of workers across various sectors, reflecting India's commitment to social security and inclusive labour welfare. The Act stands as one of the most comprehensive welfare measures in the country, ensuring that employees receive timely healthcare and financial assistance when they need it most.

2.1.3.1 Objective of ESI

The primary objective of the Employees' State Insurance (ESI) Scheme is to provide comprehensive social security to workers and their families by offering both medical care and financial protection during periods of uncertainty. ESI ensures that workers do not fall into poverty due to sickness, maternity, employment injuries, disabilities, or death arising out of employment. It creates a safety net so that wage earners, especially those in low-income and vulnerable occupations, can access cash benefits, hospital treatment, medicines, and rehabilitation services without financial hardship. This system is built on the principle of social insurance: both employer and employee contribute small amounts regularly, enabling workers to receive substantial benefits in times of need. Authors such as S.N. Mishra (*Labour and Industrial Laws*) and N.D. Kapoor (*Elements of Industrial Law*) describe ESI as a landmark welfare legislation in India that promotes worker well-being, reduces absenteeism, and supports industrial productivity by ensuring a healthy workforce.

1. Sickness

One major objective of ESI is to support workers during sickness by providing free medical treatment and cash compensation for loss of wages. Workers who fall ill and are unable to work receive sickness benefit, usually 70% of their wages, up to 91 days a year, ensuring that temporary illness does not disrupt their livelihood. For example, a worker with dengue fever can get treatment in an ESIC hospital and receive cash benefits to support their family during recovery. According to labour law scholars, the sickness benefit is one of the most effective social protection tools introduced for Indian workers.

2. Maternity

ESI also protects women workers by providing maternity benefit before and after childbirth. Women covered under ESI receive paid maternity leave, usually 26 weeks, along with complete medical care, prenatal services, hospitalisation, and postnatal care. This ensures that working mothers do not lose income during pregnancy and childbirth. For instance, a woman working in a garment factory covered under ESI gets full wages during maternity leave, along with access to ESIC hospitals. Labour law texts highlight that maternity protection under ESI significantly improves women's health and workforce participation.

3. Employment Injury

When a worker suffers an accident while performing job duties, ESI ensures immediate medical attention and wage compensation. Employment injury benefits include free treatment, disability benefits, temporary disability cash allowance, and long-term pensions if required. For example, if a delivery worker slips and fractures his leg during a work assignment, ESI covers hospital bills and pays periodic cash compensation. Standard references such as P.L. Malik note that employment injury protection is one of the strongest components of the ESI Scheme.

4. Disability

ESI provides compensation for both temporary and permanent disabilities arising out of employment. The amount depends on the nature and severity of disability and the worker's wage. Workers receive long-term disability benefits, prosthetic aids, vocational rehabilitation, and continued medical care. For example, a factory helper who loses partial eyesight due to a workplace accident receives a monthly disability pension for life. Labour law authors describe disability benefits as essential for ensuring long-term financial stability for affected workers.

5. Death Due to Injury

If a worker dies because of a work-related accident or occupational disease, ESI supports the dependents by offering family pension, funeral expenses, medical benefits, and survivor benefits. This ensures that the family does not face sudden economic distress. For example, the spouse and children of a worker killed in an industrial accident receive a monthly pension under the ESI Scheme. This humane provision reflects the social justice philosophy of the Act, as emphasised in S.C. Srivastava's writings on labour welfare.

2.1.3.2 Applicability

The ESI Scheme applies to all establishments that employ 10 or more workers such as factories, shops, transport undertakings, hotels, educational institutions, and medical establishments making it one of the most significant statutory social insurance schemes in the organised sector in India . Employees earning up to the wage ceiling notified by the Central Government from time to time are covered under the ESI Scheme . As per current government notifications, this statutory wage ceiling is set at ₹21,000 per month (and ₹25,000 for persons with disabilities) for eligibility under the scheme. The law ensures that low-wage earners receive social protection irrespective of the establishment's size or industry. Employers must register with the Employees' State Insurance Corporation (ESIC) once their workforce reaches the statutory threshold. Labour law books, including those by Mishra and Padhi, highlight that ESI applicability aims to gradually include more workers as enterprises grow, ensuring universal social security coverage in the long term.

Establishments employing fewer than the statutory threshold are exempt from mandatory ESI registration, subject to future workforce expansion . These small units, such as home-based tailoring, delivery services, micro bakeries, jewellery polishing units, and carpentry workshops, often operate with only one or two helpers. However, once such a venture expands and hires 10 or more employees, it becomes mandatory to register under ESI. Many state governments also encourage voluntary ESI registration for smaller units if they prefer to offer social benefits to workers. As nano businesses grow into micro or small enterprises, joining ESI strengthens worker welfare and enhances the business's credibility.

2.1.3.3 Benefits Under ESI

The Employees' State Insurance Scheme offers a range of social security benefits designed to protect workers and their families from the financial hardships associated with sickness, maternity, employment injury, disability, and death. These benefits are funded by contributions from both employers and employees, enabling ESIC to provide comprehensive medical services and cash support without placing a burden on low-wage workers. The scheme functions on the principle of contributory social insurance and ensures that workers have uninterrupted access to welfare support throughout their employment.

a. Medical Benefit

The medical benefit under ESI provides complete, free healthcare to insured workers and their dependent family members through a network of ESIC hospitals, dispensaries, and tie-up private hospitals. This includes outpatient treatment, specialist consultations, diagnostic tests, medicines, hospitalisation, surgery, and emergency care. Workers do not pay for treatment, ensuring that illness or injury does not impose financial pressure. For example, if a worker develops a severe respiratory infection, they can visit the nearest ESIC facility and receive treatment without hospital bills. According to labour law experts, the medical benefit is one of the most significant features of ESI, as it guarantees lifelong medical care for long-term insured persons and their spouses.

b.Sickness Benefit

Sickness benefit provides cash compensation to workers during periods when illness prevents them from attending work. An insured worker receives approximately 70%

of their wages for up to 91 days in a year, subject to medical certification. This allows workers to take necessary rest and treatment without worrying about losing daily wages. For example, a factory worker who is diagnosed with dengue fever can stay at home to recover while still receiving cash support. The ESI Scheme also offers extended sickness benefit for long-term diseases such as tuberculosis or cancer, where benefits may continue for up to two years. Labour law books highlight this as a vital income-replacement support for lower-wage employees.

c. Maternity Benefit

ESI offers generous maternity benefits to support pregnant women during childbirth and recovery. Insured women receive paid maternity leave, usually 26 weeks, with full wage compensation. They are also entitled to prenatal check-ups, delivery care, hospitalisation, and postnatal medical services at ESIC hospitals. This ensures that female workers do not lose income during pregnancy and childbirth. For instance, a woman employed in a garment unit enrolled under ESI receives her entire wage during maternity leave, ensuring both health and financial security. Scholars emphasise that such provisions significantly contribute to improving maternal health standards and female workforce participation in India.

d. Disablement Benefit

Disablement benefit provides financial support to workers who suffer temporary or permanent disabilities due to employment-related injuries. Temporary disablement benefit is paid from the first day of injury at nearly 90% of the worker's wage until recovery. Permanent disablement benefit is given as a lifelong monthly pension, with the amount depending on the extent of disability. For example, if a worker loses partial mobility in their hand due to a machine accident, ESIC calculates the loss of earning capacity and pays a pension accordingly. Labour law references describe the disability benefit as critical for protecting workers whose earning abilities are permanently or temporarily reduced.

e. Dependants' Benefit

Dependants' benefit is a monthly pension paid to the family of an insured worker who dies due to an employment injury or occupational disease. The pension is distributed among eligible dependents such as spouse, minor children, and elderly parents, ensuring that the family continues to receive financial support even after the worker's death. For instance, if a worker dies in a workplace accident, the spouse may receive a lifelong pension while children receive support until adulthood. ESIC also covers funeral expenses and medical care for dependants. Labour law experts consider this benefit an essential social protection mechanism for vulnerable households.

Case: ESIC vs. Francis De Costa (1996)

In this important case, an employee named Francis De Costa suffered serious injuries in a road accident while travelling from his home to his workplace. He claimed benefits under the Employees' State Insurance Act, arguing that the accident should be treated as an "employment injury." The Employees' State Insurance Corporation (ESIC), however, rejected the claim on the ground that the accident had occurred before he reached the workplace and was therefore outside the scope of employment. The matter eventually came before the Supreme Court, which examined the meaning of the expression "arising out of and in the course of employment."

The Supreme Court ruled that injuries sustained during the daily commute cannot automatically be considered employment injuries. The Court held that an accident during travel is covered under the ESI Act only if the employer provides or arranges the mode of transport, such as a company bus or vehicle. In De Costa's case, he was travelling on his own, and therefore the injury did not occur "in the course of employment." This judgment became a significant precedent because it clarified the boundaries of the term "employment injury" and helped define when commuting accidents are eligible for ESI benefits. It also reinforced that the employer's control or responsibility over the means of transport is a key factor in determining compensability.

2.1.3.4 Relevance to Nano Businesses

The Employees' State Insurance (ESI) Scheme becomes highly relevant when a nano business, typically employing one to five helpers, begins to grow into a small enterprise. While nano units are generally exempt from ESI because they employ fewer than 10 persons, the moment the workforce increases to 10 or more, the law requires mandatory ESI registration. This transition often takes place in home-based or micro enterprises that gradually scale up operations, such as food processing units, tailoring clusters, handicraft workshops, and small delivery-based services. Labour law scholars such as N.D. Kapoor and S.N. Mishra emphasise that social security compliance becomes essential as an enterprise grows, ensuring that the business remains legally sound and its workers remain protected.

1. ESI Registration Becomes Mandatory

When a nano entrepreneur expands operations and employs 10 or more workers, ESI registration must be completed under the Employees' State Insurance Act, 1948. This legal requirement ensures that all eligible employees are brought under the social security net. For growing nano businesses, this shift signals a transition from informal to formal organisational practices. For instance, a home-based candle-making unit that starts with two helpers but later expands to a team of 10 must register with ESIC even if workers are part-time or paid daily wages. According to labour law references, ESI coverage protects both the employer who can avoid legal penalties and the employees, who gain access to healthcare and monetary benefits.

2. Maintaining Payroll Records is Necessary

Once a nano business becomes eligible for ESI, maintaining proper payroll records, attendance registers, wage slips, and contribution details becomes mandatory. This administrative discipline helps the business function more professionally and transparently. For nano entrepreneurs who previously operated informally, shifting to record-keeping encourages better financial planning and accountability. For example, a jewellery-polishing micro-unit with 11 workers must maintain monthly contribution records, wage registers, and employee details to comply with ESI norms. Labour law texts point out that accurate documentation protects the employer from disputes, inspections, and penalties while also ensuring correct benefit calculation for workers.

3. Workers Receive Health Protection at Very Low Cost

One of the most important advantages of ESI for growing nano businesses is that workers receive high-quality medical and social security benefits at a very low contribution rate. Employees contribute a small percentage of their wages, and employers pay a slightly larger share. In return, workers and their families get free medical treatment, cash benefits during sickness, maternity support, disability pensions, and dependants' benefits. For nano businesses employing low-wage workers, this becomes a major welfare tool. For example, in a small tailoring unit with 12 workers, each employee can access ESIC hospitals for free, allowing them to remain healthy and productive. Labour law authors highlight that affordable health protection reduces absenteeism and improves worker morale.

Example:

Consider a nano pickle-making unit run from a household kitchen with initially three helpers who wash, cut, and package ingredients. As demand increases, the entrepreneur hires additional workers, expanding the team to 12. At this stage, ESI registration becomes compulsory under the Act. The business must register its employees, deduct contributions, and maintain records. In return, workers receive full medical care, sickness benefits, and maternity support through ESIC facilities. This example demonstrates how small home-based ventures evolve into formal enterprises and why understanding ESI requirements is crucial for long-term compliance and worker welfare.

2.1.4 Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (EPF)

The Employees' Provident Funds & Miscellaneous Provisions Act, 1952 is a major social security law in India that ensures long-term financial protection for employees working in factories, shops and other establishments. The Act requires both the employer and the employee to contribute a fixed percentage of the employee's salary every month to the Provident Fund (PF). This fund accumulates over time with interest and becomes a financial cushion for the worker at retirement, or in situations such as permanent disability, unemployment, or other emergencies. The Act also includes related schemes such as the Employees' Pension Scheme (EPS) and the Employees'

Deposit Linked Insurance Scheme (EDLI), which offer pension and insurance coverage to employees and their families. The law is administered by the Employees' Provident Fund Organisation (EPFO), one of the largest social security organisations in the world.

For example, if an employee named Anjali works in a textile company covered under the Act, both she and her employer contribute 12% of her basic wage to her EPF account every month. Over several years, the amount grows with interest, creating a significant savings fund that she receives at retirement. If Anjali faces a medical emergency or needs money for her child's education, she can also make a partial withdrawal from her EPF account as permitted under the rules. This primarily ensures long-term retirement security, with limited withdrawals permitted under specified statutory conditions . The Act has therefore become an essential part of India's labour welfare system by encouraging systematic savings and providing security to millions of workers in the organised sector.

2.1.4.1 Objective

1. Retirement Security

One of the primary objectives of the EPF scheme is to ensure that workers have a stable financial foundation after retirement. Many employees in India, especially in the unorganised and small-enterprise sectors, do not have access to private pension plans or long-term savings instruments. EPF provides a compulsory and disciplined savings mechanism in which contributions are regularly deposited and earn interest over time. By the end of the employee's working life, this accumulated amount becomes a substantial corpus, offering financial independence during old age. This prevents post-retirement vulnerability and reduces reliance on family members or government assistance.

2. Financial Support During Illness

EPF also aims to provide financial security when a worker or a family member faces a serious illness. Medical emergencies often lead to sudden expenses that cannot be delayed, and many low-income workers lack health insurance or savings. EPF allows partial withdrawals for hospitalisation, surgeries, treatment of major diseases, and long-term medical care. This ensures that employees have access to immediate financial relief without falling into debt or selling personal assets. The objective is to protect workers against economic hardships caused by unexpected health issues.

3. Assistance During Family Emergencies

Another key objective of EPF is to support workers during unavoidable family crises such as marriage of children, education expenses, or sudden financial strain. These life events require lump-sum funds, and EPF permits partial withdrawals at different stages of an employee's life to meet such urgent needs. The provision helps workers fulfil important social and family responsibilities without depending on high-interest loans. Through this, EPF acts not only as a retirement fund but also as a flexible financial buffer for important life events.

4. Support for Housing Needs

EPF promotes housing security by allowing employees to withdraw funds for purchasing land, constructing a house, renovating an existing home, or repaying housing loans. Housing is a major financial goal for most families, but many workers face difficulties in accessing formal credit or accumulating large savings. EPF recognises this challenge and permits members to use a portion of their long-term savings to achieve housing stability. This objective helps employees create a permanent asset, improving their social and economic well-being.

5. Educational Support for Family Members

EPF also aims to assist employees in meeting the educational expenses of their children, particularly higher education. As costs of professional courses, technical training, and university degrees continue to rise, many families struggle to afford them. EPF allows withdrawals for children's post-secondary education, enabling workers to invest in their family's future without financial stress. This objective contributes to upward mobility by supporting the next generation's educational opportunities.

6. Overall Social Security for Workers

Beyond individual benefits, EPF serves as a nationwide social security mechanism that provides economic protection to millions of workers. It reduces poverty risks, encourages savings habits, and stabilises households by offering funds in emergencies and income during retirement. The EPF network is one of the largest in the world, reflecting its role in strengthening India's labour welfare system and supporting long-term economic development.

2.1.4.2 Applicability

The EPF Act applies mandatorily to establishments that employ 20 or more workers, irrespective of the type of industry. Once an organisation falls under this threshold, both the employer and eligible employees must register with EPFO and begin monthly contributions. Although nano enterprises such as home-based units, micro shops, or family-run workshops often start with fewer workers, they may voluntarily opt for EPF registration even before crossing the 20-employee mark. Voluntary registration is especially beneficial when the entrepreneur wishes to build a reliable workforce, offer social security, or attract skilled workers by providing PF benefits. Once registered, the employer must comply with EPFO procedures such as contribution remittance, record maintenance, and annual filings.

2.1.4.3 Key Components

a. Provident Fund (PF)

Under the PF component, both the employee and employer contribute 12% of the employee's basic wages, dearness allowance, and retaining allowance every month.

The employee's full contribution goes into their Provident Fund account, which earns a government-declared annual interest rate. This fund acts as a long-term savings pool that accumulates steadily and becomes a significant financial asset by the time of retirement. Workers can also make voluntary higher contributions (VPF), which enhances their savings further.

b. Pension Scheme (EPS)

A portion of the employer's 12% contribution, specifically 8.33% is diverted towards the Employees' Pension Scheme (EPS). This component provides a lifelong monthly pension to the employee after retirement, subject to minimum service conditions. It also acts as a safety net by offering pension benefits in cases of permanent disability or to the nominee/family after the employee's death. EPS ensures stable income support during old age, thereby reducing dependency and financial insecurity.

c. Insurance Scheme (EDLI)

The Employees' Deposit Linked Insurance (EDLI) Scheme provides life insurance coverage to employees at zero cost to them, as contributions are made only by the employer. In case of an employee's death during service, nominees or legal heirs receive a lump-sum insurance amount (subject to government-notified limits). This scheme plays a critical role for low-income workers whose families often lack private insurance, offering protection against financial hardship due to the sudden loss of the breadwinner.

Case: Marathwada Gramin Bank vs. EPFO (2011)

In this case, the Marathwada Gramin Bank disputed the calculation of Provident Fund (PF) contributions demanded by the Employees' Provident Fund Organisation (EPFO). The bank argued that PF should be calculated only on the basic wage, excluding certain allowances paid to employees. The EPFO, however, maintained that many of these allowances were paid regularly and uniformly to all employees, and therefore should be treated as part of the basic wage under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952. When the matter reached the Supreme Court, the Court examined the long-established principle that employers cannot artificially split wages into multiple allowance components just to reduce PF liability.

The Supreme Court ruled that any allowance that is paid universally, uniformly and across the board to all employees forms part of the "basic wage." Therefore, PF contribution must be calculated by including those allowances, not excluding them. The judgment became a crucial milestone because it prevented employers from lowering PF contributions by classifying regular payments as special allowances. The decision strengthened workers' financial security by ensuring that their provident fund accumulates on a fair and accurate wage base, reflecting the real earnings they receive each month.

2.1.4.4 Relevance to Nano Businesses

The Employees' Provident Fund (EPF) becomes highly relevant for nano businesses when they expand and move beyond their initial small-scale operations. Although tiny ventures such as home-based tailoring, micro bakeries, jewellery polishing units, carpentry workshops, or handicraft units may begin with only two or three helpers, growth often brings an increase in workforce strength. Once a nano business employs 20 or more workers, EPF registration becomes legally compulsory under the EPF & MP Act, 1952. This means the employer must begin contributing 12% of each worker's basic wage every month, matched by an equal contribution from the employee. Implementing EPF not only ensures compliance with labour laws but also enhances employee welfare by providing long-term financial security, retirement savings, and insurance benefits. It further improves the business's reputation, helps retain skilled workers, and builds trust, critical factors for small enterprises transitioning into formal, organised units.

Example:

A small nano tailoring unit that initially started with three helpers gradually expands due to increased customer demand and becomes a boutique employing 22 workers. At this stage, the owner is legally required to register for EPF, maintain wage records, and deposit the 12% employer contribution regularly. This ensures that all employees receive social security benefits as the business continues to grow.

2.1.5 Payment of Gratuity Act, 1972

The Payment of Gratuity Act, 1972 is a social security law in India that provides a financial benefit to employees as a token of appreciation for their long and continuous service. Gratuity becomes payable when an employee completes at least five years of service with an organisation, and it is given at the time of retirement, resignation, superannuation, or in case of death or permanent disability. The amount is calculated based on the employee's last drawn wages and the number of years of service, ensuring that workers receive a lump-sum financial support when they leave employment. The Act applies to factories, mines, plantations, shops, and other establishments with ten or more employees, and it ensures that employers set aside funds or manage gratuity payments responsibly.

For example, if an employee named Ravi works in a manufacturing company for 12 years and decides to retire, the company must pay him gratuity calculated using the formula prescribed by the Act. This payment serves as a financial cushion after his service ends. If Ravi unfortunately dies during service, his family becomes eligible to receive gratuity even if he has not completed five years. Through such provisions, the Act helps employees and their families maintain financial stability at critical moments, making it one of the most important worker welfare laws in India.

2.1.5.1 Objective

The main objective of gratuity is to reward an employee for long and dedicated service to an organisation. It acts as a financial acknowledgment of the employee's loyalty and continued contribution over several years. Gratuity is usually paid at the time of retirement, resignation, termination, or on the death of the employee. The purpose is to provide financial stability during the transition out of employment and to support the employee's life after active service. In many industries such as textiles, manufacturing, retail and small scale services, gratuity plays an important role in enhancing employee morale by assuring them that their long term commitment will be recognised. According to labour law textbooks such as PK Padhi's Labour and Industrial Laws, gratuity is considered an essential component of India's social security framework.

2.1.5.2 Eligibility

a. Completion of five years of continuous service

To be eligible for gratuity under the Payment of Gratuity Act, an employee must complete at least five years of continuous service. Continuous service includes not only the days worked but also periods of authorised leave, sickness, accident, or layoff. This requirement ensures that gratuity is earned only by those who have given sustained service to the organisation. However, in the case of death or disablement due to accident or disease, the five year condition is waived, and gratuity becomes payable immediately to the employee or their legal heir. This provision protects families from financial hardship during unexpected crises.

b. Working in an establishment employing ten or more persons

Gratuity becomes applicable only when an establishment employs ten or more workers in the preceding twelve months. This includes factories, shops, educational institutions, plantations, and even nano enterprises that gradually expand to become small scale units. Once the law becomes applicable, it continues to apply even if the number of employees later falls below ten. This rule ensures that workers in growing establishments receive the benefit, and the employer remains responsible for proper record keeping and timely payment. Standard labour law references such as SN Misra's Labour Laws explain that this threshold helps bring smaller enterprises into formal social security coverage as they expand.

2.1.5.3 Calculation of Gratuity

a. Formula for calculating gratuity

Gratuity is calculated using a standard formula that ensures fairness across different industries. The formula is: Gratuity equals last drawn monthly salary multiplied by fifteen multiplied by the number of years of service, divided by twenty six. The last drawn salary includes basic wage plus dearness allowance. Service exceeding six months is treated as one completed year for the purpose of gratuity calculation . The division by twenty six represents the average number of working days in a month as per the Act. This formula results in a reasonable lump sum amount that recognises the employee's total length of service.

Example of Gratuity calculation

Suppose an employee retires after twenty years of service, and the last drawn monthly salary including dearness allowance is twenty thousand rupees. Applying the formula gives Gratuity equals twenty thousand multiplied by fifteen multiplied by twenty divided by twenty six. This results in approximately two lakh thirty thousand rupees. Such a payment becomes a significant support for the employee's post retirement financial planning and is often used to meet family expenses, health needs, or savings.

Case: Delhi Cloth & General Mills Co. Ltd. vs. Workmen (1967)

In this landmark case, a dispute arose when employees of Delhi Cloth & General Mills claimed that they were entitled to gratuity after long years of service, while the management argued that gratuity was a form of generosity or voluntary payment. The matter reached the Supreme Court, which carefully examined the purpose and nature of gratuity under labour welfare principles. The Court observed that gratuity is not a gift or charity from the employer but a rightful benefit earned by the worker through years of continuous and dedicated service. It is meant to provide financial support after retirement or separation from employment, recognising the contribution an employee has made to the organisation.

The Supreme Court held that gratuity is a part of social welfare legislation and forms an essential component of an employee's post-service security. By declaring gratuity as a statutory right rather than an act of kindness, the Court ensured that employers cannot deny or reduce the benefit on arbitrary grounds. This judgment became a major turning point in labour law, strengthening the concept that welfare benefits like gratuity exist to protect workers and must be honoured by employers as a legal obligation.

2.1.5.4 Relevance to Nano Businesses

Gratuity becomes relevant for nano businesses when they gradually expand and cross the threshold of employing ten or more workers. Many nano enterprises such as embroidery units, tailoring workshops, candle making units, jewellery polishing units, small food processing units and carpentry workshops begin with only two or three helpers. Over time, as production increases and customer demand grows, these units may employ additional workers. Once the number reaches ten at any point during the preceding twelve months, gratuity automatically becomes applicable under the Payment of Gratuity Act. The employer must then maintain service records, calculate gratuity accurately, and ensure timely payment when an employee retires, resigns, or completes long term service. This requirement encourages nano entrepreneurs to adopt formal employment practices, which improves transparency, reduces labour disputes, and promotes worker loyalty. Labour law authors such as GK Kapoor and S Chand's Industrial and Labour Laws emphasise that adopting gratuity obligations early strengthens the trust between employer and workers, which is essential for the sustainable growth of small enterprises.

Example

A nano embroidery unit that initially employed only four workers steadily expanded due to increased market demand and eventually reached a workforce of twelve persons. One of the workers completed nine years of continuous service and decided to retire. At this stage, the employer is legally required to calculate and pay gratuity to the retiring worker as per the Payment of Gratuity Act, even though the unit started as a small home-based business.

2.1.6 Maternity Benefit (Amendment) Act, 2017

The Maternity Benefit (Amendment) Act, 2017 is a major update to India's maternity welfare law that aims to support working women during pregnancy and early motherhood. The amendment increased paid maternity leave from 12 weeks to 26 weeks for women working in establishments with 10 or more employees. This extended leave helps mothers take care of their health and newborns without losing income or job security. The Act also introduced paid leave for adoptive mothers (12 weeks for a child below three months) and commissioning mothers using surrogacy. Additionally, it allows women to request "work from home" after the maternity leave period, depending on the nature of their job and agreement with the employer.

Another important feature of the 2017 amendment is the requirement for establishments with 50 or more employees to provide crèche facilities. Women employees must be allowed to visit the crèche at least four times a day, including the lunch break. Employers must also inform all women at the time of appointment about maternity benefits available to them. By strengthening these provisions, the Act promotes gender equality, supports maternal and child health, and helps women balance work and family responsibilities more effectively in the modern workplace.

2.1.6.1 Objective

The objective of the Maternity Benefit Act is to safeguard the health, employment security and financial stability of women during pregnancy and the period following childbirth. Pregnancy often brings physical, emotional and financial challenges, and without legal protection, many women may face the risk of losing their jobs or being forced to take unpaid leave. The Act ensures that women do not suffer wage loss during maternity and are allowed sufficient time for recovery and childcare. It also prevents employers from dismissing or discriminating against a woman because of her pregnancy. Labour law authors such as SN Misra and PK Padhi emphasise that this legislation plays a crucial role in promoting gender equality in the workplace and enabling women to balance family responsibilities with professional life.

2.1.6.2 Key Features

1. Paid Maternity Leave

Paid maternity leave is one of the most important provisions under the Act. A woman employee is entitled to twenty-six weeks of fully paid leave for the birth of her first two children. This period includes pre-delivery and post-delivery leave, allowing her to rest, recover and take care of the newborn without financial stress. For the third child onwards, the entitlement is twelve weeks. It is mandatory to note that while the 2017 amendment increased leave to 26 weeks for the first two children, the entitlement remains restricted to 12 weeks for women having a third child or more. This distinction encourages early family planning while still ensuring that all mothers receive support. The leave can also be availed in cases such as miscarriages, medical termination of pregnancy and adoption of a young child. This provision ensures that women are not compelled to return to work prematurely, which could affect their health or the child's wellbeing.

2. Work from Home Option

The Act provides an option for women to work from home after the completion of maternity leave, depending on the nature of their job and the employer's approval. This flexibility is particularly useful in sectors such as information technology, design, data entry, online services and administrative jobs where remote work is feasible. Work from home allows women to continue contributing professionally while managing childcare responsibilities during the early months of motherhood. It also reduces career interruptions and helps employers retain skilled female employees. This provision reflects the modern workplace reality and acknowledges the growing use of technology in everyday business operations.

3. Crèche Facility

As per the Act, establishments employing fifty or more workers must provide a crèche facility within a suitable distance. This provision ensures that working mothers have a safe place to keep their young children during working hours. The crèche must be properly equipped, hygienic and staffed with trained caretakers. Mothers are allowed four visits to the crèche during the day, including the lunch break. This support system enables women to return to work after maternity leave without worrying about childcare arrangements. It enhances work life balance and contributes to higher participation of women in the labour market. Many labour law commentaries highlight that the crèche provision strengthens family friendly workplace policies and promotes gender inclusive economic growth.

Case: Neera Mathur vs. LIC (1992)

In this significant case, a woman named Neera Mathur applied for a position at the Life Insurance Corporation of India (LIC). During the recruitment process, LIC required her to fill out a medical form that included highly personal questions about her menstrual cycle, past pregnancies, miscarriages and whether she was pregnant at the time. After she joined the organisation, she applied for maternity leave, and LIC terminated her services on the ground that she had allegedly concealed facts about her pregnancy. Feeling wronged, she challenged the termination before the Supreme Court.

The Supreme Court held that asking intrusive questions about a woman's reproductive health during recruitment violates her privacy, dignity and constitutional rights. The Court observed that no employer has the right to demand such intimate details, as they have no connection with a woman's ability to perform her job. It further held that dismissing her for taking maternity leave amounted to gender discrimination, which is prohibited under labour laws and constitutional principles of equality. This judgment became an important milestone in protecting women workers from unfair treatment and established that workplaces must uphold respect, equality and non-discrimination for all women employees.

2.1.6.3 Relevance to Nano Businesses

1. Providing maternity benefits when employing ten or more workers

Nano businesses such as tailoring units, beauty service centres, home-based food processing units and small handicraft workshops often begin with a very small workforce. However, as the enterprise grows and reaches ten or more employees, the Maternity Benefit Act becomes applicable. This means the employer must provide legally mandated maternity benefits such as paid maternity leave, medical leave related to pregnancy and protection from dismissal during maternity. For a growing nano enterprise, complying with this requirement strengthens its move towards formal business practices. It also helps maintain a stable workforce because women workers feel secure knowing their health and job are protected during maternity.

2. Avoiding discrimination against pregnant workers

Even when nano businesses employ fewer than ten workers, ethical labour practices require that women should not face discrimination due to pregnancy. Many nano enterprises depend heavily on women's skilled labour, especially in stitching, embroidery, baking, packaging, jewellery work and beauty services. Discrimination such as reducing wages, denying work or terminating employment because of pregnancy, can affect morale and lead to high turnover. Treating pregnant workers with fairness fosters a positive work environment and enhances the business's reputation in the local community. Labour studies and gender equality guidelines highlight that non-discriminatory practices are crucial for sustainable small business growth.

3. Offering flexible work options whenever possible

Although small enterprises may not always have structured human resource systems, they can still offer flexible arrangements that support pregnant workers or new mothers. Flexibility can include allowing part time work, enabling work from home for tasks like stitching or packaging, or reducing physically demanding tasks. Such adjustments do not always require additional financial investment but show that the entrepreneur values the wellbeing of employees. These practices are especially important in nano businesses where the relationships between employer and workers are often personal and community based. Flexibility helps women balance family responsibilities while continuing to contribute to the enterprise's productivity.

Example

A nano bakery managed by a woman entrepreneur employs eight workers, most of whom assist with kneading dough, baking and packaging. One of the helpers becomes pregnant. Although the law does not make maternity benefits mandatory for establishments with fewer than ten workers, the entrepreneur voluntarily grants two months of paid leave to support her. This gesture strengthens trust, loyalty and long-term commitment among employees and creates a positive work culture. Such practices also reduce labour turnover and enhance the reputation of the business within the neighbourhood.

Recap

- ◊ ESI Act provides medical and cash benefits to employees during sickness, injury, maternity or disability.
- ◊ EPF Act ensures long-term financial savings through compulsory contributions from employers and employees.
- ◊ Gratuity Act supports workers with a lump-sum payment for long service or retirement.
- ◊ Maternity Benefit Act safeguards pregnant and new mothers by providing paid leave and workplace protection.
- ◊ Key Supreme Court cases clarify concepts like employment injury, basic wages, employee rights and gender equality.
- ◊ Labour welfare laws aim to reduce financial hardship and support employees during critical life situations.
- ◊ Legal provisions help maintain fairness, dignity and non-discrimination in the workplace.
- ◊ Social security measures protect employees in both public and private sectors.
- ◊ Employer obligations are clearly defined to prevent exploitation and ensure compliance.
- ◊ These laws contribute to a more humane and equitable labour environment in India.

Objective Questions

1. Which Act provides medical benefits to employees during sickness?
2. Who administers the EPF scheme?
3. Minimum service required to claim gratuity?
4. How many weeks of maternity leave are granted after the 2017 amendment?
5. Which body manages ESI hospitals and dispensaries?
6. What type of injury must be work-related under the ESI Act?
7. Which Act ensures lump-sum payment at retirement?
8. What is the full form of EPFO?
9. Which case declared gratuity as a social welfare right?
10. Which Act covers pension under the organised sector?
11. Which case clarified “employment injury” during travel?
12. What category of law do these welfare Acts fall under?

Answers

1. ESI Act
2. EPFO
3. Five years
4. Twenty-six weeks
5. ESIC
6. Employment injury
7. Gratuity Act
8. Employees’ Provident Fund Organisation
9. Delhi Cloth Mills case
10. EPF Act
11. Francis De Costa case
12. Social security laws

Self-Assessment Questions

1. Explain the objectives and employer liability of the Employees' Compensation Act, 1923.
2. Discuss the objectives of the Employees' State Insurance Act, 1948.
3. Explain the applicability of the Employees' State Insurance Act, 1948 and outline the benefits provided to insured employees.
4. Examine the provisions relating to provident fund contributions and administration under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
5. Explain the eligibility conditions, calculation, and payment of gratuity under the Payment of Gratuity Act, 1972.
6. Analyze the role of social security legislation in protecting employees in India, with reference to the Employees' Compensation Act and the Employees' State Insurance Act.
7. Critically evaluate the effectiveness of employee welfare legislation in India, with special reference to provident fund, gratuity, and maternity benefits.

Assignments

1. Explain the objectives and key provisions of the Employees' State Insurance Act, 1948.
2. Describe the importance of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, with suitable examples.
3. Discuss the features and purpose of the Payment of Gratuity Act, 1972.
4. Explain the major amendments introduced by the Maternity Benefit (Amendment) Act, 2017.
5. Analyse any two landmark Supreme Court cases related to labour welfare and explain their significance.
6. Visit any organisation and prepare a short report on how EPF and ESI are implemented for employees.
7. Collect information about gratuity eligibility and preparation of gratuity calculations for sample employee profiles.

8. Interview an HR manager to understand maternity leave practices and challenges in compliance.
9. Prepare a comparative chart of ESI, EPF, Gratuity and Maternity Benefit provisions.
10. Select a landmark labour law case and write a critical analysis of its impact on employee welfare in India.

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Unit 2

Trade Unions and Domestic Inquiry

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

◊ describe the meaning and purpose of trade unions within the Indian industrial relations framework.

◊ explain the legal provisions, rights, duties, and registration procedures of trade unions under the Trade Unions Act, 1926.

◊ comprehend the concept, stages, and principles of domestic inquiry, including the application of natural justice in disciplinary proceedings.

Prerequisite

Rohan joins a large automobile manufacturing plant straight out of college. At first, the job seems exciting, but soon he notices problems on the shop floor: long working hours, unsafe machine areas, and constant pressure to meet targets. When he raises these concerns individually, nothing changes. Later, Rohan learns that his co-workers had been facing similar issues for years, but they only began to see improvements when they collectively approached the management through their recognised trade union. Through the union, workers negotiated safer equipment, revised work schedules, and a platform to discuss grievances. This simple real-life example shows why trade unions exist, and they help workers speak in one unified voice and ensure that employment conditions remain fair and safe for everyone.

However, even a productive workplace can experience misconduct, misunderstandings, or conflicts. . Suppose one day Rohan is accused of violating safety rules after a technical malfunction on his machine. Instead of dismissing him immediately, the company conducts a domestic inquiry, an internal, fair procedure that allows Rohan to explain what happened, present evidence, and seek union support. This protects him from unfair punishment and ensures that decisions are based on facts, not assumptions. Together, these two ideas, trade unions and domestic inquiries, form the core of this unit. Students need a basic understanding of workplace relationships, employee rights, and organisational rules before exploring this content, as these concepts shape how modern industries maintain discipline, fairness, and harmonious labour relations.

Keywords

Trade union, collective bargaining, domestic inquiry, natural justice, disciplinary action

Discussion

2.2.1 Introduction

Trade unions have played a significant role in India's industrial relations system for more than a century. According to the Labour Ministry (2023), India has over 10,000 registered trade unions, although only around 5–10% of the workforce in the organised sector is unionised. In major public-sector enterprises, union participation is substantial and has historically influenced wages, working conditions, and social security protections. The Trade Union Act, 1926, was the earliest legislation providing legal status and registered identity to unions, enabling collective bargaining and dispute resolution. (reason to remove: The word "Indian" was removed by an amendment in 1964; the correct name is the "Trade Unions Act, 1926.)

On the other hand, *domestic inquiry* is the process through which employers investigate allegations of employee misconduct. It is an essential element of natural justice and mandatory under Indian labour jurisprudence. Several Supreme Court decisions, such as Workmen of Motipur Sugar Factory v. Motipur Sugar Factory (1965), emphasise that disciplinary action without a fair domestic inquiry is invalid. In an economy with rising employment disputes, domestic inquiry ensures fairness and minimises industrial conflict.

2.2.2 Trade Union

A trade union is an organised association of workers formed to safeguard and improve their working conditions, wages and overall welfare. It represents employees collectively so that they can negotiate more effectively with employers, especially in areas such as fair pay, safety standards, job security and reasonable working hours. In India, trade unions play an important role under the Trade Unions Act of 1926, as they help workers voice their concerns, resolve grievances and participate in decisions that affect their employment. Through collective bargaining, unions work to reduce the power imbalance between individual workers and large organisations, ensuring that workers are treated fairly and lawfully within the workplace.

For example, the All India Railwaymen's Federation has successfully negotiated better safety equipment and rest periods for railway track workers, who often work in risky environments. Similarly, during disputes at the Maruti Suzuki Manesar plant, workers formed a union to highlight issues such as contractual labour and unsafe conditions, which eventually led management to address several worker welfare concerns. These examples show how trade unions act as a support system for employees and help protect their rights in complex industrial settings.

2.2.2.1 Historical Background

1. First attempt to legally recognise Trade Unions in India

Before 1926, workers' associations existed in India, but they did not have any legal protection or recognised status. Employers often viewed early unions as unlawful combinations, and workers who participated in strikes or collective protests were sometimes punished under civil or criminal law. The Indian Trade Union Act of 1926 marked the first formal attempt to recognise these organisations legally. It acknowledged that workers needed a platform to voice their concerns and negotiate better working conditions. Textbooks on labour history, such as BP Wadia's writings on early labour movements, highlight that granting legal identity to unions laid the foundation for organised labour relations in India.

2. Influence of the British Trade Union Act of 1871

The Act was heavily inspired by the British Trade Union Act of 1871, which had already established the principle of giving trade unions a separate legal identity in Britain. The Indian government adapted those principles to suit local conditions. During the colonial period, many labour laws in India followed the British model because industrial relations practices were still developing. Scholars such as VV Giri and K. Ramaswamy note that the British Act influenced provisions related to registration, protection from civil suits and the overall structure of trade union regulation in India.

3. Recommendations of the Royal Commission on Labour, 1931

Although the Act was passed in 1926, its practical implementation gained further clarity after the Royal Commission on Labour issued its report in 1931. The Commission studied working conditions extensively across different industries, including textiles, railways and plantations. It recommended strengthening trade unions, improving their internal democratic functioning and ensuring that they were protected from unnecessary legal harassment. These recommendations helped refine the way the Act was implemented and shaped later amendments. Many labour law authors consider the Commission's report an important milestone in shaping modern industrial relations in India.

2.2.2.2 Objectives of the Act

1. Providing legal status to trade unions

One of the main objectives of the Act is to grant legal recognition to trade unions. Once registered, a trade union becomes a legal entity that can own property, sue or be sued and operate formally. This recognition protects unions from being viewed as illegal gatherings and gives legitimacy to workers' collective voice. Legal status also helps unions negotiate more confidently with employers.

2. Regulating registration and functioning

The Act lays down clear procedures for the registration of trade unions, including requirements for membership, submission of rules and maintenance of records. It also outlines how unions should manage their finances, handle elections and run their daily affairs in a transparent manner. By regulating their functioning, the Act ensures that unions operate democratically and responsibly. This prevents misuse of funds and protects the interests of workers who become members.

3. Protection from civil or criminal liability in legitimate union activities

A crucial objective of the Act is to protect trade union members from civil or criminal liability when they participate in legitimate trade union activities such as peaceful strikes, negotiations or collective bargaining. Without such protection, workers could be penalised for simply asserting their rights. The Act ensures that as long as unions act within legal boundaries, they cannot be sued for conspiracy or charged for activities done in furtherance of union objectives. This protection is essential for maintaining industrial democracy.

4. Promoting collective bargaining

Suggestion for improvement: While the Act provides legal status to unions, the right to collective bargaining is primarily established through judicial precedents, as the Act does not explicitly mandate employer recognition. Reason: The text later correctly admits the right is "not explicitly written in the Act". The initial phrasing creates a logical gap by implying the Act itself provides the "strength" or mandate to negotiate. Collective bargaining helps resolve disputes peacefully and maintains industrial harmony. It also ensures that power imbalances between individual workers and large employers are reduced. Labour relations books, such as those by C.B. Mamoria, emphasise that collective bargaining improves fairness in the workplace and enhances productivity by addressing worker grievances.

2.2.2.3 Key Definitions

Trade Union

A trade union is a combination of workers or employers formed to regulate industrial relations and collectively safeguard the interests of its members. These interests may relate to wages, working conditions, job security, welfare facilities or dispute resolution. Trade unions act as a bridge between management and employees by presenting grievances and negotiating solutions. Labour law scholars such as C.B. Mamoria and S.C. Srivastava explain that this definition ensures that unions are recognised not only as protest groups but as constructive institutions that contribute to orderly industrial relations.

Office bearer

An office bearer refers to any member of the executive committee of a trade union, except honorary members. These individuals are responsible for managing the affairs of the union, organising meetings, maintaining accounts, representing workers and implementing union decisions. Office bearers play a crucial role in ensuring that the union functions democratically and follows its rules and objectives. They also represent the union in negotiations with employers, government authorities or labour courts. The Act requires that at least half of the office bearers must be persons who are actually engaged in the industry concerned, ensuring that the leadership reflects the concerns of genuine workers.

2.2.2.4 Registration of Trade Unions

a. Requirements for Registration

1. Minimum of Seven Members to Apply

For a trade union to be formally registered under the Indian Trade Union Act, 1926, at least seven workers engaged in the same establishment or industry must jointly apply for registration. (suggestion for improvement: For a trade union to be formally registered, at least seven workers must apply; however, it must maintain a membership of at least 10% of the workmen or 100 workers (whichever is less), subject to a minimum of seven) Reason: While seven people can sign the application, Section 9A (2001) mandates a higher ongoing membership threshold (10% or 100) to remain registered.) This minimum number helps ensure that the union represents a genuine collective interest rather than an individual grievance. The requirement also prevents frivolous or unstable unions from being created. These seven members must sign the application and satisfy the Registrar that the group is serious, organised, and capable of sustaining union activities. Many authors, including Mamoria & Mamoria in *Dynamics of Industrial Relations*, highlight that this provision laid the foundation for credible labour associations in early industrial India.

2. Submission of Application to the Registrar

The application must be submitted to the Registrar of Trade Unions for the state in which the industry is located. As the statutory authority, the Registrar verifies all documents to ensure legal compliance before granting formal registration. The submission procedure also ensures administrative transparency, as the Registrar maintains a continuous record of registered unions.

3. Submission of the Name of the Union

The proposed trade union must specify a unique name in the application. The name cannot be identical or misleadingly similar to an existing registered union, as this may cause confusion among workers and employers. A distinctive name helps in building identity, establishing credibility, and avoiding legal disputes. According to S.C. Srivastava's *Industrial Relations and Labour Laws*, many early unions faced rejections due to name conflicts, prompting this clarity in the Act. The union name becomes part of the legal identity once registration is granted.

4. Submission of Rules and Objects

Every trade union must submit a copy of its rules and objectives, which serve as the constitutional framework guiding its operations. These rules typically include membership eligibility, subscription fees, powers and responsibilities of office-bearers, financial management guidelines, meeting procedures, and dispute resolution mechanisms. The Registrar examines whether the rules comply with mandatory requirements under Section 6 of the Act. Clearly defined objects ensure that the union operates for lawful industrial purposes such as improving working conditions, representing workers, or negotiating with employers, and avoids activities that could be considered unlawful or political.

5. Submission of Names and Details of Office-Bearers

The application must include a complete list of the office-bearers, such as the president, secretary, treasurer, and executive members. Their names, occupations, ages, and addresses must be provided. This ensures accountability and transparency in leadership. The Registrar verifies that office-bearers meet legal eligibility requirements such as the rule that at least half must be engaged or employed in the industry. Clear leadership details help employers recognise whom to negotiate with and allow workers to know who represents them officially.

6. Submission of Statement of Assets and Liabilities

A trade union must submit a **statement of its assets and liabilities** at the time of registration. This financial disclosure promotes transparency and trust, ensuring that members' contributions are handled responsibly. The Registrar examines whether the union has submitted a statement of assets and liabilities as required for administrative transparency . (reason to remove : The Registrar's role is administrative. Under the Act, they cannot deny registration based on a subjective assessment of "financial stability"; they only verify that the financial statement has been provided.) This requirement prevents fraudulent unions or mismanagement practices, thereby safeguarding workers' interests. Texts such as P.L. Malik's *Handbook of Labour and Industrial Law* emphasise that financial integrity is crucial for credible union functioning.

b. Certificate of registration

Once the Registrar is satisfied that the application meets all legal requirements, a certificate of registration is issued to the trade union. This certificate gives the union a distinct legal identity and marks its formal recognition under the Act. After registration, the union can acquire and hold property, enter into contracts, open bank accounts and sue or be sued in its own name. It also becomes eligible for protections provided under the Act, such as immunity from civil or criminal proceedings for legitimate trade union activities. The granting of a certificate helps the union function more effectively as an organised body capable of negotiating and safeguarding the interests of its members.

2.2.3.5 Rights and Privileges of Registered Unions

1. Immunity from Civil Suits

Under Section 18 of the Indian Trade Union Act, 1926, registered trade unions enjoy immunity from civil suits for actions undertaken "in contemplation or furtherance of a trade dispute." This means that unions cannot be held liable in civil courts for activities such as organising strikes, persuading workers to withhold labour, or peacefully picketing, as long as these actions are lawful and aimed at protecting workers' interests. This immunity is crucial because it shields union leaders and members from retaliatory lawsuits by employers, a common tactic used in early industrial India to weaken labour movements. Authors like S.C. Srivastava note that this provision strengthened collective resistance and provided unions with operational freedom to negotiate better wages and working conditions.

2. Immunity from Criminal Conspiracy Charges

Suggestion for improvement: Section 17 of the Act protects trade union members from criminal conspiracy charges specifically for agreements made to further the lawful objects of the union as defined in Section 15. Reason: Immunity is not for *any* collective decision, but only for those that further the specific "objects" listed in the Act. Furthermore, this protection only applies to registered unions Before the Act, employers often accused union leaders of criminal conspiracy for organising strikes or coordinating collective action. This immunity acknowledges the legitimacy of workers acting together to protect their rights. It does not, however, protect acts involving violence or coercion; only lawful trade union activities are covered. Labour law scholars such as P.L. Malik explain that this provision was necessary to prevent the misuse of criminal law against emerging labour organisations during colonial times.

3. Right to Collective Bargaining

Registered trade unions have the recognised right to collectively bargain with employers on behalf of workers. Although not explicitly written in the Act, Indian courts have consistently held collective bargaining to be an essential and implied function of registered unions. Through collective bargaining, unions negotiate terms of employment, wage revisions, safety conditions, working hours, and dispute settlement procedures. The right strengthens the workers' bargaining power, which is otherwise limited at an individual level. Famous cases such as the Tata Iron and Steel Co. case emphasise the importance of collective negotiation in maintaining industrial harmony and reducing conflict.

4. Legal Status to Acquire Property, Sue, and Be Sued

Upon registration, a trade union becomes a body corporate, meaning it acquires a distinct legal identity separate from its members. This status allows the union to own property, operate bank accounts, enter into contracts, and manage funds in its own name. Additionally, it gains the legal capacity to file suits and be sued, ensuring accountability and legal recognition. This provision professionalised trade unions, allowing them to function like formal institutions rather than informal worker groups. According to B. R. Patil's writings on Industrial Relations, this corporate status significantly improved transparency and stability in union functioning.

2.2.2.6 Duties of Trade Unions

1. Maintain Proper Accounts

A registered trade union must maintain accurate and updated financial accounts, including details of membership fees, donations, expenditures, and assets. Maintaining accurate financial records ensures that members' contributions are used appropriately and allows the Registrar to verify statutory compliance, thereby strengthening organizational trust . Proper accounting also strengthens trust among members and enhances organisational credibility. Annual audits, where required, guarantee that funds serve lawful and approved trade union objectives such as welfare activities, training, or negotiation expenses.

2. Submit Annual Reports

Every registered union is required to submit an annual return to the Registrar of Trade Unions, containing audited financial statements, membership data, changes in office-bearers, and activities conducted. This statutory duty enables government authorities to monitor the functioning of unions and ensure democratic and financial discipline. Annual reporting also promotes organisational transparency and prevents the emergence of inactive or paper unions. Non-submission can attract penalties or even cancellation of registration.

3. Conduct Regular Elections

To ensure democratic leadership, unions must conduct periodic elections for office-bearer positions such as president, secretary, and executive members. Elections ensure accountability and prevent the concentration of power in a single individual or group. Democratic functioning also enhances worker participation, encourages leadership development, and strengthens the union's legitimacy during collective bargaining. Many labour texts emphasise elections as the cornerstone of healthy union culture.

4. Ensure Democratic Functioning

Beyond elections, trade unions must operate on democratic principles in decision-making, financial usage, conflict resolution, and representation. This includes conducting general body meetings, allowing members to vote on major issues, and presenting annual reports openly. A democratic structure helps protect the interests of all members rather than favouring a few leaders. It also reduces the chances of corruption, factionalism, and political manipulation.

5. Avoid Political Misuse

Trade unions must avoid being misused for political propaganda or activities unrelated to workers' welfare. Although unions may express policy concerns, their primary focus should remain on labour issues such as wages, safety, or working conditions. Excessive political involvement may weaken the union's credibility, divide workers, and distract from core objectives. Labour law experts emphasise that the Act was designed to encourage industrial harmony, not political mobilisation through unions.

2.2.2.7 Penalties

1. Fines for Non-Submission of Returns

If a registered trade union fails to file annual returns, audited accounts, or required statements, the Registrar may impose fines on the union or responsible office-bearers. These fines are intended to enforce compliance and maintain transparent operations. Persistent failure to submit returns may even lead to stricter action. Scholars point out that this penalty ensures financial discipline and prevents inactive or fraudulent unions from misusing registration benefits.

2. Cancellation of Registration

A union's registration may be cancelled if it engages in fraudulent practices, pursues illegal objects, operates contrary to its registered rules, or fails to comply with statutory duties. The Registrar usually provides notice before cancellation, allowing the union to justify or correct its actions. Cancellation results in the loss of all privileges, including immunity from civil or criminal liability and the right to collective bargaining. This measure safeguards the integrity of the trade union system and protects workers from corrupt or politically motivated groups.

2.2.2.8 Role of Trade Unions in Modern India

1. Negotiating Wages and Bonuses

In modern India, one of the most important roles of trade unions is negotiating fair wages, bonuses, and other financial incentives on behalf of workers. With rising living costs and increased expectations for a decent standard of living, wage negotiations have become a central part of industrial relations. Trade unions engage in collective bargaining to ensure that salaries reflect skills, workload, productivity, and market conditions. They also negotiate performance-based bonuses, festival bonuses, and arrears during wage revisions. These negotiations help prevent exploitation and ensure that workers receive compensation aligned with economic realities. Well-known unions in public sector industries like steel, coal, and banking actively negotiate wage settlements that influence pay structures across the nation.

2. Ensuring Health and Safety

Trade unions play a crucial role in improving workplace health and safety standards, especially in hazardous sectors such as mining, construction, manufacturing, and transportation. They monitor whether employers comply with legal requirements such as protective equipment, safe machinery, ventilation, and emergency arrangements. Unions also organise safety committees, conduct awareness programmes, and encourage workers to report unsafe conditions without fear. After several industrial tragedies in India, including chemical leaks and factory fires, unions have become strong advocates for safety audits and stricter implementation of the Factories Act. Their interventions have significantly reduced accidents and improved health protections for workers.

3. Representing Employees in Domestic Inquiries

When a worker faces disciplinary action such as charges of misconduct, absenteeism, or violation of company rules, trade unions act as representatives in domestic inquiries. Indian labour law requires that disciplinary hearings remain fair and transparent, and unions ensure that workers are not victimised or unfairly punished. They assist employees by presenting evidence, cross-examining witnesses, and ensuring compliance with principles of natural justice. This protective role is especially important for unskilled or semi-skilled workers who may not understand legal procedures. Union representation reduces the power imbalance between employers and workers and promotes justice within organisations.

4. Promoting Social Security

Trade unions actively promote awareness and enrolment in social security schemes such as Provident Fund, Employees' State Insurance, gratuity, pension, and insurance benefits. Many workers, especially in small and medium enterprises, may not fully understand their entitlements. Unions help them navigate registration processes, solve disputes related to PF withdrawals or ESI claims, and ensure that employers do not delay contributions. In recent years, unions have also encouraged the inclusion of informal workers in emerging social protection schemes. Their efforts support long-term financial security for employees and their families, especially during illness, unemployment, retirement, or emergencies.

5. Participating in Tripartite Bodies

Trade unions in modern India participate actively in national and state-level tripartite bodies, which include representatives from the government, employers, and workers.

These bodies, such as the Indian Labour Conference and Wage Boards, help shape labour laws, wage policies, and social welfare programmes. Through participation, unions ensure that workers' perspectives influence national decision-making. They also contribute to discussions on skill development, labour reforms, working conditions, migrant labour issues, and women's safety. This partnership strengthens democracy in industrial relations and allows labour policies to evolve in response to changing economic conditions.

Case Example: Maruti Suzuki Manesar Plant (2012)

The labour unrest at the Maruti Suzuki Manesar plant in July 2012 is one of the most widely studied cases in Indian industrial relations. Workers at the plant had been demanding the recognition of a new independent union, better working conditions, and an end to the widespread use of temporary and contract workers who performed the same tasks as permanent employees but received significantly lower wages. Complaints about excessive production targets, limited meal breaks, and inadequate safety measures had been raised repeatedly, but negotiations between workers and management did not progress. Tensions increased when disciplinary action was taken against a worker, which many employees perceived as unfair. This incident triggered a larger conflict, leading to a violent confrontation inside the plant, resulting in the death of an HR manager and injuries to several employees. Production halted for weeks, and nearly 500 workers were arrested during the subsequent investigation.

This case illustrates how the absence of an effective grievance-handling mechanism and the refusal to fully recognise the workers' union created frustration among employees. The lack of structured dialogue and collective bargaining platforms prevented the peaceful resolution of issues, allowing disputes to intensify over time. The Maruti Suzuki unrest is now often cited in academic texts and government reports as an example of how weak industrial relations practices and inadequate union–management communication can escalate into significant industrial unrest.

2.2.3 Domestic Inquiry

A domestic inquiry refers to an internal fact-finding investigation carried out by an employer when an employee is accused of misconduct, such as absenteeism, insubordination, theft, harassment, or violation of company rules. It is a formal mechanism used to determine whether the allegations are true and whether disciplinary action is justified. A domestic inquiry is essential to uphold fairness and transparency, protect employee rights, and ensure that the employer's decision withstands legal scrutiny if challenged in a labour court or tribunal. The procedure is governed by the principles of natural justice and emphasises impartiality, proper documentation, and reasoned decision-making.

2.2.3.1 Key Objectives

1. To Provide the Employee a Fair Opportunity to Defend

A major objective of a domestic inquiry is to ensure that the employee accused of misconduct is given a genuine and reasonable opportunity to defend themselves. This includes informing the employee of the charges in writing, allowing them time to prepare their response, permitting representation by a union or co-worker, and giving them the chance to present evidence or witnesses. This reflects the foundational principle of natural justice, *audi alteram partem*, meaning "let the other side be heard." Courts in India have repeatedly held that no disciplinary action is valid unless the employee is heard fairly. This safeguards employees from arbitrary or biased decisions.

2. To Establish Truth Through Evidence

The process aims to uncover the truth by collecting and evaluating relevant evidence. During the inquiry, documents, attendance records, CCTV footage, emails, witness statements, and other forms of proof are examined impartially. The inquiry officer ensures that evidence is presented in a systematic manner so that the decision is based on facts rather than assumptions or personal opinions. This objective strengthens the credibility of the process, as it helps distinguish genuine cases of misconduct from misunderstandings or false allegations. By basing conclusions on verifiable evidence, the inquiry ensures fairness and accountability.

3. To Ensure Disciplinary Actions Are Legally Sustainable

A well-conducted domestic inquiry ensures that any disciplinary action taken—whether a warning, suspension, demotion, or dismissal can withstand legal scrutiny if the employee challenges it in a labour court or tribunal. Courts typically examine whether procedures were followed correctly, whether the employee was given a fair hearing, and whether the inquiry officer acted impartially. If the inquiry is faulty, termination orders can be reversed, and employers may face reinstatement orders or compensation directives. Therefore, conducting the inquiry properly helps employers avoid legal complications and ensures that disciplinary measures rest on solid procedural foundations.

4. To Protect Both Employer and Employee Interests

The Domestic Inquiries Act is a balanced mechanism that protects the interests of both employers and employees. For employers, it provides a structured method to address misconduct without exposing the organisation to legal or reputational risks. For employees, it prevents unfair treatment, victimisation, or hasty punishment. By promoting transparency and mutual trust, domestic inquiries contribute to a healthy organisational climate where disciplinary systems are respected and followed. Scholars such as C.B. Mamoria also highlight that such inquiries strengthen industrial harmony by reducing conflict between management and labour.

2.2.3.2 Principles of Natural Justice in Domestic Inquiry

1. Nemo Judex in Causa Sua (No one should be a judge in their own cause)

This principle ensures that the domestic inquiry is conducted by an inquiry officer who is impartial and free from bias. The person appointed to investigate should have no personal interest in the outcome and no prior involvement in the incident or conflict. For example, a supervisor who had previous disputes with the accused employee should not act as the inquiry officer, as this may lead to prejudice. Courts in India, including labour tribunals, have repeatedly emphasised that even the possibility of bias makes an inquiry invalid. This principle upholds fairness and strengthens confidence in the disciplinary process, preventing misuse of power and establishing transparency.

2. Audi Alteram Partem (Hear the other side)

This principle of natural justice ensures that no employee is punished without being given a full and fair opportunity to present their side of the story. It forms the backbone of a legally valid domestic inquiry. The following components explain how this principle is implemented.

a. Written Charges

The first requirement under this principle is that the employee must receive a written statement of charges. This charge sheet must clearly specify the allegations, date and nature of misconduct, and relevant rules violated. Written communication ensures that there is no confusion about what the employee is being accused of. It also prevents the employer from adding new allegations later without proper notice. Labour law experts such as P.L. Malik emphasise that the charge sheet serves as the formal foundation for the inquiry and protects the employee from vague or arbitrary accusations.

b. Adequate Time to Respond

The employee must be given reasonable time to analyse the charges and prepare their defence. Adequate time varies depending on the complexity of the case, but it generally includes days to collect documents, consult co-workers or union representatives, and prepare a written explanation. Failure to provide sufficient time can invalidate the inquiry because it denies the employee a fair opportunity to participate. Courts have repeatedly held that rushed inquiries violate natural justice, as employees may be unable to gather evidence or properly articulate their defence.

c. Permission to Present Witnesses

The principle also allows the employee to bring witnesses who can support their version of events. These may include co-workers, supervisors, or any person with relevant knowledge about the incident. Allowing witnesses ensures that the inquiry captures all perspectives rather than relying solely on the employer's evidence. Presenting witnesses helps uncover the truth and prevents one-sided conclusions. This right ensures balance in the inquiry process and strengthens the legitimacy of the final decision.

d. Right to Cross-Examine Witnesses

Cross-examination is a crucial safeguard enabling the employee or their representative to test the credibility of the employer's witnesses and expose inconsistencies Labour courts consistently state that denying cross-examination is a serious violation of natural justice. This right ensures transparency and confirms that the decision is based on reliable evidence rather than unchallenged claims.

3. Reasoned Decision

A domestic inquiry must conclude with a well-reasoned and clearly written decision based entirely on the evidence presented during the proceedings. The inquiry officer should record findings that logically link the facts, testimonies, and documents to the final conclusion. This prevents arbitrary or subjective decisions, ensuring procedural transparency and legal validity . A reasoned decision also serves as an important document if the case is later reviewed by a labour court or tribunal. It shows that the employer acted fairly, followed due procedure, and based conclusions on objective evidence rather than personal assumptions. Properly recorded reasoning helps maintain trust between the employer and employees and reinforces the credibility of the inquiry.

2.2.3.3 Stages of Domestic Inquiry

1. Issue of Charge-Sheet

The first stage of a domestic inquiry is the issue of a charge-sheet, which formally informs the employee about the allegations of misconduct. The charge-sheet must clearly mention the nature of the misconduct, the date and time of the incident, the circumstances involved, and the specific rules or standing orders that were violated. This written document acts as the foundation of the inquiry and ensures transparency. It prevents the employer from making vague accusations and gives the employee clarity about what they must respond to. According to labour law scholars like S.N. Mishra, a valid charge-sheet is essential for a fair inquiry, because any disciplinary action taken without it can be struck down by labour courts for violating natural justice.

2. Appointment of Inquiry Officer

Once the charge-sheet is issued, the employer appoints a neutral and unbiased inquiry officer to conduct the investigation. This officer may be a senior manager, an HR professional, or an external expert such as a retired judge or labour consultant. It is crucial that the person appointed has no personal involvement or prior conflict with the employee, as even the possibility of bias can invalidate the entire inquiry. The inquiry officer's responsibility is to ensure fairness, maintain order during proceedings, and evaluate evidence objectively. Authors like P.L. Malik emphasise that impartiality at this stage preserves organisational justice and protects both the employer and employee from unfair outcomes.

3. Conduct of Inquiry

The actual inquiry is the most detailed stage, involving presentation of evidence, examination of witnesses, cross-examination, and submission of relevant documents and written statements by both the employer and the employee. Proceedings are usually held in the presence of the inquiry officer, the presenting officer (representing management), the employee, and sometimes the employee's representative or union member. This stage follows strict procedures to ensure natural justice. The employee can challenge evidence, question witnesses, and submit their own material. This phase is crucial because labour courts later examine whether the inquiry was conducted fairly and whether both parties were given equal opportunity to present their case.

4. Inquiry Report

After evaluating all documents, oral statements, witness testimonies, and cross-examinations, the inquiry officer prepares a written inquiry report. The report must clearly state whether each charge is proved, partially proved, or not proved. It should also explain the reasoning based on evidence, ensuring that the findings are not arbitrary. While inquiry officers may give recommendations regarding punishment, it is not mandatory. The primary purpose of the report is to provide a transparent and objective assessment of the case. In many industrial law judgments, courts have emphasised the importance of a reasoned inquiry report as it becomes a crucial legal document if the case is later challenged.

5. Decision by Disciplinary Authority

The final stage involves the disciplinary authority, usually a senior manager or employer, reviewing the inquiry report and deciding the appropriate action. The authority must consider the gravity of misconduct, past behaviour of the employee, and organisational rules before determining punishment. Actions may range from a warning or suspension to demotion or dismissal, depending on the severity of the proven charges. The decision must not be harsher than the misconduct warrants, as disproportionate punishment can be challenged in a labour court. This stage ensures that disciplinary measures are not only legally valid but also just and reasonable.

2.2.3.4 Case Laws on Domestic Inquiry

1. Motipur Sugar Factory Case (1965): Inquiry as a Mandatory Requirement

In the *Motipur Sugar Factory vs. State of Bihar (1965)* case, the Supreme Court clarified that a proper domestic inquiry is a mandatory procedural safeguard before an employer can dismiss or discharge an employee. The Court held that even when an employer believes that the misconduct is serious, the principles of natural justice cannot be ignored. The only narrow exception is in rare situations where the misconduct is so grave and obvious (for example, being caught red-handed in theft) that holding an inquiry becomes impractical. The ruling strengthened employee rights by ensuring that employers cannot use "severity of misconduct" as a routine excuse to bypass fair procedure. This judgment continues to guide disciplinary proceedings in Indian workplaces, especially in public sector organisations where adherence to natural justice is strictly monitored.

2. Delhi Cloth & General Mills v. Ludh Budh Singh (1972): Importance of Cross-Examination

In *Delhi Cloth & General Mills Co. Ltd. v. Ludh Budh Singh (1972)*, the Supreme Court emphasised that cross-examination of witnesses is an essential component of natural justice in domestic inquiries. The Court held that an employee must be given a meaningful opportunity to challenge the evidence presented against him. If management witnesses testify about the alleged misconduct, the employee must be allowed to cross-examine them, clarify contradictions, and present counter-evidence. The judgment also highlighted that even if the inquiry appears formal or non-judicial, fairness requires that the accused worker has the chance to defend himself effectively. Failure to allow cross-examination renders the entire inquiry invalid. This case remains a landmark precedent in ensuring transparency and fairness in disciplinary proceedings within Indian organisations.

3. Sur Enamel & Stamping Works Case (1963): Bias Invalidates the Inquiry

In the *Sur Enamel & Stamping Works Ltd. v. Their Workmen (1963)* case, the Supreme Court focused on the requirement of impartiality in domestic inquiries. The Court ruled that if the inquiry officer shows bias or has a conflict of interest, such as acting under pressure from management or having preconceived opinions, the entire inquiry becomes vitiated. Even if proper procedures are followed, the presence of bias destroys the credibility of the process. The Court stressed that the inquiry officer must maintain neutrality, evaluate evidence objectively, and avoid any behaviour that creates a "reasonable apprehension of bias" in the mind of the employee. This case strengthened the principle that justice must not only be done but must also appear to be done.

Recap

- ◊ Trade unions safeguard workers' rights and negotiate wages and working conditions.
- ◊ The Trade Unions Act, 1926 provides legal recognition, registration rules, and protections for unions.
- ◊ Registered unions enjoy rights such as immunity from civil suits, collective bargaining, and legal identity.
- ◊ Domestic inquiry ensures fair investigation of employee misconduct within organisations.

- ◊ Principles of natural justice guide inquiries through impartiality, opportunity to be heard, and reasoned decisions.
- ◊ Stages of domestic inquiry include issuing a charge-sheet, appointing an inquiry officer, conducting inquiry, report preparation, and disciplinary decision.
- ◊ Courts consistently protect employee rights by insisting on fair procedures and unbiased inquiries.
- ◊ Case laws such as Motipur Sugar Factory, Ludh Budh Singh, and Sur Enamel highlight essential safeguards.
- ◊ The Maruti Suzuki Manesar case demonstrates how lack of recognition ad communication can escalate into serious industrial unrest.

Objective Questions

1. Which Act governs trade unions in India?
2. How many members are needed to register a trade union?
3. What principle means "hear the other side"?
4. What document begins a domestic inquiry?
5. Who appoints the inquiry officer?
6. Which case stressed the importance of cross-examination?
7. What does a registered union receive as proof of legal status?
8. Which year saw the Maruti Suzuki Manesar unrest?
9. What is the final stage of a domestic inquiry?
10. Who prepares the inquiry report?
11. Which principle prevents a biased officer from conducting inquiry?
12. What is the core process of negotiation by unions with management?

Answers

1. Trade Unions Act 1926
2. Seven members
3. Audi alteram partem
4. Charge-sheet
5. Disciplinary authority
6. Ludh Budh Singh case
7. Certificate of registration
8. 2012
9. Disciplinary decision
10. Inquiry officer
11. Nemo judex principle
12. Collective bargaining

Self-Assessment Questions

1. Explain the main objectives and provisions of the Trade Unions Act, 1926.
2. Describe the concept and importance of domestic inquiry in industrial relations.
3. Describe the objectives and stages of domestic inquiry in industrial establishments
4. Discuss the process of registration of trade unions under the Indian Trade Union Act, 1926, along with the rights and privileges of registered trade unions.
5. Explain the penalties of trade unions under the Indian Trade Union Act, 1926.
6. Critically analyze the role of trade unions in protecting workers' rights in India, with reference to the provisions of the Indian Trade Union Act, 1926.

Assignments

1. Discuss the rights and duties of registered trade unions with suitable examples.
2. Explain the key principles of natural justice applied in domestic inquiries.
3. Analyse the Maruti Suzuki Manesar 2012 incident and its lessons for industrial relations.
4. Prepare a detailed report on the role of trade unions in a public sector organisation of your choice.
5. Draft a model charge-sheet for a hypothetical case of employee misconduct in an organisation.
6. Conduct an interview with a union representative or HR manager and document their views on domestic inquiries.
7. Prepare a flow chart representing all stages of a domestic inquiry and explain each stage briefly.
8. Choose one major Supreme Court judgement related to domestic inquiry and write a critical review of its significance.

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BLOCK 03

Labour Codes
(Recent Development)

Unit 1

Code 1 and Code 2

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

◊ explain the objectives, coverage, and key provisions of the Code on Wages, 2019 (Code 1) and the Industrial Relations Code, 2020.

◊ describe the objectives, coverage, and key provisions of the Industrial Relations Code, 2020 (Code 2)

Prerequisite

On a Monday morning in a small metal-fabrication workshop in Coimbatore, the owner, Ramesh, received a sudden visit from the labour inspector. His workshop had only 12 workers, all experienced, but none had formal safety training. A few machines lacked proper guards, and the team often worked beyond eight hours during peak orders. The inspector pointed out that, under the Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020, even small establishments must follow essential safety measures, clean ventilation, first-aid, protective equipment, and proper working hours. Ramesh realised that a simple oversight, like not providing safety goggles or maintaining digital registers, could lead to costly penalties or accidents that might shut down his business entirely.

For many young entrepreneurs and future managers, this reality is common. Whether it is a start-up office in Bengaluru, a logistics godown in Kochi, or a small textile unit in Tiruppur, every workplace carries chemical, physical, environmental, or operational risks. The Labour Codes collectively equip managers with frameworks governing wages, industrial relations, social security, and occupational safety . Understanding this Code is not merely a legal requirement for learners, it is the foundation for building responsible, productive, and people-centric organisations.

Keywords

Occupational Safety, Health Standards, Working Conditions, Inspector-cum-Facilitator, Contract Labour

Discussion

3.1.1 Introduction

A small garment-stitching unit in Tiruppur employs eight workers. The owner spends more time dealing with compliance obligations than managing his core business. He must maintain multiple registers for wages, overtime, attendance, bonuses, safety instructions, holidays, and leave. Each inspector asks for different formats. Many of the laws use technical language, refer to outdated provisions, and sometimes contradict each other. For a micro-enterprise like this, which barely earns enough to cover monthly rent and staff salaries, tracking 10–12 different labour laws can be overwhelming. The result is confusion, fear of non-compliance, unnecessary penalties, and loss of business efficiency.

This scenario mirrors what the Indian labour ecosystem looked like for decades: fragmented laws, overlapping definitions (such as "wages," "worker," "contractor"), and multiple authorities demanding separate filings. India historically operated under more than 29 central labour laws, many of which were enacted during the colonial period and had undergone piecemeal amendments. As industries modernised and MSMEs became the backbone of the economy, these laws became difficult to administer uniformly.

To address these challenges, the Government of India undertook one of the biggest labour reforms in independent India by consolidating the 29 laws into four comprehensive Labour Codes between 2019–2020. These are:

1. Code on Wages (2019) (Code 1)
2. Code on Industrial Relations (2020) (Code 2)
3. Code on Social Security (2020) (Code 3)
4. Code on Occupational Safety, Health and Working Conditions (2020) (Code 4)

3.1.2 Code on Wages, 2019 (Code 1)

The Code on Wages, 2019 is one of the four major labour codes introduced by the Government of India to simplify and modernise the country's labour regulations. Before this reform, wage-related matters were governed by separate laws. These laws often created confusion because they used different definitions for terms such as wages, employees and establishments. Compliance was especially difficult for small and nano scale businesses that did not have full-time administrative staff. The Code on Wages introduces a uniform definition of wages and a consolidated framework applicable to most employees across sectors, subject to notified conditions and exclusions.

Official labour and MSME data indicate that the majority of Indian establishments fall within the micro and small enterprise category . These units often face challenges in maintaining registers, filing multiple returns and understanding overlapping legal provisions. The Code on Wages aims to remove these difficulties by creating a simple and common framework applicable throughout India.

To address fragmentation and administrative overlap, the Code consolidates four major central wage-related legislations . Each of these earlier laws played a key role in protecting workers, but having them separately led to administrative complexity. The Code brings them under a single umbrella.

3.1.2.1 Consolidated Laws under the Code

The Code consolidates four central laws:

1. **Minimum Wages Act of 1948 :** The Minimum Wages Act, 1948 provided statutory wage protection to workers in scheduled employments, which has now been expanded universally under the Code . It empowered the central and state governments to fix minimum wage rates for different occupations. Although it provided protection, the Act applied only to specific scheduled industries. The Code expands this protection by applying the concept of minimum wages to all types of employees. This ensures a wider and more inclusive wage security system.

2. **Payment of Wages Act of 1936 :** The Payment of Wages Act 1936 dealt with the timely payment of wages and limited the types of deductions that employers could make. Earlier, this Act applied only to workers earning below a notified wage ceiling. Under the Code on Wages, this restriction is removed. All employees, irrespective of their salary bracket, are now entitled to timely wage payment and transparency in deductions.

3. **Payment of Bonus Act of 1965 :** This Act focused on providing annual bonuses to employees based on profit sharing or productivity. The bonus system continues under the Code, but the procedural requirements are simplified. The Code aims to make bonus payments more transparent and easier for both employers and employees to understand. It also ensures the continuation of statutory bonus rights for eligible workers.

4. **Equal Remuneration Act of 1976 :** The Equal Remuneration Act 1976 prohibited discrimination in wage payment between men and women who perform similar work. Under the Code, this principle is retained and strengthened. The Code places a clear statutory responsibility on employers to ensure that male and female employees receive equal wages for the same or similar work. This protection becomes more comprehensive as it is now part of a centralised wage framework applicable to all establishments.

3.1.2.2 Applicability of the Code 1

The Code applies to all employees and all types of establishments. This includes large corporations, medium enterprises and, importantly, nano businesses. Nano businesses include small food stalls, home-based bakeries, tailoring and embroidery units, boutiques, beauty care units, micro workshops, mobile repair shops and other one person or two person enterprises. These small units, which form the backbone of India's informal economy, often struggled with multiple legal requirements. By introducing one uniform wage code, the government aims to simplify compliance and improve wage protection even for the smallest establishments.

For illustrative purposes, consider the following compliance scenario . A small tailoring shop employing two helpers previously had to check whether each of the old wage related Acts applied to them. They had to maintain separate registers and follow different rules for minimum wages, timely payment and equal wages. After the introduction of the Code on Wages, the owner follows one unified set of rules. This reduces paperwork, saves time and ensures that the workers receive fair and timely wages.

Large companies have also welcomed this simplified structure. For example, Tata Steel has publicly noted in its labour compliance reports that uniform definitions and standardised wage rules help reduce ambiguity in implementation across multiple states. Such uniformity is especially helpful for organisations operating across several regions of the country.

3.1.2.3 Objectives of the Code 1

1. **Provide a uniform wage system across India :** The primary objective of the Code on Wages is to establish uniformity in wage regulation across states and industries . In the past, employers had to comply with several different wage related laws such as the Minimum Wages Act of 1948, the Payment of Wages Act of 1936, the Payment of Bonus Act of 1965 and the Equal Remuneration Act of 1976. These laws often had overlapping provisions and different definitions for concepts like wages, employee and employer. This made compliance difficult, especially for small units that lacked legal expertise. By introducing a single definition of wages and a consistent framework for salary components, the Code creates uniformity. This allows both public and private sector organisations to follow the same method of calculating wages. For instance, the Ministry of Labour and Employment noted that earlier different states had varying rules on wage periods and deductions. A unified wage system reduces confusion and helps create a transparent labour market.

2. **Ensure timely payment of wages to all workers :** The Code seeks to end delays in salary payments, which have been a persistent issue, particularly in informal and unorganised sectors. The earlier Payment of Wages Act applied only to workers earning below a certain threshold. Under the Code, every

employee regardless of wage level is entitled to timely payment. Employers must pay wages within a fixed time period which is generally before the seventh day of the subsequent month for monthly rated workers. This provision ensures that employees can plan expenses, repay loans on time and maintain financial stability. Delayed wage payments are widely recognised as a contributor to household financial stress, particularly among low-income workers . The Code attempts to reduce such distress by creating strict timelines and legal consequences for non-compliance.

3. **Guarantee a minimum wage floor nationally :** Another key objective is the establishment of a national minimum wage floor. Earlier the minimum wage varied widely from state to state. A study by the International Labour Organisation found that there were more than one thousand five hundred different minimum wage rates in India across occupations and geographical zones. This caused inequality and confusion for businesses operating in multiple states. Under the Code, the central government can fix a national wage floor below which no state can set its minimum wage. States retain the freedom to set wages above this floor, depending on cost of living and local conditions. The national wage floor aims to protect workers from exploitation and ensure a basic standard of living. It also allows migrant workers to have more predictable earnings when moving between states.

4. **Promote gender equality in wages :** The Code reinforces the principle of equal pay for equal work by clearly prohibiting any discrimination in wages based on gender. Earlier, the Equal Remuneration Act of 1976 addressed this issue but enforcement was inconsistent. The Code strengthens this protection by placing both men and women under the same wage entitlement system. It also prevents discrimination during recruitment for similar jobs. According to the Global Gender Gap Report of 2023, India continues to have a significant wage gap between men and women in several sectors. The Code seeks to address gender wage disparities by reinforcing equal remuneration as a statutory obligation.

   Large companies such as Tata Consultancy Services and Infosys have also publicly committed to internal gender parity policies which align with the principles of the Code.

5. **Simplify compliance for micro and nano businesses :** Micro enterprises account for more than 93% of all establishments in India, according to the Ministry of Labour data of 2023. These small units often lack specialised human resources departments. Earlier, they had to comply with multiple laws, maintain separate registers and submit numerous returns. The Code simplifies compliance by merging four laws into one and creating common registers and digitised forms. The government has enabled online compliance through national and state labour portals to reduce paperwork . Simplified rules lower the cost of doing business and encourage more enterprises to enter the formal economy. Small manufacturing units in Tamil Nadu and Maharashtra have reported that digitised wage registers have reduced manual work and inspection-related difficulties.

3.1.2.4 Key Concepts

Key Concepts under the Code on Wages, 2019

1. **Meaning of Wages :** The Code on Wages introduces a standard and uniform definition of wages for all establishments across India. This is important because earlier labour laws used different definitions, which led to confusion for employers and employees.

   Wages include three main components: basic pay, dearness allowance and retaining allowance. These are considered the core earnings of a worker for performing regular duties.

   The Code also clearly lists payments that are not part of wages. These include bonus, house rent allowance, overtime allowance, provident fund contributions and conveyance or travel allowances. The purpose of this clear definition is to avoid manipulation in wage calculation and ensure transparency in payroll management.

   A simple illustration can be seen in manufacturing units. If a worker receives a basic salary of ten thousand rupees, dearness allowance of three thousand rupees and a retaining allowance of one thousand rupees, then wages under the Code would be fourteen thousand rupees. Any additional allowances such as house rent or overtime are treated separately.

   A practical example is the payroll practice in companies like Tata Steel, which clearly separates basic wages and dearness allowance from other allowances to comply with the national wage standards.

2. **Floor Wage :** The floor wage is a national level wage benchmark introduced to ensure that wages do not fall below a minimum level anywhere in India. It is fixed by the Central Government after consultation with state governments, keeping in mind the cost of living of different regions

   No state government is allowed to fix its minimum wages lower than the floor wage. This provision is intended to reduce wage inequality between regions and protect workers in low paying areas from exploitation.

   For example, if the Central Government sets a floor wage of three hundred rupees per day, every state must set its minimum wage at three hundred rupees or more. If a state earlier had a lower minimum wage, it is required to revise it upward.

   Large companies with widespread operations, such as Indian Oil Corporation, use the floor wage as the baseline for ensuring compliance across all states where they operate.

3. **Minimum Wages :** The Code continues the established practice of determining minimum wages but introduces uniform criteria. Minimum

wages are fixed by state governments based on two major factors. The first is the skill level of the worker. Skill categories include unskilled, semi skilled, skilled and highly - skilled workers. Each category receives different wage rates because of variations in training, responsibility and productivity.

The second factor is the geographical location of work. Wage rates in metro cities are generally higher due to increased living costs, while non metro and rural areas have different rates.

For example, a skilled carpenter in Delhi receives a higher minimum wage compared to a carpenter in a small town in Bihar because of living cost differences.

A well known illustration is found in the retail operations of companies like Reliance Retail where wages vary across metro and non - metro cities according to the minimum wage notifications of each state.

4. **Equal Remuneration :** Equal remuneration means that male and female workers performing the same work or work of a similar nature must be paid the same wages. This principle was already part of the Equal Remuneration Act of 1976 and has now been included in the Code for universal application.

   The intention is to eliminate gender based discrimination in wages and to promote fair treatment in the workplace. Employers are prohibited from reducing wages of any gender to achieve equality; instead, they must raise the wages of the lower paid group if inequality exists.

   A well known example is the human resource practices of Infosys, which promotes gender neutral pay structures in its workforce. The company regularly audits pay levels to ensure there is no wage gap for the same work category.

5. **Timely Payment of Wages :** The Code mandates that monthly wages must be paid within seven days of the end of the wage period. This rule ensures that workers receive their earnings without delays, which is important for daily living expenses.

   Earlier, different laws had different timelines for wage payments, creating confusion. The Code brings a uniform schedule that applies to all establishments whether large or nano sized.

   For instance, if wages for January are due, the employer must pay them on or before the seventh of February. Delayed payment can attract penalties under the law.

   Large organisations like Larsen and Toubro follow strict payroll cycles to ensure wage payments are made on time across all project sites.

6. **Bonus :** The Code preserves the earlier provisions on bonus but applies them more uniformly. Workers who earn monthly wages of twenty one thousand rupees or less are eligible to receive an annual bonus from their employer.

The minimum bonus payable is 8.33 percent of annual wages, and the maximum bonus can go up to 20 percent, depending on profits and productivity.

This provision is intended to reward workers for contributing to the success of the organisation and to support their financial well-being.

A real example is textile companies in Tiruppur, which provide annual bonuses to eligible workers before major festivals. The percentage of bonus often increases during years of strong business performance.

3.1.2.5 Provisions Beneficial for Nano Entrepreneurs

Nano enterprises in India such as neighbourhood food kiosks, home-based tailoring centres, single person beauty parlours and small repair units usually operate with limited staff and minimal administrative support. These units often struggle with compliance because previous labour laws required maintaining many registers, sending several returns to authorities and calculating wages under different definitions. The Code on Wages, 2019 provides simplified procedures which reduce the compliance burden on very small business owners. The following provisions are especially helpful for nano entrepreneurs.

1. **Single Wage Definition :** The Code introduces one common definition of wages for all laws related to wages. Earlier each Act had a different meaning of wages which created confusion in small establishments. For example, a small jewellery polishing unit employing three workers often did not know whether allowances like conveyance or overtime should be included in wages for bonus calculation. Under the Code, the wage definition is uniform and includes basic pay, dearness allowance and retaining allowance. It excludes bonus, contributions to provident fund, house-rent allowance and overtime. This clarity helps micro business owners calculate salaries correctly without professional assistance.

2. **Online Registers and Online Returns :** The Code allows establishments to maintain records and submit returns in online format. Many nano enterprises cannot afford the time and expense of maintaining multiple physical registers required under older laws. For example, a single person beauty parlour earlier had to maintain attendance, wage, overtime and deduction registers separately. Under the new Code these records can be kept digitally on a simple computer or even a mobile application approved by the labour department. This reduces paperwork, physical storage requirements and the chances of errors during inspections.

3. **Digital Payment of Wages :** Wages can be paid through digital modes such as bank transfer, UPI or electronic wallets that meet government norms. This is especially useful for small eateries, home bakeries and mobile repair kiosks where cash handling sometimes creates disputes. Digital payments provide a record of wage disbursement, prevent misunderstandings and help workers develop financial discipline. For instance, a tailoring shop with two helpers can

transfer wages directly into their bank accounts which ensures transparency and safety.

4. **Greater Transparency and Trust :** Nano enterprises rely heavily on personal trust because formal contracts are not always prepared. By adopting the provisions of the Code, small units can show that they follow statutory wage rules. This improves the credibility of the enterprise among workers and customers. For example, a neighbourhood beauty parlour that pays its two assistants through digital mode and maintains online wage records is more likely to retain workers longer and avoid disputes.

5. **Suitable for Small Service Units :** The simplified structure of the Code benefits tiny service-based establishments such as beauty parlours, small eateries, tailoring shops, jewellery polishing workshops and mobile repair kiosks. These enterprises often operate with two or three workers, and the owner personally manages all responsibilities. The new wage system helps them focus on business growth rather than managing complex registers and multiple compliance requirements.

3.1.2.6 Penalties

1. **Failure to pay the minimum wage :** The Code on Wages introduces a stricter penalty structure to ensure that every worker receives at least the statutory minimum wage. If an employer pays wages below the notified minimum wage. the Code prescribes monetary penalties, which may extend up to specified limits depending on the nature and frequency of the violation. This provision acts as a deterrent, especially for small units where informal practices are common. For example, in a small packing unit or a neighbourhood tailoring shop, owners may sometimes delay or reduce payments during lean seasons. Under the Code, such practices are unlawful and attract financial penalties.

2. **Repeated offence :** If an employer repeats the same violation, the consequences become more serious. In case of subsequent offences, the punishment may include imprisonment for a period that can extend up to three months. This escalation is intended to prevent habitual non - compliance. Authorities can take strict action against establishments that repeatedly refuse to follow wage laws. For instance, if a jewellery polishing workshop continues to pay below the minimum wage even after being penalised earlier, the owner may face both a fine and imprisonment.

These penalty provisions aim to protect vulnerable workers employed in nano enterprises by ensuring that employers treat wage compliance as a mandatory responsibility rather than an optional practice.

Case: Karnataka Minimum Wages Revision, 2017–18 (Expanded)

Between 2017 and 2018, the Government of Karnataka initiated a major revision of minimum wages for several sectors, including the garment and textile industry. Karnataka is one of India's largest garment manufacturing hubs, employing more than five lakh workers, many of whom are women. A significant number of these units operate as small or nano enterprises with fewer than twenty workers, often functioning as subcontracting units to larger export-oriented factories.

The Karnataka wage revision highlighted compliance challenges arising from unclear wage definitions and calculation methods . Their primary concern was uncertainty in how the revised wages were calculated, particularly because different components such as allowances, bonuses, increments and special payments were included or excluded without clear guidelines. For nano enterprises working on thin margins, even small changes in wage definitions affected their cost structure. As a result, many employers feared penalties for unintentional non-compliance, while workers were unsure whether they were receiving the correct revised wage. This created tension, mistrust and frequent complaints to labour inspectors.

This situation highlighted a long-standing problem in India's labour system: overlapping wage definitions across multiple laws. Under older legislation, terms such as basic wage, gross wage, minimum wage and total remuneration were interpreted differently under different Acts. This made compliance difficult for large firms and almost impossible for very small businesses with limited administrative capacity.

The **Code on Wages, 2019** directly addresses the confusion that surfaced in the Karnataka case:

1. **Clear Definition of Wages :** The Code introduces a single, uniform definition of wages that applies across all sectors. It clarifies what should be counted as wages and what should be excluded, such as house rent allowance, overtime, bonus and employer's PF contributions. This removes the ambiguity that caused disputes in Karnataka, because employers and workers can now refer to a uniform national standard.

2. **Introduction of a National Floor Wage:** The Wage Code empowers the Central Government to set a national floor wage. No state can set its minimum wage below this benchmark. This gives predictability to small units which often face sudden wage revisions without understanding their basis. The floor wage also prevents wage suppression in low-paying industries such as small garment manufacturing.

3. **Predictable and Transparent Wage Revision:** The Wage Code requires states to review and revise minimum wages at fixed intervals, usually every five years. The method of calculation is more transparent, and wages must reflect skill category and geographical location. For garment units in Karnataka, this

stability means they can plan labour costs in advance without fear of sudden, unclear revisions.

4. **Benefits for Nano Enterprises:** For small tailoring shops, household garment units, small embroidery centres and power-loom units, the Wage Code reduces compliance risk. With one nationwide wage definition and a clear structure for calculation, owners do not need specialised legal knowledge or multiple registers. Workers also benefit because they receive wages that are clearly defined, legally enforceable and periodically updated.

5. **Benefits for Workers:** Workers, especially women-dominated sectors like garment manufacturing, gain better clarity and confidence. They can easily check whether their employer is paying the legally required wage. It also reduces exploitation by contractors who previously manipulated wage components to show lower payments.

Summary

The Karnataka Minimum Wages dispute demonstrated how unclear and overlapping wage definitions could lead to protests, misunderstanding and large-scale disruption. By consolidating and simplifying wage laws, the Wage Code provides clarity, transparency and predictability. This helps nano-business owners comply smoothly while ensuring workers receive fair and legally correct wages. The Code therefore strengthens trust between employers and employees and reduces wage-related disputes across India.

3.1.3 Code on Industrial Relations, 2020 (Code 2)

The Industrial Relations Code of 2020 is one of the four major Labour Codes introduced by the Government of India to simplify and modernise the labour law framework. India previously had several separate laws governing trade unions, employment conditions, dispute settlement, strikes, layoffs and retrenchment. Many of these laws were drafted during the colonial and early post independence period, making them difficult to interpret and implement in today's workplace environment. To make the system easier for both employees and employers, the Government combined three major central laws into a single legal framework.

3.1.3.1 The Three Laws Merged under the Industrial Relations Code

1. **Trade Unions Act, 1926 :** This law dealt with how trade unions are formed, registered and recognised. It established the rights of workers to organise themselves for collective bargaining and for improving working conditions. The Industrial Relations Code updates these provisions to make union registration more transparent and to encourage responsible collective negotiations. It also introduces the concept of a negotiating union or negotiating council in an establishment, which reduces confusion when multiple unions exist.

2. **Industrial Employment (Standing Orders) Act, 1946 :** Standing Orders are written rules that define conditions of employment, such as attendance, leave, shift timings, misconduct and disciplinary procedures. Earlier, only factories and larger industrial establishments had to prepare Standing Orders, and the process was lengthy. Under the new Code, the requirement is simplified and digitised. Standing Orders are provided by the Government, which small and medium enterprises can adopt easily. This supports clarity for workers and reduces procedural burden for employers.

3. **Industrial Disputes Act, 1947 :** This law historically governed disputes between employers and workers, including strikes, layoffs, retrenchment, closure of units and grievance settlement. Some provisions were considered lengthy, rigid and outdated, sometimes leading to delays in dispute resolution. The Industrial Relations Code streamlines the dispute settlement process by strengthening conciliation mechanisms, improving timelines and allowing voluntary arbitration. Certain establishments also get notified thresholds for layoffs and closures, balancing worker protection with business viability.

3.1.3.2 Objectives of the Industrial Relations Code, 2020

1. **To reduce industrial disputes :** One of the major aims of the Code is to minimise conflicts between workers and employers. Earlier laws had complex procedures that often delayed dialogue and created mistrust. The Code encourages early conciliation, mediation, and structured negotiations so that issues can be resolved before they escalate into strikes or lockouts. By providing a clear mechanism for grievance redressal, the Code helps both sides settle disagreements faster. This is especially important in manufacturing sectors, where continuous production is essential for meeting deadlines and maintaining revenue.

2. **To make hiring and termination clearer :** The Code provides a transparent framework for hiring workers and outlining their conditions of service. It also clearly explains the rules related to termination, retrenchment, and closure of establishments. Earlier, different laws had different definitions for worker categories and procedures for termination. The new Code simplifies these provisions and sets uniform rules. For example, establishments above a certain size must seek prior approval for retrenchment or closure, while smaller units follow a simpler process. This clarity helps employers avoid legal confusion and ensures workers understand their rights.

3. **To promote negotiation through trade unions :** The Code strengthens collective bargaining by introducing the concept of a negotiating union or a negotiating council. In establishments where several unions exist, the one with the highest membership will be recognised as the primary negotiating union.

This reduces fragmentation among unions and allows for smoother discussions on wages, working conditions, and welfare benefits. Healthy negotiation through unions prevents unnecessary disputes and encourages cooperation between workers and management. It also ensures that worker voices are represented in a structured and democratic manner.

4. **To streamline procedures for strikes and lockouts :** The Code sets clear procedures that must be followed before any strike or lockout. Workers must provide advance notice before going on strike, and employers must also give notice before declaring a lockout. This prevents sudden disruptions that can damage production, supply chains, and employment stability. Under the old laws, different industries followed different procedures, leading to confusion. The new Code creates a uniform system so that both sides have time to negotiate before resorting to extreme actions. This helps maintain industrial harmony and business continuity.

5. **To ensure stability in labour relations across enterprises of different sizes :** The Indian economy is highly diverse, with more than 90% of establishments falling in the micro and small category. These businesses often struggled with multiple compliances and unclear processes under earlier industrial laws. The Code provides a simpler structure that can be followed by enterprises of all sizes. By reducing procedural delays and introducing digital systems for filings and approvals, the Code benefits small and medium enterprises. At the same time, it provides clear safety measures and rights for workers in large industries. The goal is to create a labour relations environment that supports economic growth, investment, and job creation while safeguarding worker welfare.

3.1.3.3 Major Provisions of the Industrial Relations Code, 2020

1. **Trade Union Recognition :** Trade union recognition refers to the legal acknowledgement of a workers' union as the representative body that negotiates with the employer on matters related to employment conditions, wages, workplace rights, dispute resolution, and more. Under the Industrial Relations Code, 2020, this concept has been clarified and strengthened to reduce conflicts among multiple unions and to streamline collective bargaining in an industrial establishment.

   i. **Single Union Recognition:** If there is only one registered trade union in an industrial establishment, the employer is required to recognise that union as the sole body that will negotiate on behalf of the workers. This means that this trade union has the exclusive right to represent the workforce in discussions with management on wages, work conditions, and other labour matters.

   ii. **Recognition When Multiple Unions Exist:** When more than one registered trade union exists in the same establishment, the Code states that the trade union with membership of at least fifty-one percent of the workers on the muster roll must be recognised by the employer as the sole negotiating union. This requirement helps avoid disputes between unions and strengthens collective bargaining by giving clear authority to the larger union.

By setting a clear membership threshold for recognition, the Code helps avoid conflicts between rival trade unions that may otherwise claim to represent the same workforce. It also encourages unions to organise and increase their membership if they wish to be the official negotiating body.

2. **Standing Orders :** Standing orders are a set of written rules that govern the terms and conditions of employment within an industrial establishment. These include rules on work hours, discipline, holidays, overtime, leave, and other workplace practices. Under the Industrial Relations Code, standing orders must be prepared and certified for applicable establishments to ensure clarity and fairness in employment relations.

   i. **Applicability Threshold :** Under the new Code, standing orders are required only for industrial establishments that employ 300 or more workers. This is a significant change from earlier laws, where the threshold was lower (for example, previously the requirement could apply to establishments with as few as 100 workers). Raising the threshold to 300 reduces compliance requirements for small and medium establishments.

   ii. **Key Content of Standing Orders :** Standing orders must clearly outline important workplace parameters so that both employers and workers understand their rights and obligations. These include:

      a. **Work hours:** These are the number of hours a worker is expected to work each day or week and the rules around shift patterns, start and end times, and breaks.

      b. **Discipline Rules:** Standards of conduct expected from employees, including behaviour at work, punctuality, and consequences for violations. Clear discipline rules help maintain order and reduce workplace disputes.

      c. **Holidays:** This section specifies paid and unpaid holidays, statutory holidays, and rules for how leave will be granted and scheduled.

      d. **Overtime:** Rules on overtime define how extra hours worked beyond the normal work schedule are to be compensated or managed, ensuring compliance with labour laws.

      e. **Leave Rules:** This covers entitlement to sick leave, casual leave, earned leave, and conditions for availing these leaves.

iii. **Exemption for Nano Businesses :** Very small enterprises and nano businesses, do not need to frame or certify standing orders. This reduces administrative burden on very small operators such as tailoring shops, small repairs kiosks, local service providers, and similar units.

Standing orders bring transparency and predictability to workplace management. They help prevent misunderstandings between employers and workers by making workplace terms clear and legally recognised. At the same time, raising the threshold for applicability reduces the regulatory load on smaller businesses that may not have the capacity to prepare formal standing orders.

3. **Reskilling Fund :** The Industrial Relations Code introduces a reskilling fund to support workers who lose their jobs due to retrenchment. Retrenchment means termination of a worker for economic or organisational reasons, not for disciplinary action. The reskilling fund ensures that a retrenched worker receives financial support to learn new skills and improve future employability.

   Employer Contribution: Under this provision, when a worker is retrenched, the employer must contribute an amount equal to fifteen days wages into the reskilling fund. This amount is transferred to the worker so that they can undergo training, learn new vocational skills, or upgrade abilities required in a changing labour market.

   Purpose: India's labour market is undergoing rapid transformation due to digitalisation and automation. The reskilling fund ensures a smooth transition for workers and reduces the social and economic impact of job loss. It also encourages companies to retrench workers only when absolutely necessary.

4. **Strikes & Lockouts**

   Need for Regulation: Strikes by workers and lockouts by employers directly affect productivity and can cause major disruptions. To prevent sudden stoppage of work, the Code introduces clear procedures for both strikes and lockouts.

   Mandatory Notice: Any strike or lockout requires a compulsory notice period of fourteen days. This provision gives time for both parties to discuss issues, negotiate, and explore peaceful settlement before industrial work stops.

   Restrictions During Proceedings: Strikes are prohibited during certain legal proceedings. Workers cannot strike during conciliation, during hearings at an industrial tribunal, or while arbitration is in progress. These restrictions prevent parallel disruptions when a dispute is already being resolved through formal channels.

   Importance: These rules reduce abrupt conflicts and maintain stability in industries such as manufacturing, transport, and public utilities, where sudden stoppages can affect the public.

5. **Fixed-Term Employment :** Fixed-term employment allows employers to hire workers for a specific duration based on seasonal or temporary need. The Code ensures that these workers receive the same wages, allowances, and benefits as permanent workers performing similar work. This includes proportionate gratuity if they serve for the required period.

   Benefits for Businesses: For nano and small businesses, fixed-term contracts offer flexibility without exploiting workers. Small enterprises often experience seasonal variations, and hiring permanent staff for short periods becomes financially difficult.

   Example: During festive seasons like Onam, Christmas, Diwali, and Ramadan, small shops, bakeries, tailoring units, and home-based boutiques experience higher demand. They can hire extra workers for a few months and still maintain wage fairness.

   Examples include temporary sales assistants for festival crowds, additional tailoring workers during wedding seasons, and extra helpers in bakeries during peak festival periods.

   Benefits for Workers: Workers get better income security, formal contracts, recognition of service, and skill-building opportunities instead of informal or unregulated temporary work.

6. **Industrial Dispute Resolution :** Industrial disputes arise when there is disagreement between employers and workers regarding wages, working conditions, termination, discipline, or other employment issues. The Code provides a clear three-tier system to resolve disputes quickly and legally.

   Level One: Conciliation Officer

   A conciliation officer attempts to settle disputes through discussion and negotiation. The focus is on peaceful resolution without going to court. Most disputes in India are resolved at this stage, making it a cost-effective and time-saving process.

   Level Two: Industrial Tribunal

   If conciliation fails, the dispute is referred to an industrial tribunal. Tribunals have judicial powers and can give binding decisions on issues such as layoffs, wage revision, and reinstatement. They function faster than traditional courts and specialise in labour matters.

   Level Three: National Industrial Tribunal

   Disputes involving national importance, large-scale industries, or issues that affect workers across several states are taken to the national industrial tribunal. This body deals with complex matters such as disputes in major public sector units, large manufacturing groups, or cases that have national economic impact.

Outcome: This structured resolution mechanism promotes fair settlement, reduces long-term conflicts, and strengthens trust between employers and employees.

3.1.3.4 Provisions Useful for Nano Enterprises

i. **Exemption from Standing Orders:** Nano enterprises, which usually employ five or less than five workers, are exempt from preparing standing orders because the Code requires these formal rules only for establishments with three hundred or more workers. This reduces paperwork and makes compliance easier for tiny business units.

ii. **Fixed Term Employees for Seasonal Demand:** Nano enterprises often experience seasonal spikes in demand. The fixed term employee provision helps them hire temporary staff legally and fairly during peak periods without long term financial obligations.

iii. **Digital Filing and Compliance:** The Code allows digital filing of returns and records. For nano enterprises with limited administrative capacity, digital processes reduce the need for physical paperwork and help owners maintain compliance with minimum effort.

iv. **Protection from Unnecessary Litigation:** The Code contains clear procedures for dispute prevention, conciliation and settlements. This transparency protects small enterprises from legal complexities and unnecessary litigation that could disrupt business operations.

3.1.3.5 Penalties under the Industrial Relations Code, 2020

The Industrial Relations Code specifies certain penalties to ensure that both employers and workers follow the rules related to strikes, lockouts, and retrenchment. These penalties are meant to maintain discipline in industrial establishments and to prevent actions that disturb production or employment without following due legal procedure.

i. **Illegal Strikes :** If workers go on strike without giving the required notice or during periods when strikes are legally prohibited, it is considered an illegal strike. This type of strike can interrupt production suddenly and cause financial losses to small and large businesses.

   Penalty: A fine up to fifty thousand rupees may be imposed on workers or unions involved in organising such strikes. This provision encourages workers to follow proper procedures like notice periods and conciliation before resorting to a strike.

ii. **Illegal Lockouts :** A lockout becomes illegal when an employer closes a workplace or refuses work without giving the compulsory notice or during periods when lockouts are not allowed. Illegal lockouts harm workers by stopping their wages abruptly and disrupting their livelihoods.

Penalty: An employer who conducts an illegal lockout can be fined up to one lakh rupees. This provision discourages employers from using lockouts as a sudden or unfair bargaining tool.

iii. **Violation of Retrenchment Rules :** Retrenchment refers to the termination of workers due to reasons such as closure, downsizing, or financial stress. The Code requires employers to follow specific procedures, including notice, compensation, and contribution to the reskilling fund. If these rules are not followed, it can lead to unfair treatment and sudden job loss for workers.

Penalty: Violation of retrenchment procedures can lead to imprisonment for up to six months, or a monetary fine, or both. This ensures that employers act responsibly and legally whenever they reduce their workforce.

Case Study: Maruti Suzuki Manesar Conflict of the Year 2012

The incident at the Maruti Suzuki India Limited plant in Manesar, Haryana in the year 2012 remains one of the most significant industrial conflicts in modern India. The Manesar plant had nearly two thousand permanent workers and a much larger number of contract workers. According to the Haryana Police chargesheet and the Government enquiry reports, tension had been building for months due to disagreements over wages, working conditions and the demand for a separate union by workers. On the eighteenth of July, a violent clash broke out on the shop floor. The incident resulted in the death of a senior human resources manager and injuries to several workers and managers. Production came to a complete halt for almost a month, leading to losses estimated at more than two thousand crore rupees as reported by the Society of Indian Automobile Manufacturers.

Lack of Proper Communication Channels

One of the major causes identified was the absence of an effective communication system between management and workers. Contract workers and permanent workers were represented by different groups, which created mistrust. Workers felt that their concerns about workload, disciplinary actions and wage differences were not being given proper attention. The company management on the other hand felt that the communication from their side was not reaching the worker groups in a structured manner. This communication gap allowed small grievances to grow into large conflicts.

Inefficient Grievance Redress Mechanisms

The National Human Rights Commission review of the incident noted that the existing mechanisms for grievance redress were either slow or unclear. Workers complained about the lack of a transparent and time-bound system to raise workplace concerns, such as overtime pressure, denial of leave and unjust disciplinary action. When grievances are not addressed at the early stage, they accumulate and create frustration among workers, which can eventually lead to collective unrest.

Absence of Clear Employment Terms

A major point of conflict was the large number of contract workers who were doing the same tasks as permanent workers but receiving lower wages and fewer benefits. Their terms of employment were often not clearly written or communicated. This created inequality and dissatisfaction on the shop floor. Many reports pointed out that there was no unified system of employment terms for workers doing similar work. Lack of transparency regarding wages, leave and disciplinary procedures contributed to mistrust between workers and management.

How the Industrial Relations Code Addresses These Issues

The Industrial Relations Code of the year 2020 was designed keeping such past industrial disputes in mind. It incorporates several provisions that directly address the weaknesses seen in the Maruti Suzuki incident.

Recognition of a Single Negotiating Union

The Code provides that where multiple unions exist, the one with at least 51% membership will be recognised as the negotiating union. This prevents the rise of rival groups claiming representation. A single recognised union ensures that communication between management and workers is structured, consistent and accountable. This reduces confusion and enhances trust.

Requirement for Structured Negotiation

The Code encourages negotiation through registered trade unions and provides clear procedures for raising and settling disputes. This ensures that issues related to wages, working conditions or disciplinary matters are discussed in an organised manner. Structured negotiation prevents sudden escalations and helps both parties reach agreements before disagreements grow into major conflicts.

Promotion of Fixed Term Employment

Fixed term employment allows workers to be hired for a specific period while receiving the same wages and benefits as permanent workers for that period of work. This reduces the wide inequality between permanent and contract workers. If such transparent arrangements had existed earlier, many contract workers at Manesar would have had clearer employment terms, which might have reduced resentment and misunderstandings.

Streamlined Industrial Dispute Settlement

The Code creates a three-level dispute settlement structure consisting of a Conciliation Officer, an Industrial Tribunal and a National Industrial Tribunal. Each level has clear procedures and timelines. This helps ensure that grievances are addressed quickly, fairly and with legal clarity. These mechanisms reduce the chances of disputes escalating into violence

Recap

◊ Code on Wages, 2019 introduces a uniform definition of wages and a consolidated framework applicable to most employees across sectors.

◊ Code on Wages consolidates four major central wage related legislations namely Minimum Wages Act of 1948, Payment of Wages Act of 1936, Payment of Bonus Act of 1965 and Equal Remuneration Act of 1976.

◊ Trade Unions Act, 1926, Industrial Employment (Standing Orders) Act, 1946 and Industrial Disputes Act, 1947 are the three laws merged under the Industrial Relations Code.

Objective Questions

1. In which year was the Code on Wages enacted?
2. How many labour laws were merged into the Code on Wages?
3. Name the laws consolidated by the Code on Wages, 2019.
4. The national level wage benchmark introduced to ensure that wages do not fall below a minimum level anywhere in India is known as
5. What is the minimum bonus percentage of annual wages payable under the Code on Wages, 2019?
6. What is the maximum bonus percentage of annual wages payable under the Code on Wages, 2019?
7. In which year was the Industrial Relations Code enacted?
8. How many Acts were consolidated into the Industrial Relations Code?
9. Name the three Acts consolidated by the Industrial Relations Code, 2020.
10. The written rules that define conditions of employment such as attendance, leave, shift timings, misconduct and disciplinary procedures is referred to as

Answers

1. 2019
2. Four
3. Minimum Wages Act, 1948, Payment of Wages Act, 1936, Payment of Bonus Act, 1965, Equal Remuneration Act, 1976
4. Floor Wage
5. 8.33 %
6. 20 %
7. 2020
8. 3
9. Trade Unions Act, 1926, Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act, 1946
10. Standing Order

Self-Assessment Questions

1. Explain the objectives and provisions of Industrial Relations Code, 2020
2. Explain Code on Wages, 2019 and the laws consolidated under the Code
3. Give a detailed account on the laws merged under the Industrial Relations Code, 2020
4. Explain the penalties under the Industrial Relations Code, 2020

Assignments

1. Evaluate how the introduction of a national floor wage under Code 1 affects wage determination across different states in India.
2. The consolidation of four wage-related laws into Code 1 was intended to simplify compliance. Analyse whether this objective has been realized in practice.
3. Assess how the Code on Wages, 2019, addresses gender-based wage discrimination in India.
4. The Code on Industrial Relations, 2020 consolidates three major labour laws. Analyze whether this consolidation has simplified industrial relations compliance in India.
5. "Critically assess the penalty and enforcement mechanisms under the Code on Industrial Relations, 2020, in ensuring compliance with labour law provisions in India."

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Unit 2

Code 3 and Code 4

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

- ◊ explain the objectives, coverage, and major provisions of the Social Security Code (2020) and the OSHWC Code (2020).
- ◊ describe the roles and responsibilities of employers, employees, contractors, and inspectors under both Codes.
- ◊ analyse how the Codes improve worker welfare, occupational health, and safety across organised, unorganised, gig, and platform sectors.

Prerequisite

When Rajiv, a young graduate, joined his family's small logistics business in Kochi, he assumed managing workers simply meant paying wages on time. But on his third day, one of their delivery staff slipped while unloading goods and needed hospital care. The worker later asked whether he was covered under ESI and if the company maintained safety equipment and working-hour records. Rajiv was surprised, he had never heard of such requirements during college internships. When he looked deeper, he discovered that the new Labour Codes, especially the Social Security Code (Code 3) and the OSHWC Code (Code 4), now apply even to small enterprises like theirs, ensuring benefits such as EPF, ESI, accident insurance, safe working conditions, and welfare facilities.

This experience made him realise that modern businesses cannot operate without understanding labour protection laws. Whether you are running a café, a start-up, a warehouse, a travel agency, or a manufacturing unit, these Codes ensure that organisations treat workers fairly while also simplifying compliance for employers. For the future entrepreneurs, learning these Codes are essential, not only to avoid legal penalties but to build ethical, responsible, and sustainable workplaces. This unit, therefore, equips you with the foundational knowledge needed to manage people with confidence, compliance, and care.

Keywords

Social Security, Occupational Safety, Working Conditions, Gig Workers, Compliance

Discussion

3.2.1 Introduction

The Government of India consolidated 29 central labour laws into 4 Labour Codes in 2020 to simplify compliance and strengthen worker welfare. Out of these, the Code on Social Security, 2020, and the Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020 together significantly expand statutory coverage across organised and unorganised sectors, though effective coverage depends on phased implementation and notified schemes The Social Security Code extends benefits like EPF, ESI, maternity relief, and gig-worker welfare to a broader group, including unorganised workers and platform workers, an estimated 94% of India's labour force.

Similarly, the OSHWC Code, 2020 modernises workplace safety provisions. Data from the National Safety Council (2022) shows that India records more than 48,000 workplace accidents annually across industries. The new Code ensures uniform safety standards, digitisation of licensing, and improved working conditions for contract labour, migrant workers, and factory employees. Thus, both Codes are central to the future of labour protection in India's rapidly changing economy.

3.2.2 Code on Social Security, 2020 (Code 3)

3.2.2.1 Objectives of the Code

1. Integrate 9 central laws relating to social security

The Social Security Code, 2020 seeks to consolidate nine separate and sometimes overlapping labour laws, including the EPF Act (1952), ESI Act (1948), Maternity Benefit Act (1961), Payment of Gratuity Act (1972), and others into a single, coherent framework. Earlier, employers had to comply with multiple compliance, registers, and authorities, creating confusion and administrative delays. By integrating these laws, the Code reduces fragmentation, eliminates conflicting provisions, and creates uniform definitions (such as "wages"), which makes the social security ecosystem more predictable. This consolidation reflects recommendations of committees such as the Second National Commission on Labour (2002), which emphasised the need to simplify labour legislation to improve both worker welfare and employer efficiency.

2. Extend protection to organised, unorganised, gig, and platform workers

For the first time in India's labour history, the law formally recognises gig workers (e.g., Ola/Uber drivers, Swiggy delivery partners) and platform workers as a distinct labour category eligible for social security benefits. Earlier labour laws primarily addressed workers in the organised sector, less than 10% of India's workforce. The Code expands coverage by mandating the creation of welfare schemes for unorganised workers (e.g., construction labour, street vendors, domestic workers), and enabling government-funded or joint contribution-based schemes for gig and platform workers. This shift aligns with the rapid growth of India's platform economy, estimated to reach $455 billion by 2028 (NITI Aayog), and ensures that millions who lack employer-employee relationships are not excluded from social protection.

3. Promote universal social security coverage

The Code aims to move India toward a universal social security system by removing restrictive thresholds that previously prevented small establishments and informal workers from accessing benefits. It empowers the central government to frame schemes on life and disability insurance, health protection, old-age security, and maternity benefits for all workers, regardless of industry or contract type. For example, large-scale schemes like Atal Pension Yojana, Pradhan Mantri Jeevan Jyoti Bima Yojana, and e-Shram can now be integrated within a unified legal architecture. With over 93% of Indian workers in the informal sector, universalisation is a major milestone in ensuring social protection as a right rather than a privilege.

4. Simplify and digitise compliance through a single registration

The Code introduces a single social security registration number for establishments, replacing multiple registrations under EPFO, ESIC, and other authorities. This reduces paperwork, duplication, and compliance ambiguity. The system is designed to be fully digital, using online returns, electronic maintenance of records, Aadhaar-based identification, and platforms like Shram Suvidha and e-Shram. For small and medium enterprises, particularly MSMEs that account for 30% of India's GDP, this simplification reduces compliance costs and frees administrative time that can be redirected to business growth. Digitisation also enhances transparency, curbs leakages in benefit delivery, and ensures workers can port their benefits across jobs and locations.

3.2.2.2 Major Social Security Schemes Under the Code

1. Employees' Provident Fund (EPF)

The EPF scheme is one of India's largest mandatory contributory social security programmes, governed earlier by the EPF Act, 1952. Under the Code, it continues to be compulsory for all establishments employing 20 or more workers, although the government may extend it to smaller units. EPF ensures long-term financial security by creating a retirement corpus through monthly contributions from both employers and employees. The scheme also covers the Employees' Pension Scheme (EPS), which provides lifelong pension after superannuation or disability, and the Employees' Deposit Linked Insurance (EDLI) Scheme, which provides lump-sum insurance to the nominee in case of the worker's death while in service. As of 2023, EPFO covers over 27 crore subscribers, making it one of the world's largest social security systems. The Code reinforces portability and digital compliance to ensure faster settlement of claims.

2. Employees' State Insurance (ESI)

The ESI scheme is a comprehensive social insurance programme offering medical, sickness, maternity, and disability benefits. It is mandatory for establishments employing 10 or more workers, though some states prescribe thresholds of 20. ESI operates through a contributory structure: employers contribute 3.25% of wages and employees contribute 0.75%. Under the Code, ESI coverage is to be expanded in a phased manner to all districts, including remote and unorganised-sector-dominated areas. A significant reform is the enabling provision that allows the government to notify separate social security schemes for gig and platform workers, rather than extending conventional ESI benefits automatically through special government-notified schemes, reflecting the changing labour market. ESIC currently operates over 160 hospitals and 1500 dispensaries nationally, providing affordable healthcare to millions of low-income workers and their families.

3. Gratuity

Gratuity is a statutory retirement benefit provided to employees as a token of appreciation for long-term service. Traditionally, workers became eligible only after completing five years of continuous service. The Code allows fixed-term employees to receive gratuity proportionate to the duration of their contract, subject to conditions notified by the appropriate government , calculated proportionately based on the duration of their contract. This addresses the growing prevalence of project-based employment in sectors like IT, hospitality, and manufacturing. It also ensures parity between permanent and fixed-term contract workers, promoting fairness in compensation and reducing exploitation.

4. Maternity Benefits

The Code carries forward the maternity provisions from the Maternity Benefit Act, 1961, incorporating amendments such as 26 weeks of paid maternity leave for women employed in establishments with 10 or more workers. This places India among countries with comparatively longer statutory maternity leave provisions . The law mandates crèche facilities for establishments employing 50 or more workers, subject to rules framed by the appropriate government , ensuring childcare support for working mothers. Additionally, employers must provide four visits a day (including rest intervals) for women to visit the crèche. These provisions aim to increase women's workforce participation, which is still low at around 24% in India (PLFS). Public-sector bodies, banks, and IT firms have widely implemented these measures.

5. Gig and Platform Worker Social Security

One of the most transformative features of the Social Security Code is the formal recognition and protection of gig and platform workers, who were previously outside the scope of labour laws. Gig workers include individuals engaged in short-term, task-based work (e.g., Swiggy and Zomato delivery executives), while platform workers provide services through digital platforms (e.g., Uber, Ola, Urban Company). The Code mandates the government to frame social security schemes funded through a tripartite model:

- ◊ The Code empowers the government to notify contribution rates for aggregators, subject to a statutory ceiling, through future rules , excluding GST.
- ◊ Central and State Governments can contribute financial support.
- ◊ Gig/platform workers may contribute voluntarily: This enables the creation of a Social Security Fund through which notified welfare benefits may be provided, subject to scheme design and funding arrangements for over 7.7 million gig workers, projected by NITI Aayog by 2030. India becomes one of the few countries to legally recognise gig workers as a category deserving state-backed social security.

6. Unorganised Workers' Benefits

Over 93% of India's workforce falls in the unorganised sector, such as construction labourers, agricultural workers, domestic workers, street vendors, and home-based workers. The Code aims to universalise social protection for this vast segment. Registration on the e-Shram Portal, introduced in 2021, facilitates identification and access to welfare schemes, though registration is not legally mandatory under the Code. As of early 2024, the portal has registered over 29 crore unorganised workers, making it the world's largest labour database. Registered workers gain access to:

- ◊ Pension schemes such as the Pradhan Mantri Shram Yogi Maandhan (PMSYM)
- ◊ Accident insurance via Pradhan Mantri Suraksha Bima Yojana (PMSBY)
- ◊ Skill development and livelihood schemes
- ◊ Health insurance under Ayushman Bharat (PM-JAY)

The integration of these schemes under the Code ensures better delivery, reduces duplication, and strengthens social protection for marginalised communities.

3.2.2.3 Key Provisions

1. Universal Account Number (UAN)

A unified registration framework enables streamlined access to multiple social security schemes, though certain benefits like gratuity and insurance continue to operate through scheme-specific mechanisms. .

2. Aadhaar-based Identification

Ensures portability and transparency.

3. Social Security Funds

Separate funds for:

Gig workers: Gig workers include people employed as app-based taxi drivers (Ola, Uber), food delivery partners (Swiggy, Zomato), freelance designers, content writers, home service providers, and courier delivery personnel. They generally do not have a traditional employer–employee relationship and often lack regular wages, job security, and conventional employment benefits.

4. Inspector-cum-Facilitator System

Enables advisory guidance + simplified inspections.

3.2.2.4 Advantages of the Code

- ◊ Simplification of laws
- ◊ Expanded coverage
- ◊ Digital compliance
- ◊ Recognition of the gig economy
- ◊ Reduction in paperwork

3.2.2.5 Challenges

- ◊ Implementation delays
- ◊ Lack of awareness among unorganised workers
- ◊ Financial burden on small enterprises

3.2.3 Code on Occupational Safety, Health and Working Conditions, 2020 (Code 4)

1. Consolidate 13 labour laws related to safety and working conditions

The OSHWC Code merges 13 existing central labour laws, including the Factories Act (1948), Mines Act (1952), Contract Labour Act (1970), Inter-State Migrant Workmen Act (1979), and Building and Other Construction Workers Act (1996) into a single, comprehensive legislation. Earlier, different sectors had fragmented and sometimes contradictory safety regulations, which created compliance challenges for employers and confusion for workers. By consolidating these laws, the Code brings uniformity in definitions, processes, registrations, and enforcement mechanisms. This consolidation aligns with the recommendations of the Second National Commission on Labour (2002), which emphasised the need for reducing legislative complexity to improve worker protection and employer compliance.

2. Modernise workplaces with uniform safety standards

One of the key goals of the Code is to update India's industrial safety and working condition standards to reflect modern technologies, new workplace practices, and emerging risks. Many earlier legislations were based on conditions of the 1940s–1970s and did not adequately cover automation, chemical hazards, ergonomic risks, or digital forms of employment. The Code introduces uniform safety norms across factories, mines, plantations, docks, and other establishments, ensuring that basic safety requirements are consistent irrespective of location or industry. It empowers the Central Government to prescribe standards through rules, allowing safety norms to be regularly updated without passing new laws each time. This makes the regulatory framework flexible, responsive, and aligned with global Occupational Safety and Health (OSH) conventions of the International Labour Organisation (ILO).

3. Protect the health, safety, and welfare of workers across sectors

The Code seeks to ensure the well-being of all categories of workers, including contract labour, inter-state migrant workers, women, and workers in hazardous industries, by mandating safety measures, working hour limits, welfare provisions, and health facilities. It includes provisions for:

- Free annual health check-ups,
- Safe working hours and overtime limits,
- Mandatory canteens, restrooms, and drinking water,
- Protection for women working night shifts,
- Safety committees and safety officers,
- Emergency response and workplace hazard management.

These measures aim to reduce workplace accidents, which continue to be a major concern. For example, According to Labour Bureau data, reported industrial accidents in the organised sector numbered several thousand annually, though underreporting remains a concern , and informal sector accidents are even more underreported. By expanding coverage to both organised and unorganised establishments, the Code represents a significant expansion of occupational health and safety regulation across multiple sectors . It recognises that a healthy and safe workforce is essential for productivity, economic growth, and the dignity of labour.

3.2.3.2 Coverage

The OSHWC Code, 2020 brings under one umbrella a wide range of establishments and worker categories that were previously governed by different laws. The aim is to ensure that every worker, irrespective of the sector or nature of employment, receives minimum standards of safety, health, and welfare. The expanded coverage is explained below:

a. **Factories:** The Code applies to factories involved in manufacturing processes using power with 10 or more workers, or without power with 20 or more workers. This replaces the varied thresholds of the earlier Factories Act, ensuring uniform rules. Coverage includes manufacturing units from textiles and chemicals to food processing and engineering. The Code mandates safety officers, working-hour limits, ventilation standards, and emergency protocols.

b. **Mines:** Mining is one of the most hazardous occupations, and the Code retains the stringent safety norms earlier prescribed under the Mines Act, 1952. It applies to all underground, open-cast, and above-ground mines. The coverage includes safety audits, protective equipment, rescue teams, and mandatory reporting of accidents. India's mining sector employs over 1 million workers, many in high-risk conditions, making this inclusion crucial for worker protection.

c. **Dock Work:** The Code covers workers engaged in loading, unloading, storage, and movement of goods at ports, replacing the Dock Workers (Safety, Health and Welfare) Act, 1986. Port activities often involve heavy machinery, cranes, and hazardous environments. By standardising safety protocols, the Code reduces risks of accidents in India's 12 major ports and numerous minor ports.

d. **Contract Labour:** Contract labour provisions apply based on notified thresholds and establishment-specific criteria prescribed under the Code . This is significant as contract work forms a large share of India's workforce in construction, manufacturing, and services. The Code mandates licensing of contractors, welfare facilities, timely payment of wages, and safety provisions for contract workers previously excluded from uniform protections.

e. **Motor Transport Workers :** Workers engaged in commercial road transportation such as truck drivers, bus drivers, cleaners, and conductors, are covered. This replaces the Motor Transport Workers Act, 1961. The Code sets standards for working hours, rest intervals, medical facilities, and protection from fatigue-related accidents. In India, where road transport accounts for over 60% of freight movement, ensuring the safety of transport workers is vital.

f. **Inter-State Migrant Workers:** The Code provides protection for migrant workers who move across state borders for employment. It simplifies registration, ensures journey allowances, displacement allowance, and provides access to public distribution and social security schemes. According to Census data and recent surveys, India has over 11 crore internal migrants, many of whom work in construction, textiles, and plantations. Their inclusion reflects lessons learned during the COVID-19 lockdown when migrant vulnerabilities became visible.

g. **Plantations:** Workers in tea, coffee, rubber, and cardamom plantations are covered, replacing the Plantations Labour Act, 1951. The Code mandates welfare facilities such as housing, drinking water, medical care, and protection from chemical exposure. Plantations employ around 8–10 lakh workers, many from tribal and marginalised communities, making this inclusion socially significant.

h. **Beedi and Cigar Workers:** The Code covers workers engaged in beedi rolling, cigar making, and related processes, including home-based workers. It replaces the Beedi and Cigar Workers (Conditions of Employment) Act, 1966. The beedi industry employs over 70 lakh workers, predominantly women working from home. Inclusion ensures basic welfare facilities, registration, and protection from exploitative contractors.

i. **Audio-Visual Production Workers:** Workers engaged in film, television, OTT content, advertising, and other media production are included. This reflects the modernisation of India's labour laws to keep pace with the booming entertainment industry. The Code covers stunt workers, camera crews, sound technicians, set designers, and others, ensuring safety during risky shoots, long hours, and high-intensity production environments.

j. **Gig and Platform Workers (in certain provisions) :** Though the primary social security framework for gig workers lies in the Social Security Code (Code 3), The OSHWC Code allows the government to notify safety-related provisions applicable to platform-based work, where feasible , depending on government notification. This includes people working with ride-hailing apps, delivery platforms, home-service apps, and digital marketplaces. Given India's rapidly expanding gig economy, projected to reach 23.5 million workers by 2030 (NITI Aayog), their partial inclusion marks a progressive step toward universal workplace safety.

3.2.3.3 Core Provisions of OSHWC Code

1. Licensing & Registration

The OSHWC Code simplifies the complex licensing system that previously required separate licences under different labour laws. It introduces a single, unified licence for factories, industrial premises, and contractors, reducing bureaucratic delays and compliance costs, especially for MSMEs. The Code mandates online registration, filing of returns, and digital maintenance of records, enabling transparency and ease of doing business. This digital-first approach aligns with the Government of India's *Digital India* initiative and helps labour authorities maintain real-time compliance data.

a. Single licence for factories, contractors, and industrial premises: Previously, establishments had to obtain separate licences under Acts like the Factories Act, Contract Labour Act, and Inter-State Migrant Workmen Act. The unified licence framework is intended to reduce multiplicity of approvals, subject to digital infrastructure readiness and rule notification , improving administrative efficiency and reducing duplication.

b. Online registration and returns: Employers can register establishments, renew licences, and file compliance reports online through dedicated government portals. This reduces paperwork, enhances accountability, and supports faster verification. It also helps workers track establishment compliance digitally.

2. Working Hours

The Code prescribes general working-hour norms while allowing sector-specific and state-level flexibility , ensuring uniformity and protecting workers from excessive or exploitative work schedules.

a. Standard workday - 8 hours: An 8-hour workday, consistent with ILO conventions, ensures that workers are not subjected to prolonged working hours without proper rest. Weekly working hours are capped at 48 hours, though states may allow flexible work arrangements with appropriate safeguards.

b. Overtime wages - minimum 2x normal wage: Any work beyond the prescribed working hours must be compensated at double the ordinary rate of wages. This protects workers from unpaid overtime and discourages employers from overburdening staff. Overtime records must be maintained digitally and made available for inspection.

3. Health & Safety Measures

A central pillar of the Code is the enhancement of health and safety standards across workplaces. Employers have an obligation to create hazard-free environments and monitor worker well-being. Employers must provide:

a. Clean and ventilated workplace: Adequate ventilation, lighting, temperature control, and sanitation facilities are required, especially in hazardous industries. Poor indoor air quality has been linked to occupational illnesses, making this provision essential.

b. Safe machinery: Machinery must comply with safety standards, be regularly inspected, and fitted with protective guards. Employers must ensure preventive maintenance to avoid accidents arising from equipment malfunction.

c. Free annual health check-ups: Annual health examinations are mandatory for workers in notified establishments, particularly where hazardous processes are involved. This enables early detection of occupational diseases and reduces long-term health risks.

d. Disposal of waste: Safe disposal of industrial waste especially, chemical and biomedical waste, is mandated to prevent workplace contamination and environmental damage.

e. Training in safety practices: Employers are required to provide safety training, induction programmes, and emergency response instructions. This is crucial for new workers, contract labourers, and those handling hazardous materials.

4. Welfare Facilities

The Code mandates essential welfare amenities to ensure workers' dignity and quality of life beyond basic safety requirements.

a. Washing, canteen, crèche facilities: Clean washing spaces and canteens are mandatory in establishments employing a specified number of workers. Crèche facilities must be provided in establishments with 50 or more workers, supporting working mothers and improving child safety.

b. Rest rooms: Comfortable rest rooms or shelters must be provided for workers, especially in sectors like construction, transport, and manufacturing, where long hours and physical labour are common.

c. First-aid appliances: Adequate first-aid equipment, trained personnel, and emergency medical facilities must be available in all establishments. Mines, factories, and docks must have dedicated first-aid rooms.

d. Welfare officers in establishments with 250+ workers: Establishments employing the prescribed number of workers must appoint welfare officers as notified under the rules, responsible for labour welfare measures, grievance handling, and compliance with safety norms.

5. Inter-State Migrant Workers

The Code brings significant reforms to address long-standing vulnerabilities of migrant workers, highlighted dramatically during the COVID-19 pandemic.

a. Mandatory portability of benefits: The Code enables portability of certain benefits for migrant workers, subject to inter-state coordination and scheme-specific rules . A single registration number ensures seamless access even when changing employers or locations.

b. Travel allowance: Employers must provide annual to-and-fro journey allowance for migrant workers to visit their home state, ensuring financial relief that was absent in earlier laws.

c. Helpline and grievance redressal: States must establish dedicated helplines and mechanisms for quick complaint resolution. This supports migrant workers who often struggle with language barriers, wage disputes, and a lack of local support networks.

6. Contract Labour Rules

The Code strengthens protection for contract labour by ensuring accountability of both contractors and principal employers.

a. Contractors must provide wage slips, safety equipment, and working condition compliance: Contractors are required to issue digital or physical wage slips, maintain records, provide personal protective equipment (PPE), and ensure safe working conditions. This prevents exploitation common in construction and manufacturing sectors.

b. Employer responsible for welfare if contractor fails: If the contractor defaults on wage payments or welfare benefits, the principal employer becomes responsible. This ensures continuity of worker welfare and prevents labour disputes.

7. Women Workers

The Code promotes gender equity by expanding opportunities for women while ensuring their safety and dignity at the workplace.

a. Permission to work night shifts (7 PM–6 AM): Women may work night shifts based on their choice, creating more employment opportunities in sectors such as IT, healthcare, hospitality, and manufacturing, with the following safeguards:

i. Safety measures: Employers must ensure adequate lighting, CCTV surveillance, security personnel, and safe transportation routes.

ii. Consent: Women must provide written consent for night work to prevent coercion.

iii. Transport facilities: Safe, reliable transport to and from the workplace must be provided, including pick-up and drop-off services.

This section aligns with global trends encouraging women's workforce participation while maintaining safety and respect.

3.2.3.4 Duties of Employers

The OSHWC Code clearly outlines the responsibilities of employers to ensure safe, healthy, and humane working environments. These duties are essential for preventing industrial accidents, promoting worker well-being, and maintaining compliance with national labour standards.

1. Ensure workplace safety

Employers are legally required to maintain a hazard-free workplace by implementing engineering controls, safety protocols, and preventive maintenance. This includes ensuring proper lighting, ventilation, emergency exits, machine guarding, and adherence to prescribed safety standards. Regular safety audits and risk assessments must be conducted to identify potential hazards. The emphasis is on *prevention* rather than merely responding to accidents, aligning with global occupational safety principles set by the International Labour Organisation (ILO).

2. Provide personal protective equipment (PPE)

Employers must supply workers with appropriate PPE such as helmets, gloves, safety shoes, goggles, harnesses, masks, and hearing protection, at no cost. PPE must meet quality standards, be regularly inspected, and replaced when necessary. In sectors like construction, chemical plants, mines, and heavy engineering, PPE is crucial for reducing exposure to hazardous substances and preventing injuries. Employers must also ensure that workers use PPE correctly and consistently.

3. Report accidents

All accidents, dangerous occurrences, and occupational diseases must be reported to the authorities within the prescribed time. This includes both fatal and non-fatal incidents. The Code mandates digital or written reporting to ensure transparency, accountability, and prompt investigation. Accurate accident reporting is essential for analysing workplace risks, enforcing compliance, and providing compensation or benefits to affected workers and their families.

4. Conduct safety training

Employers must organise regular training programmes to educate workers on safe operating procedures, emergency responses, hazard recognition, and proper use of machinery and equipment. Training is especially important for new workers, contract labour, and those working in hazardous occupations. The Code requires documented training sessions so that workers remain updated on safety protocols, reducing the likelihood of human error, a major cause of industrial accidents.

5. Maintain registers and records

Employers must keep comprehensive records of workers, working hours, overtime, shift schedules, wages, accidents, medical examinations, and safety training. These records must be maintained digitally or in prescribed formats and made available for inspection by labour authorities. Proper record-keeping ensures legal compliance, facilitates dispute resolution, and supports the monitoring of workplace health and safety trends.

3.2.3.5 Rights of Employees

The OSHWC Code recognises workers as key stakeholders in workplace safety and gives them several important rights to safeguard their health, dignity, and security. These rights empower employees to participate actively in maintaining safe working environments.

1. Right to information on hazards

Employees have the right to be informed about all workplace hazards such as chemical, physical, biological, mechanical, or environmental that may affect their health or safety. Employers must display safety notices, maintain hazard communication systems, and label dangerous substances clearly. Workers must be informed about potential risks through manuals, signage, and spoken instructions. This transparency enables workers to take informed precautions and promotes a culture of safety.

2. Right to safety training

Every worker is entitled to proper training on safe work procedures, handling of machinery, emergency response, and use of personal protective equipment (PPE). The Code mandates employers to conduct training during induction and periodically thereafter. Training is especially critical for contract workers, new recruits, and those in high-risk sectors like construction, mining, manufacturing, and chemical processing.

3. Right to refuse work in dangerous conditions

Employees may refuse work that poses imminent danger, subject to reporting procedures and verification mechanisms prescribed under the Code . Upon reporting the hazard, the employer or safety committee must immediately address the issue. The worker cannot be punished, dismissed, or discriminated against for exercising this right. This provision is inspired by international best practices in occupational safety, ensuring workers are not compelled to undertake unsafe tasks.

4. Right to medical examination

Workers are entitled to free medical examinations, especially in hazardous occupations. This includes periodic health check-ups, emergency medical tests after exposure to toxic substances, and fitness assessments. The purpose is early detection of occupational diseases and prevention of long-term health damage. Employers must maintain medical records and share relevant findings with employees.

3.2.3.6 Inspector-cum-Facilitator

The OSHWC Code introduces a modern compliance model by transforming traditional "inspectors" into Inspector-cum-Facilitators. This shift focuses on guidance, prevention, and transparency rather than punitive inspection alone.

1. Conduct inspections digitally

Inspections may be planned, surprise-based, or technology-driven. Inspectors can use digital checklists, risk-based inspection systems, CCTV footage, and online records to monitor compliance. Establishments must upload registers, licences, and accident reports online, enabling smoother and faster inspections. This reduces rent-seeking behaviour, increases transparency, and promotes ease of doing business.

2. Provide guidance instead of penalties for minor violations

For first-time or minor non-serious violations, inspectors may provide advisory guidance for minor violations, while penalties are imposed in accordance with statutory provisions . The emphasis is on education, compliance, and risk mitigation. Penalties are reserved for serious, wilful, or repeat violations. This approach benefits MSMEs that may unintentionally commit procedural lapses due to lack of awareness.

3.2.3.7 Penalties

The OSHWC Code introduces a graded penalty system that distinguishes between minor, major, and repeated violations, ensuring fairness and deterrence. The penalties are stronger than previous laws to improve employer accountability.

1. ₹2–3 lakh fine for safety violations

For general safety and health-related contraventions such as lack of PPE, unsafe machinery, or inadequate welfare facilities employers may face fines ranging from ₹2 lakh to ₹3 lakh, depending on severity and risk involved. This aims to ensure basic compliance and prevent avoidable accidents.

2. Imprisonment up to 2 years for serious violations

Serious violations that result in death or serious bodily injury, such as failure to follow mandatory safety protocols or negligence in hazardous industries may attract imprisonment as prescribed by the Code in cases involving grave negligence or repeated violations . Courts may also impose fines in addition to imprisonment. This provision serves as a strong deterrent against gross negligence.

3. Higher penalties for repeat offences

The Code provides for enhanced penalties if an employer repeats the same offence within three years. This may include higher fines, extended imprisonment, or stricter enforcement actions. Repeat offenders may also face cancellation of licence, closure of operations, or restrictions on hiring contract labour. The objective is to encourage sustained compliance rather than temporary corrective action.

Case Study: Vizag Gas Leak (LG Polymers, 2020)

The Vizag gas leak at the LG Polymers plant in Visakhapatnam on 7 May 2020 was one of the most severe industrial accidents in recent times, exposing critical shortcomings in occupational safety and chemical hazard management in India. Styrene vapour leaked from a storage tank that had been left idle during the COVID-19 lockdown. As operations resumed, improper temperature control, ageing equipment, and insufficient monitoring systems caused the chemical to auto-polymerise, releasing toxic fumes into nearby residential areas. The leak killed 11 people, hospitalised over 1,000 residents, and forced the evacuation of nearly 20,000 people.

Investigations by the National Green Tribunal (NGT) and expert committees revealed systemic failures in risk assessment, emergency response preparedness, and maintenance of safety infrastructure. The plant lacked adequate refrigeration systems for styrene storage, had not conducted periodic safety audits, and had no functional on-site emergency plan. Communication with local authorities and communities was also delayed, worsening the impact.

The disaster highlighted longstanding gaps in industrial safety regulation, which the OSHWC Code seeks to address . Policymakers cited the Vizag incident as evidence of the need for stricter inspections, digital monitoring, mandatory safety training, and upgraded chemical handling standards across industries.

Recap

- **Objectives of Labour Codes** – Aim to simplify complex labour laws and expand protection to all categories of workers.
- **Social Security Code** – Integrates EPF, ESI, gratuity, maternity benefits, gig worker welfare, and unorganised worker schemes.
- **OSHWC Code** – Consolidates safety laws and mandates uniform workplace health, safety, and welfare standards.
- **Licensing & Registration** – Single licence and digital systems reduce compliance burden for employers.
- **Working Hours** – Standard 8-hour day with compulsory double wages for overtime.
- **Employee Rights** – Workers have the right to safety information, training, medical checks, and refusal of unsafe work.
- **Employer Duties** – Ensure safe workplaces, provide PPE, report accidents, and maintain digital records.
- **Migrant Workers** – Receive benefit portability, travel allowance, and dedicated helpline support.
- **Women Workers** – Allowed night shifts with safety, consent, and transport provisions.
- **Penalties** – Heavy fines, imprisonment, and enhanced punishment for repeated violations.

Objective Questions

1. How many labour laws were merged under the OSHWC Code?
2. What is the standard workday under the Codes?
3. What is the minimum rate of overtime wages?
4. Which Code covers EPF and ESI benefits?

5. Which new category of workers is included under social security provisions?
6. Who conducts digital inspections under Code 4?
7. What is mandatory for establishments with 50+ employees?
8. What must employers provide to workers at no cost for safety?
9. Which workers benefit from the e-Shram registration system?
10. What allowance must be given to inter-state migrant workers?
11. What is the penalty for major safety violations?
12. Which major accident highlighted the need for stronger safety enforcement?

Answers

1. Thirteen laws
2. Eight hours
3. Double wages
4. Social Security Code
5. Gig workers
6. Inspector-cum-Facilitator
7. Crèche facility
8. PPE equipment
9. Unorganised workers
10. Travel allowance
11. Two–three lakh
12. Vizag Gas Leak

Self-Assessment Questions

1. Explain the objectives of Code on Social Security, 2020
2. Give a detailed account of the Social Security Schemes covered under the Code on Social Security, 2020
3. Discuss the core provisions of OSHWC Code
4. Elaborate the responsibilities of the employers outlined in the OSHWC Code
5. Discuss the penalties under the OSHWC Code

Assignments

1. Describe the major reforms introduced under the Social Security Code and discuss how they expand protection to unorganised, gig, and platform workers.
2. Explain the key health and safety measures mandated under the OSHWC Code and their importance for workplace accident prevention.
3. Discuss the rights of employees under the OSHWC Code, particularly the right to refuse dangerous work and access hazard information.
4. Evaluate how digital licensing, registration, and inspection mechanisms streamline compliance for modern enterprises.
5. Analyse the significance of welfare provisions such as maternity benefits, crèche facilities, and annual health check-ups in promoting inclusive workplaces.
6. Select a small local business and prepare a checklist of whether it complies with the provisions of Code 3 and Code 4.
7. Visit a workshop, construction site, or industrial unit (or observe online videos) and identify hazards based on OSHWC standards.
8. Draft a simple workplace safety policy for a start-up employing 20 workers.
9. Analyse a real industrial accident and identify which provisions of the OSHWC Code could have prevented the incident.

10. Prepare a short questionnaire and interview three workers to assess their awareness of rights under the new Labour Codes.

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BLOCK 04

Other Relevant Acts

Unit 1

Consumer Protection Act (COPRA), 1986

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

- ◊ explain the major objectives and key provisions of the Consumer Protection Act (COPRA), 1986.
- ◊ describe essential concepts such as consumer, goods, service, defect, deficiency, and unfair trade practices.
- ◊ explain the functioning of the three-tier consumer grievance redressal mechanism in India.
- ◊ analyse real case laws relating to consumer rights to understand the practical role of COPRA in protecting consumers.

Prerequisite

Riya, a first-year graduate student, saved money for months to buy a new smartphone. Excited, she purchased a branded model from a well-known electronics store. But within two weeks, the phone started heating excessively and shutting down on its own. When she returned to the store, the staff refused a replacement, claiming that "all phones heat a little" and asked her to visit the service centre repeatedly. Feeling helpless, Riya shared her issue with a classmate who told her about the *Consumer Protection Act (COPRA), 1986*. With guidance from her college consumer club, she filed a complaint at the District Consumer Forum. To her surprise, the Forum ruled in her favour, ordering the seller to replace the phone and pay compensation for the inconvenience caused. This incident highlights how awareness of consumer rights empowers individuals to seek legal remedies against unfair trade practices .

This unit helps students build the same awareness that empowered Riya. Before studying business, marketing, or management practices, every learner must understand the basic rights of consumers, the responsibilities of sellers, and the mechanisms available for resolving disputes. COPRA (1986) provides a legal framework aimed at promoting fairness and protecting consumer interests in the marketplace . By learning the concepts in this unit, students will be better prepared to become ethical managers, informed consumers, and responsible citizens in a rapidly expanding economy.

Keywords

Consumer, Defect, Deficiency, Unfair Trade Practice, Redressal Mechanism

Discussion

4.1.1 Introduction to COPRA

Prior to the 1980s, Indian consumers faced widespread exploitation like unsafe products, misleading advertisements, adulterated goods, and the absence of speedy legal remedies. With rapid industrialisation and the expansion of the services sector, consumer disputes became more frequent. To address these concerns, the Government of India enacted the Consumer Protection Act (COPRA) in 1986, a landmark social-welfare legislation designed to protect consumers and ensure fair trade practices.

COPRA established a three-tier quasi-judicial machinery for quick resolution of consumer disputes at the District, State, and National level. India handles a large volume of consumer cases annually, and consumer forums have contributed significantly to dispute resolution efficiency . Although repealed and replaced by the Consumer Protection Act, 2019, COPRA (1986) remains foundational for understanding the evolution of consumer rights and grievance redressal in India. .

4.1.1.1 Objectives of COPRA, 1986 (Expanded)

1. Protecting consumer rights against exploitation, unsafe goods, and unfair trade practices

One of the primary goals of COPRA (1986) is to safeguard consumers from the widespread issues of defective products, adulterated goods, misleading advertisements, and unfair business practices. Before the Act came into force, consumers often suffered due to poor product quality or deceptive claims and lacked a legal platform for redress. COPRA established six basic consumer rights. These rights include the right to safety, right to choice, right to information, right to redressal, right to consumer education, and right to be heard.

Example : The Pepsi pesticide controversy (2003) and several adulterated food cases reported by the Prevention of Food Adulteration (PFA) authorities demonstrated the need for safety rights. Subsequently, authorities enforced stricter quality norms on packaged beverages. Similarly, misleading ads by companies like Horlicks were challenged under consumer protection laws for exaggerated health claims.

2. Providing simple, speedy, and inexpensive dispute resolution through consumer forums

A major innovation of COPRA was the creation of a three-tier consumer dispute redressal mechanism. They are District Forum, State Commission, and National Commission. This made grievance redressal less costly and less time-consuming compared to traditional courts. The process is semi-judicial, involves minimal paperwork, and consumers can file cases without a lawyer.

Example: In the famous *Nivedita Sharma vs. Cellular Operators Association of India (2011)* case, the Supreme Court upheld consumers' right to challenge service deficiencies such as call drops and billing errors through consumer forums. The structure has resolved thousands of cases annually; By the mid-2010s, consumer forums had disposed of a substantial number of cases, indicating the growing utilisation of consumer dispute redressal mechanisms , reflecting its effectiveness.

3. Promoting consumer education to build awareness and responsible buying behaviour

COPRA emphasised the need for informed consumers who can critically evaluate products, check labels, and make rational decisions. Consumer education is promoted through government programmes, schools, media campaigns, and the activities of consumer organisations. Schemes like *Jago Grahak Jago* (launched in 2005) became one of India's most successful public awareness campaigns, educating millions about MRP checking, warranty rights, product standardisation, and complaint filing procedures

Example: The awareness campaign significantly increased consumer complaints filing-District Forums recorded a rise in registered cases from 62,000 (2004) to over 1.2 lakh (2010).

4. Ensuring quality standards for goods and services through regulatory support

COPRA complements the functioning of organisations like the Bureau of Indian Standards (BIS), AGMARK, FSSAI, and the Drugs Controller. These agencies certify products to ensure they are safe, reliable, and adhere to prescribed quality norms. The Act empowers consumers to demand such standards and take action if defective or substandard products are sold.

Example: BIS certification has been made mandatory for select products such as LPG cylinders, helmets, and packaged drinking water to enhance consumer safety . The

Maggi Noodles ban (2015), when high lead content was detected by state laboratories, highlighted the importance of quality control and strengthened consumer trust in regulatory authorities.

5. Encouraging fair competition and ethical business practices

By penalising deceptive advertisements, restrictive trade practices, and exploitation, COPRA helped create a more transparent and competitive marketplace. Fair competition ensures that businesses improve product quality, maintain accurate information, and avoid unfair terms in contracts. Companies are encouraged to adopt ethical marketing, transparent pricing, and responsible customer service.

Example: The *Uber surge pricing complaints (2015–18)* and *e-commerce return/refund disputes* brought companies under scrutiny, pushing them to adopt fair policies. Similarly, misleading celebrity endorsements (such as fairness creams and health beverages) faced stricter accountability under consumer law, encouraging responsible advertising.

4.1.1.2 Key Concepts and Definitions

1. Consumer

Under COPRA, 1986, a *consumer* is any individual who buys goods or avails services for a valid consideration, whether the payment is made fully, partly, or promised to be paid later. This definition ensures that all genuine purchasers and service users receive legal protection under consumer law. However, the Act excludes purchases made for resale, commercial purposes, or free services, as these do not involve personal consumption.

Example: A patient paying consultation and treatment charges in a private hospital is a consumer because a professional service is rendered for payment. In contrast, a person receiving free treatment during a medical charity camp is not considered a consumer under the Act.

Case Reference: In *Indian Medical Association vs. V.P. Shantha (1995)*, the Supreme Court held that paid medical services fall under "service" and patients who pay are consumers.

2. Goods

Under COPRA, "goods" refer to all types of movable property, whether manufactured, processed, or natural. This includes consumer items such as appliances, vehicles, clothing, packaged food, and electronics. Judicial interpretations have, in certain contexts, recognised electricity as 'goods' for consumer protection purposes , which courts have recognised as "goods" because it can be measured, bought, and consumed.

Example: If a consumer purchases a new refrigerator and it malfunctions within days due to a manufacturing defect, the buyer can file a consumer complaint for repair, replacement, or refund.

3. Service

The Act defines "service" as any facility offered to consumers in return for payment, spanning sectors such as banking, insurance, healthcare, telecom, transport, housing, and paid education. Services must be lawful and provided responsibly. Free services, voluntary work, and services arising from personal employment contracts are not covered.

Examples:

i. Banking: Delayed NEFT/RTGS transfers or wrongful ATM withdrawals.

ii. Insurance: Unjustified delay in settlement of claims.

iii. Paid coaching and certain educational services have, in limited cases, been examined under consumer law, subject to judicial interpretation .

Exclusions:

i. A doctor treating someone free of charge.

ii. Services provided by an employee to an employer under a personal contract.

4. Defect in Goods

A *defect* refers to any flaw or imperfection in quality, quantity, purity, standard, or functionality of a product, whether mandated by law, expected by a reasonable consumer, or claimed by the seller. This enables consumers to seek compensation for substandard goods.

Examples:

i. Adulterated food products like turmeric mixed with artificial colour.

ii. A mobile phone with a cracked screen delivered on arrival.

iii. Cement supplied with lower compressive strength than prescribed standards .

iv. Expired medicines sold to unsuspecting customers.

Case Reference: In the Coca-Cola pesticide controversy (2003), regulatory investigations raised concerns over product safety.

5. Deficiency in Service

"Deficiency" refers to shortcomings in the quality, nature, or manner of performance of a service. Any negligence, delay, or failure to meet promised standards can be considered a deficiency under consumer law.

Examples:

i. A bank taking several days to credit a cheque despite RBI's time norms.

ii. Deficient electricity supply, where services are provided for consideration and fall within consumer jurisdiction .

iii. Surgical errors or negligence in a hospital setting.

iv. A travel agency delaying delivery of tour packages, causing passenger inconvenience.

Case Reference: In *Savita Garg vs. Director, National Heart Institute (2004)*, the Supreme Court held hospitals accountable for negligence, reinforcing the definition of deficiency in service.

6. Spurious Goods and Services

Spurious or counterfeit goods are fake products presented as genuine brands to deceive consumers. These goods often violate safety norms and can cause significant health or financial harm. Fraudulent or deceptive service practices may amount to unfair trade practices or deficiency in service under consumer law .

Examples:

i. Fake branded cosmetics containing harmful chemicals.

ii. Counterfeit medicines sold online without a license, leading to health hazards.

iii. Duplicate automobile spare parts sold as originals.

iv. Fraudulent online loan applications charge hidden fees and misuse personal data.

These cases have increased sharply with the rise of e-commerce, prompting regulatory authorities to strengthen enforcement mechanisms alongside consumer protection laws on counterfeit drug networks.

7. Unfair Trade Practice (UTP)

UTPs refer to deceptive, fraudulent, or unethical business practices that mislead consumers. The Act protects consumers by prohibiting any form of false representation.

Forms of UTPs include:

i. Fake or exaggerated advertisements.

ii. Misrepresentation of a product's quality or origin.

iii. Hoarding essential goods to inflate prices.

iv. Misleading discounts or fake "MRP slash" sales.

v. Offering benefits or gifts that do not actually exist.

Example: A shampoo claiming "100% hair growth in 7 days" is making an unrealistic and scientifically unsupported claim.

Case Reference: The Fair & Lovely advertisement controversy resulted in ASCI (Advertising Standards Council of India) tightening norms for fairness cream ads.

8. Restrictive Trade Practice (RTP)

RTPs are business strategies that restrict consumer freedom or artificially manipulate market supply and prices. These practices aim to limit competition and force consumers into disadvantageous purchases.

Forms of RTPs include:

i. Tie-in sales: Forcing a consumer to buy a gas stove along with a gas connection.

ii. Cartels fixing prices of essential commodities.

iii. Hoarding goods to create artificial scarcity.

iv. Delaying delivery intentionally to increase price later.

Example : For many years, new LPG consumers were compelled to buy a gas stove from the agency. This is a classic example of a tie-in sale. This was later prohibited after consumer complaints.

4.1.1.3 Grievance Redress Mechanism under COPRA, 1986 (Expanded)

COPRA (1986) introduced a unique three-tier quasi-judicial consumer dispute redressal system in India. The goal was to offer consumers *simple, speedy, and inexpensive* justice without the complexities of regular courts. Each level has defined jurisdiction, composition, and powers.

1. District Consumer Disputes Redressal Forum (DCDRF)

The District Forum is the first level of the consumer court system and is accessible to ordinary consumers at the district level.

Key Features:

i. Monetary Jurisdiction: Under COPRA, 1986, the District Forum handled claims up to ₹20 lakh (later revised under CPA 2019).

ii. Composition: A President who is or has been qualified to be a District Judge , and two members, including one woman, ensuring gender representation.

Role:

a. Receives complaints related to defective goods, service deficiency, unfair trade practices, and restrictive trade practices.

b. Issues orders for replacement, refund, compensation, or corrective action.

Example: A consumer who bought a defective washing machine or was overcharged by a telecom company can file a case in the District Forum without a lawyer.

Case Reference : In *Ravneet Singh Bagga* vs. KLM Royal *Dutch Airlines (2000)*, the Supreme Court recognised mental agony as a component of deficiency in service

2. State Consumer Disputes Redressal Commission (SCDRC)

The State Commission functions as the **second tier** and has wider jurisdiction across the entire state.

Key Features:

i. Monetary Jurisdiction: Hears cases between ₹20 lakh and ₹1 crore.

ii. Appellate Authority: Hears appeals against District Forum decisions.

iii. Composition: President (a sitting or retired High Court Judge) and at least two members with adequate knowledge in law, commerce, and public affairs.

Role:

a. Ensures uniformity and fairness in consumer protection across all districts in the state.

b. Can call for records, modify lower court orders, or deliver fresh judgments.

Example : In several air travel disputes such as unfair cancellation charges State Commissions directed airlines to refund excess amounts and compensate consumers.

3. National Consumer Disputes Redressal Commission (NCDRC)

The apex body for consumer justice in India.

Key Features:

i. Monetary Jurisdiction: Handles cases above ₹1 crore.

ii. Appellate Authority: Hears appeals against State Commission decisions.

iii. Head: A sitting or retired Supreme Court Judge serves as President.

iv. Powers:

- Supervisory authority over State Commissions.
- Can issue orders enforceable as decrees of a civil court.

Example / Landmark Case: In the *Ambrish Kumar Shukla vs. Ferrous Infrastructure Pvt. Ltd. (2016)* case, the NCDRC clarified rules regarding housing complaints and "consumer class actions," protecting homebuyers in real estate projects.

How the System Benefits Consumers

i. Eliminates the need for expensive civil litigation.

ii. Aims to provide relatively speedy resolution compared to traditional civil courts. .

iii. Allows filing without legal representation.

iv. Encourages transparency and accountability in business and public service delivery.

4.1.1.4 Types of Relief Provided (Expanded)

Under COPRA, the consumer forums have wide powers to grant relief depending on the nature of the complaint. The reliefs aim to compensate the consumer and discourage non-compliant business behaviour.

1. **Replacement of Goods:** The seller/manufacturer may be ordered to replace defective goods with new ones of identical or superior quality. Example: A consumer receiving a malfunctioning laptop may be given a brand-new replacement after the forum verifies the defect.

2. **Refund of Price:** The consumer court may direct full or partial refund of the purchase amount. Example: If a defective refrigerator repeatedly fails to work after repairs, the consumer may receive a full refund of the price paid.

3. **Compensation for Loss or Injury:** Compensation may cover financial loss, mental agony, inconvenience, or physical injury caused by the defect or deficient service.

Example:

- In medical negligence cases, courts often award high compensation.
- In airline cases, if passengers miss connecting flights due to airline negligence, they may receive compensation.

4. **Removal of Defects :** The forum may direct the manufacturer or dealer to repair or rectify defects to meet promised standards. Example: An automobile company may be ordered to replace faulty airbags or repair recurring engine failures.

5. **Discontinuation of Unfair Trade Practices :** Consumer courts can restrain a business from continuing deceptive advertisements or fraudulent practices. Example: An FMCG company making false health claims in an advertisement may be ordered to withdraw it.

6. **Withdrawal of Hazardous Goods :** Products that endanger public health or safety can be removed from the market. Example: During the Maggi noodles recall (2015), authorities ordered withdrawal of lakhs of packets due to excess lead content.

7. **Penalties on Seller/Manufacturer:** Consumer forums may impose compensation and issue directions; penal provisions were limited under COPRA, 1986 . Penalties deter harmful practices and promote ethical behaviour. Example: E-commerce vendors selling counterfeit or expired products have faced penalties and blacklisting by consumer forums.

Examples and Case References

Example 1: Medical Negligence – Indian Medical Association v. V.P. Shantha (1995)

In this landmark judgment, the Supreme Court of India held that medical services offered for consideration (payment) fall under the definition of "service" in the Consumer Protection Act, 1986. Prior to this ruling, hospitals and medical practitioners claimed immunity from consumer complaints, arguing that medical treatment was not a commercial service. The Court clarified that:

i. Patients who pay for treatment are consumers.

ii. Hospitals offering both paid and free services are still covered because the paying patients cross-subsidise free services.

iii. Only free medical services like charity hospitals are outside COPRA's scope.

Significance: This judgment opened the doors for thousands of patients to seek compensation for surgical errors, misdiagnosis, negligence, and service deficiencies in healthcare. It also brought accountability and quality assurance into India's medical system.

Example 2: False Advertising – *PepsiCo vs. Consumer Forum* (2011)

In this case, PepsiCo was taken to court for airing misleading advertisements aimed at children. The advertisement exaggerated health benefits and nutritional claims, thereby violating consumer protection norms related to honest disclosure. The Consumer Forum ruled that:

◊ Misleading advertisements that manipulate children constitute unfair trade practice.

◊ Companies must ensure scientific accuracy and ethical standards in all promotional materials.

◊ Penalties and corrective actions can be imposed for deceptive marketing.

Significance: This case reinforced that even multinational corporations must adhere to advertising ethics. It strengthened the role of consumer forums in regulating false claims and promoting responsible advertising, especially in sectors like food, beverages, and children's products.

Example 3: Defective Goods – *Hyundai Motors Case*

In several cases involving automobile defects, consumer forums have directed Hyundai Motors to replace defective vehicles and compensate consumers for the hardship caused. In one notable case, a buyer of a new Hyundai car experienced repeated mechanical failures within months of purchase. Despite multiple repairs, the defect persisted. The District Forum and State Commission held that:

◊ Supplying a defective vehicle constitutes a defect in goods under COPRA.

◊ Repeated repairs without resolution amount to deficiency in service.

◊ The consumer is entitled to replacement of the car and monetary compensation for mental agony and financial loss.

Significance: Automobile manufacturers became more accountable for product quality, after-sales service, and adherence to safety standards. This case reassured consumers that even powerful corporations can be held liable for defective products.

Recap

- **Objectives of COPRA:** The Act aims to protect consumer rights, ensure fair trade, and provide speedy justice.
- **Definition of Consumer:** A consumer is one who buys goods or avails services for consideration.
- **Goods and Services:** Goods include all movable property, while services cover paid facilities like banking, insurance, and healthcare.
- **Defect in Goods:** Any shortcoming in quality or standard of goods amounts to a defect under the Act.
- **Deficiency in Service:** Any failure in the performance or quality of service constitutes deficiency.
- **Unfair Trade Practice:** Misleading advertisements or deceptive promotions fall under UTPs.
- **Restrictive Trade Practice:** Practices that artificially limit competition or consumer choice are considered RTPs.
- **Spurious Goods:** Counterfeit and unsafe goods pose risks and are prohibited under consumer law.

- **Three-Tier Redress System:** District, State, and National Commissions handle consumer disputes at different monetary levels.
- **Types of Relief:** Consumer forums may grant replacement, refund, compensation, discontinuation of unfair practices, or withdrawal of hazardous goods.
- **Case Law Importance:** Judicial decisions reinforce consumer rights and ensure accountability of businesses.
- **Social Impact of COPRA:** The Act has contributed to increased consumer awareness, legal empowerment, and ethical business conduct.

Objective Questions

1. COPRA was enacted in which year?
2. The District Forum handles cases up to what monetary value?
3. Which body heads the NCDRC?
4. "Goods" under COPRA include which type of property?
5. What term refers to flaws in quality or standard of goods?
6. Free services fall under which category—covered or not covered?
7. Misleading advertisements are classified as what type of practice?
8. Tie-in sales fall under which trade practice?
9. Which campaign promotes consumer awareness in India?
10. Deficiency in service refers to shortcomings in what?
11. Counterfeit goods are known as what?
12. Appeals from SCDRC go to which body?

Answers

1. 1986
2. ₹20 lakh
3. Supreme Court Judge
4. Movable property
5. Defect
6. Not covered
7. Unfair trade practice
8. Restrictive trade practice
9. Jago Grahak Jago
10. Quality of service
11. Spurious goods
12. NCDRC

Self-Assessment Questions

1. Explain the objectives of COPRA, 1986
2. Explain the grievance redressal mechanism under COPRA, 1986
3. Which are the types of relief provided under COPRA, 1986
4. What do you mean by spurious goods and services ?
5. What do you mean by Restrictive Trade Practice ?

Assignments

1. Explain the key objectives of COPRA, 1986 with relevant examples.
2. Discuss the difference between defect in goods and deficiency in service, citing real cases.
3. Describe the structure and jurisdiction of the three-tier consumer grievance redressal mechanism.
4. What are unfair and restrictive trade practices? Discuss with examples.
5. Analyse major consumer case laws and explain their significance in shaping consumer protection in India.
6. Select a recent consumer dispute reported in newspapers and analyse it using COPRA provisions.
7. Visit a local store and identify at least five products with standardisation marks; prepare a report on their relevance.
8. Evaluate the service quality of a bank, hospital, or telecom provider using COPRA concepts.
9. Draft a consumer complaint for a defective product or deficient service based on a hypothetical scenario.
10. Conduct a small survey among 20 people to assess their awareness of consumer rights and prepare findings.

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Unit 2

Environmental Protection Act, 1986

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

- ◊ explain the major provisions, objectives, and features of the Environment (Protection) Act, 1986 and related environmental laws in India.
- ◊ explain the legal and institutional mechanisms for the prevention and control of air and water pollution, including the roles of the CPCB and SPCBs.
- ◊ comprehend the functioning and judicial impact of the National Green Tribunal (NGT) in strengthening environmental governance.
- ◊ analyse landmark environmental judgments and their implications for sustainable development, industrial operations, and public health.

Prerequisite

Severe air pollution episodes in metropolitan cities such as Delhi have drawn national attention to the growing problem of urban environmental degradation . Schools are closed, flights are delayed, and people step outside wearing masks even before the pandemic made them common. On the same day, hundreds of kilometres away in Kanpur, tannery effluents turn the Ganga a murky colour, affecting the lives of fishermen and farmers who depend on it daily. These incidents reflect systemic environmental challenges that have significant implications for business operations, governance, and sustainable development . As industries expand, vehicles multiply, and urban centres grow, the need for responsible environmental governance becomes more critical than ever.

This unit helps you understand why India created powerful laws such as the Environment (Protection) Act 1986, the Air Act, the Water Act, and institutions like the National Green Tribunal. The unit will show how laws, courts, and regulatory bodies ensure that economic growth does not come at the cost of public health or ecological destruction, an essential understanding for every future manager in today's sustainability-driven world.

Keywords

Environment Protection Act, Pollution Control Boards, National Green Tribunal, Air and Water Pollution, Landmark Judgments

Discussion

4.2.1 Background

India witnessed a series of environmental challenges during the 1970s and 1980s such as industrial pollution, river contamination, toxic emissions, and large-scale deforestation. The Bhopal Gas Tragedy of 1984, which killed over 3,000 people instantly and affected more than 5 lakh, people exposed severe gaps in environmental safety laws. In response, the Government of India enacted the Environment (Protection) Act (EPA), 1986, one of the most comprehensive environmental laws in the country.

The Act empowers the Central Government to protect and improve environmental quality, regulate industrial activities, and prescribe standards for air, water, and land pollution . The Act functions as an umbrella legislation primarily for environmental rules and notifications, while earlier statutes such as the Water Act, 1974 and the Air Act, 1981 continue to operate as independent laws . With India generating a large volume of municipal waste annually and facing serious pollution challenges, the EPA remains the backbone of India's environmental governance system .

4.2.2 Law Relating to Environmental Protection in India

Environmental protection in India has evolved through a combination of constitutional mandates, comprehensive statutory laws, judicial activism, and an extensive framework of rules and notifications. Together, these legal instruments aim to balance economic development with ecological sustainability.

4.2.2.1 Constitutional Provisions

The foundation of environmental governance in India is rooted in the Constitution, particularly after the 42nd Constitutional Amendment (1976), which formally introduced environmental responsibilities.

a. **Article 48A (Directive Principles of State Policy)** : This article states: *"The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."* It transforms environmental protection into a responsibility of government agencies, encouraging sustainable policies on forests, wildlife, and natural resources. Many national policies such as the National Forest Policy (1988) and National Environment Policy (2006)—derive legitimacy from this constitutional commitment.

b. **Article 51A(g) (Fundamental Duties)** : This provision makes it the fundamental duty of every citizen *"to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures."* Though non-justiciable, this duty has been invoked in court decisions to promote public participation in environmental conservation. Awareness campaigns like *Swachh Bharat Mission* and *Namami Gange* draw legitimacy from this obligation.

Together, these articles create a dual responsibility: the State must enact policies to safeguard the environment, and citizens must support conservation efforts.

4.2.2.2 Statutory Laws for Environmental Protection

a. Environment (Protection) Act, 1986 (EPA)

Often referred to as the "umbrella legislation," the EPA was enacted in the aftermath of the Bhopal Gas Tragedy of 1984.

a. It empowers the Central Government to set environmental quality standards, regulate industrial emissions, declare ecologically sensitive zones, and impose penalties.

b. It forms the parent act for many modern rules, including waste management regulations and environmental impact assessment (EIA).

b. Air (Prevention and Control of Pollution) Act, 1981

This Act was influenced by India's participation in the **1972 Stockholm Conference** on the Human Environment.

a. It regulates industrial and vehicular emissions.

b. The Act enables the creation of State Pollution Control Boards (SPCBs) and empowers them to issue consent-to-operate certificates. Example: The Delhi Pollution Control Committee has used this Act to regulate brick kilns, construction dust, and generator emissions.

c. Water (Prevention and Control of Pollution) Act, 1974

India's first major environmental law.

a. It prohibits the discharge of pollutants into water bodies beyond prescribed limits.

b. It established the Central and State Pollution Control Boards. Example: Closure of industrial units on the banks of the Ganges under Supreme Court orders (1987–1998) was enforced using this Act.

d. Wildlife Protection Act, 1972

A landmark law protecting wildlife, habitat, and biodiversity. It created protected areas such as National Parks, Wildlife Sanctuaries, and Tiger Reserves. Project Tiger (1973) and subsequent legal backing helped India increase its tiger population from 1,411 in 2006 to 3,682 in 2022.

e. Forest Conservation Act, 1980

Enacted to prevent the misuse of forest lands for non-forest purposes. It requires prior approval of the Central Government for the diversion of forest land. Example: use of this Act has regulated mining projects in states like Odisha, Jharkhand, and Chhattisgarh.

4.2.2.3 Judicial Interventions and Environmental Jurisprudence

The Indian judiciary, especially through Public Interest Litigations (PILs) has expanded environmental rights and principles.

a. Polluter Pays Principle

This principle mandates that the polluter bears the cost of environmental damage. It is recognised in *Indian Council for Enviro-Legal Action v. Union of India (1996)*. Example: The Supreme Court directed chemical industries in Rajasthan to pay compensation for groundwater contamination.

b. Precautionary Principle

If an action or policy might cause serious environmental harm, precautionary measures must be taken even if there is no complete scientific evidence. Established in *Vellore Citizens' Welfare Forum v. Union of India (1996)*. Example: The court restricted polluting tanneries in Tamil Nadu until they installed Effluent Treatment Plants.

c. Right to a Clean Environment (Article 21)

The Supreme Court has interpreted the right to life to include the right to a pollution-free environment.

Cases such as *MC Mehta v. Union of India* (Ganga pollution, Delhi vehicular emissions, Taj Mahal protection) have made environmental protection a part of fundamental rights.

4.2.2.4 Environmental Rules and Notifications

Several rules framed under the EPA provide procedures for environmental compliance and management.

a. Environmental Impact Assessment (EIA) Notification, 2006

Requires prior environmental clearance for major development projects such as mining, dams, highways, and industries.

Includes public consultation, environmental management plans, and monitoring mechanisms. Example: Many hydroelectric projects in Uttarakhand underwent EIA scrutiny after the 2013 floods.

b. Waste Management Rules, 2016

A set of modern legislations regulating different waste categories:

i. Solid Waste Management Rules, 2016

ii. Plastic Waste Management Rules, 2016

iii. Bio-medical Waste Rules, 2016

iv. E-waste (Management Rules), 2016

These rules promote segregation at source, extended producer responsibility (EPR), and environmentally sound recycling. Example: EPR under E-waste Rules places responsibility on producers like Samsung and Apple for safe disposal.

Environmental protection in India is supported by a strong constitutional foundation, a comprehensive body of laws, active judicial oversight, and detailed rules for compliance. Despite challenges such as industrial expansion, urbanisation, and climate change, these legal instruments collectively ensure that development remains aligned with ecological sustainability. India's environmental legal framework continues to evolve as global environmental challenges intensify and public awareness increases.

4.2.3 Environment (Protection) Act, 1986

The Environment (Protection) Act, 1986 (EPA) is India's umbrella legislation for environmental protection, enacted in the aftermath of the Bhopal Gas Tragedy of 1984, one of the world's worst industrial disasters. Recognising the need for a comprehensive law to regulate industrial activities and protect human health and the environment, the Government of India introduced the EPA under Article 253 of the Constitution, enabling Parliament to enact laws in line with international commitments such as the Stockholm Conference (1972). The Act empowers the Central Government to take all necessary measures to safeguard the environment by setting standards for air, water, and soil quality; controlling industrial pollution; restricting hazardous substances; and managing ecologically sensitive areas. It also authorises the government to issue notifications, impose penalties, and coordinate with state authorities for effective environmental governance.

The EPA serves as the parent legislation for many modern environmental regulations in India. Key rules such as the Environmental Impact Assessment (EIA) Notification 2006, Waste Management Rules 2016 (covering solid waste, plastic waste, biomedical waste, e-waste, etc.), and Coastal Regulation Zone (CRZ) Notifications are framed under this Act. The Act also grants wide-ranging powers to inspect, close, or regulate industrial units that violate environmental standards. By establishing a unified framework and empowering the Central Government with comprehensive authority, the Environment (Protection) Act, 1986 has become the cornerstone of India's environmental regulatory system, aimed at ensuring sustainable development, pollution prevention, and protection of natural resources for future generations.

4.2.3.1 Objectives

i. Protect and improve the environment

One of the primary objectives of the Environment (Protection) Act, 1986 is to ensure the protection and improvement of the natural environment, including air, water, land, and biodiversity. The Act empowers the Central Government to take preventive and remedial actions to address environmental degradation. This includes promoting conservation, protecting ecologically sensitive areas, restoring polluted ecosystems, and encouraging sustainable practices. The Act aims to create long-term ecological balance by integrating environmental protection into national development policies.

ii. Control and reduce pollution

The Act provides the legal authority to control, prevent, and reduce all forms of environmental pollution like air, water, soil, and noise. It enables the government to set limits on emissions and discharges, prescribe procedures for pollution monitoring, and issue directions to polluting industries. Through regulatory measures, inspection powers, and penalties for violations, the Act seeks to minimise pollution at its sources. By strengthening enforcement, it helps ensure cleaner surroundings, healthier communities, and compliance with national environmental standards.

iii. Regulate industrial operations

Industrial activities often pose risks to the environment, and this Act aims to regulate such operations to ensure they function within safe environmental limits. It authorises the Central Government to assess the environmental impact of industries, grant clearances, restrict harmful processes, and even shut down units violating norms. The objective is not to hinder industrial growth but to ensure responsible production that does not harm ecosystems or public health. Regular inspections, reporting requirements, and compliance monitoring support this regulatory role.

iv. Lay down environmental standards

The Act empowers the government to establish uniform environmental standards that industries, institutions, and individuals must follow. These standards include allowable limits for emissions, effluents, noise, and hazardous substances. By creating scientifically developed benchmarks, the Act ensures consistency and accountability in environmental governance across states. Standards also guide pollution control boards in monitoring, enforcement, and penalty decisions. Setting clear environmental norms helps maintain ecological balance, protect public health, and support informed decision-making in development activities.

v. Provide a legal framework for handling hazardous substances

Hazardous substances pose significant risks if not stored, transported, or disposed of properly. The Act establishes a comprehensive legal framework to regulate their management and prevent accidents like the Bhopal Gas Tragedy. It authorises the government to specify safety procedures, set limits on chemical use, mandate emergency response systems, and enforce strict liability on violators. Industries handling toxic materials must follow prescribed safeguards, ensuring protection for workers, communities, and the environment from potential chemical hazards.

vi. Act as umbrella legislation for all environmental laws in India

The EPA serves as overarching or umbrella legislation that integrates and strengthens all other environmental laws in India. It fills gaps left by earlier laws such as the Water Act (1974) and Air Act (1981) by providing unified authority to regulate all environmental issues. Many significant rules including EIA Notification, CRZ Rules, and Waste Management Rules are issued under this Act. Its wide-ranging powers allow the government to coordinate policies, harmonise standards, and ensure comprehensive environmental protection across sectors.

4.2.3.2 Key Features

1. Wide Powers to the Central Government

The Environment (Protection) Act, 1986 grants exceptional powers to the Central Government, enabling it to coordinate national environmental policies and enforce strong regulations. These powers include formulating environmental quality standards for air, water, and soil to maintain ecological balance. The government can regulate the establishment and operation of industrial units based on environmental considerations. It can also prescribe detailed safeguards for the storage, handling, and transportation of hazardous substances. Additionally, authorities may inspect industrial premises, issue directions, and even order the closure of units that violate environmental norms, ensuring strict compliance and accountability.

i. **Set quality standards for air, water, and soil :** The government has the authority to determine permissible levels of pollutants to maintain a healthy environment. Standards are based on scientific studies and protect both human health and ecosystems. These norms act as benchmarks for pollution control boards during monitoring and enforcement.

ii. **Regulate industrial locations :** Industries can be permitted or restricted based on their potential environmental impact. The Act allows the government to control where industries are set up, especially near residential areas, water bodies, or protected ecological zones, preventing harm before it occurs.

iii. **Establish safeguards for handling hazardous materials :** The Act empowers authorities to specify safety measures for the storage, transport, and disposal of hazardous chemicals. This reduces the risk of industrial accidents, chemical leaks, and environmental contamination, thereby protecting workers and nearby communities.

iv. **Inspect industries and close polluting units :** Government officers are authorised to enter industrial premises, check compliance, collect samples, and examine records. If a unit violates environmental standards, the government can order its partial or complete shutdown, demonstrating strong enforcement capacity.

2. Environmental Standards

A major feature of the Act is its focus on establishing scientifically backed environmental standards that industries must follow. These standards include limits on emissions, discharges, and noise levels, ensuring that economic growth does not compromise environmental health. The Act also enables the framing of rules for hazardous waste management and the preparation of Environmental Impact Assessment (EIA) guidelines for development projects. These standards create uniformity across states and support effective monitoring, enforcement, and environmental decision-making nationwide.

i. **Emission or discharge limits :** Strict limits are prescribed for pollutants released into air and water. These limits ensure that industries operate within safe environmental thresholds and prevent long-term ecological damage.

ii. **Noise standards :** The government sets permissible noise levels for industrial, commercial, residential, and silence zones. This protects communities from the adverse health effects of excessive noise.

iii. **Hazardous waste rules :** Rules regulate the generation, handling, transport, and disposal of toxic wastes. Industries must obtain authorisations and follow protocols to minimise risks.

iv. **EIA guidelines :** Environmental Impact Assessment norms require major developmental projects to undergo environmental scrutiny before approval. Guidelines ensure transparent assessment, public consultation, and mitigation planning.

3. Prohibition and Regulation

The Act allows the government to prohibit or regulate certain industrial and developmental activities in the interest of environmental protection. Restrictions may be imposed on setting up industries in sensitive areas such as forests, coastal zones, and hill regions. The government can ban substances or processes considered harmful to health or the environment, including specific chemicals or industrial practices. Additionally, areas may be declared ecologically fragile or protected, enabling stricter controls to preserve biodiversity and prevent environmental degradation.

i. **Restriction on industrial location :** Industries may be prohibited from operating near rivers, residential zones, wildlife habitats, or cultural heritage sites to avoid environmental risks.

ii. **Banning harmful substances :** The government can ban the manufacture, sale, or use of hazardous chemicals or products that pose a threat to the environment or public health.

iii. **Declaring areas as ecologically sensitive :** Regions like the Western Ghats, Doon Valley, or Aravalli Hills can be declared protected zones with controlled activities to preserve their ecological integrity.

4. Penalties

The Act includes stringent penalties to ensure compliance and deter environmental violations. Under the Act, individuals or industries violating environmental standards may face imprisonment of up to five years and monetary fines, as prescribed under Section 15 of the EPA, 1986 . Financial penalties can also be imposed, with fines increasing for repeated violations. In severe cases, authorities may order the closure of polluting industries, suspension of utilities, or the seizure of equipment used in causing pollution. These strong punitive measures help maintain accountability and enforce environmental responsibility.

i. **Imprisonment up to 5 years :** Serious violations can lead to imprisonment, reflecting the legal system's strong stance on environmental protection.

ii. **Fines :** Monetary penalties act as both punishment and deterrence, especially for recurring offenders.

iii. **Closure of industries :** The government may order the shutdown of industries that pose serious threats to the environment or repeatedly violate norms.

iv. **Seizure of equipment :** Machinery or vehicles used in polluting activities can be confiscated as part of enforcement measures.

4.2.4 Prevention and Control of Air Pollution

Prevention and Control of Air Pollution refers to the systematic efforts undertaken by governments, industries, and communities to reduce harmful pollutants in the atmosphere and maintain air quality at safe levels. In India, this is governed primarily by the Air (Prevention and Control of Pollution) Act, 1981, which empowers Pollution Control Boards to regulate industrial emissions, monitor air quality, and enforce standards for pollutants such as particulate matter, sulphur dioxide, and nitrogen oxides. Prevention measures include promoting cleaner fuels, controlling vehicular emissions, regulating industrial operations, and establishing air quality monitoring networks. Through a combination of regulatory actions, technological interventions, and public awareness, the objective is to protect human health, support ecological balance, and ensure sustainable development.

4.2.4.1 Air (Prevention and Control of Pollution) Act, 1981

The Air (Prevention and Control of Pollution) Act, 1981 was enacted to provide a comprehensive legal framework for controlling and preventing air pollution in India. Introduced after India's commitment at the 1972 Stockholm Conference on the Human Environment, the Act empowers both the Central and State Governments to regulate activities that cause air pollution. Its primary objective is to maintain and improve air quality by controlling emissions from industrial processes, vehicles, thermal power plants, and other pollution sources. The Act defines air pollution as the presence of harmful substances in concentrations that may be injurious to humans, animals, plants, or property.

4.2.4.1.1 Key Functions and Provisions

1. Preventing emissions from industries and vehicles

The Act enables authorities to set limits on industrial emissions and vehicular pollutants. Industries must ensure that emissions of gases, particulate matter, and chemical vapours remain within permissible standards. The Act also supports measures such as pollution-control equipment installation, adoption of cleaner fuels, and phasing out of outdated technologies. Regulations under this Act contribute directly to reducing smog, industrial smoke, and toxic fumes in urban areas.

2. Creating Central and State Pollution Control Boards (CPCB & SPCB)

The Act establishes the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) as statutory bodies responsible for monitoring and enforcing air quality standards.

i. CPCB develops national air quality standards, advises the Central Government, and co-ordinates the activities of SPCBs.

ii. SPCBs grant permissions to industries, inspect factories, monitor emissions, and enforce compliance at the state level.
These bodies play a crucial role in maintaining a systematic regulatory mechanism across the country.

3. Requiring industries to obtain "Consent to Operate"

Before starting operations, industries must obtain Consent to Establish and Consent to Operate from the respective SPCB. This ensures that industrial units meet emission norms, install pollution-control devices, and operate in a manner that does not harm public health. Failure to comply may lead to closure orders, penalties, or suspension of operations. This consent mechanism acts as a preventive tool, ensuring industries adopt environmentally sound practices from the beginning.

4. Declaring "Air Pollution Control Areas"

The State Government, in consultation with the SPCB, may declare specific regions as Air Pollution Control Areas, where stricter environmental regulations apply.

Industries in such areas must follow additional emission standards, use only approved fuels, and may face restrictions on certain industrial activities. This provision allows targeted control in cities and regions with high pollution levels, such as Delhi, Mumbai, and industrial clusters like Vapi and Ludhiana.

4.2.4.1.2 Major Sources of Air Pollution

Air pollution in India is caused by a wide range of anthropogenic and natural activities. Key contributors include:

i. Vehicular emissions – Exhaust from cars, diesel vehicles, two-wheelers, and trucks releasing Carbon Monoxide, Nitrogen Oxides, Sulfur Dioxide and particulate matter.

ii. Thermal power plants – Coal-based plants emit large quantities of Sulfur Dioxide, fly ash, and heavy metals.

iii. Chemical industries – Release toxic gases, vapours, and aerosols, often contributing to industrial smog.

iv. Construction dust – Activities like demolition, road building, and material handling release fine dust particles.

v. Agricultural burning – Stubble burning in Punjab, Haryana, and Uttar Pradesh significantly worsens seasonal air pollution in North India, especially Delhi.

Example Case: Delhi Air Pollution Crisis

Delhi is one of the most pollution-affected cities in the world, prompting significant judicial and policy interventions. The Supreme Court of India, using the powers under the Air Act and Article 21 (Right to Life), implemented a series of measures to reduce pollution:

i. Ban on old diesel vehicles – Diesel vehicles older than 10 years and petrol vehicles older than 15 years were banned to reduce exhaust emissions.

ii. Introduction of CNG buses – The Court mandated the conversion of Delhi's public transport fleet (buses, autos, taxis) to Compressed Natural Gas (CNG), leading to a significant reduction in sulphur emissions.

iii. Odd-even traffic rule – A temporary road rationing system was implemented where vehicles with odd and even number plates operated on alternate days to reduce congestion and vehicular pollution.

These measures, though challenging to implement, showcased how legal interventions combined with public policy can significantly influence air quality management.

4.2.5 Prevention and Control of Water Pollution

Prevention and Control of Water Pollution refers to the collective measures taken to protect water bodies such as rivers, lakes, groundwater, and coastal areas from contamination caused by domestic sewage, industrial effluents, agricultural runoff, and other pollutants. In India, this is primarily governed by the Water (Prevention and Control of Pollution) Act, 1974, which empowers Pollution Control Boards to monitor water quality, regulate effluent discharge, and enforce treatment standards for industries and municipalities. Prevention measures include installing effluent treatment plants (ETPs), promoting safe sanitation, controlling chemical and fertilizer runoff, and ensuring proper waste disposal. These efforts aim to safeguard public health, maintain aquatic ecosystems, and ensure the sustainable use of water resources for drinking, irrigation, and industrial purposes.

4.2.5.1 Water (Prevention and Control of Pollution) Act, 1974

The Water (Prevention and Control of Pollution) Act, 1974 is one of India's earliest comprehensive environmental laws, enacted to ensure the protection of water resources from pollution caused by industrial, domestic, and agricultural activities. Passed in response to growing concerns about deteriorating water quality in rivers and lakes, the Act aims to preserve the wholesomeness of water for drinking, irrigation, industrial use, and ecological balance. It establishes a legal and institutional framework through the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) to monitor water quality, regulate effluent discharges, and enforce compliance. By defining water pollution and setting clear responsibilities for polluters, the Act plays a central role in safeguarding freshwater resources in India. Following are the objectives of this Act.

1. Prevent and Control Water Pollution

The primary objective of the Act is to prevent pollutants from entering water bodies and to control contamination that threatens human health, aquatic life, and ecological systems. The Act prohibits the discharge of untreated sewage, industrial wastes, or toxic chemicals into rivers, lakes, streams, and groundwater. Pollution Control Boards are empowered to inspect industrial facilities, collect samples, and take legal action against violators. By adopting preventive measures such as effluent treatment plants (ETPs) and better waste management systems, the Act seeks to ensure environmentally safe discharge practices.

2. Maintain Water Quality Standards

The Act authorises the CPCB to set national water quality standards for various designated uses such as drinking, recreation, agriculture, and industry. SPCBs implement these standards within their states by monitoring water sources and identifying pollution hotspots. Water quality norms include permissible limits for contaminants like biochemical oxygen demand (BOD), chemical oxygen demand (COD), heavy metals, pH levels, and microbiological pollutants. Maintaining these standards helps protect public health, ensures safe drinking water, and preserves aquatic ecosystems.

3. Regulate Sewage and Industrial Effluents

A key feature of the Act is its emphasis on regulating effluents discharged by municipalities and industries. Local bodies must treat sewage before releasing it into water bodies, while industries are required to install and operate appropriate treatment systems. Special provisions apply to highly polluting sectors such as tanneries, textiles, chemicals, and paper mills. SPCBs monitor compliance by conducting inspections, issuing directions, and imposing penalties on violators. This regulatory mechanism reduces the toxic load entering water sources and encourages cleaner production technologies.

4. Issue Consent for Establishment/Operation to Industries

Before industries can be set up or commence operations, they must obtain Consent to Establish (CTE) and Consent to Operate (CTO) from the SPCB under the Water Act. This ensures that industries plan their wastewater treatment systems in advance and operate within prescribed effluent standards. Regular renewal and monitoring of consents ensure ongoing compliance and accountability. Failure to obtain or renew consent can lead to closure orders, prosecution, or disconnection of utilities such as electricity and water supply.

4.2.5.2 Sources of Water Pollution

1. Industrial discharge (tanneries, textile dyeing, chemical plants)

Industries are one of the most significant contributors to water pollution in India. Tanneries, textile dyeing units, paper mills, pharmaceutical factories, and chemical industries release large volumes of toxic effluents containing heavy metals, dyes, acids, alkalis, and organic pollutants. Without adequate treatment, these contaminants enter rivers, lakes, and groundwater systems, endangering aquatic life and human health. Industrial pollution is particularly severe in major industrial clusters such as Kanpur, Vapi, Ludhiana, and Tiruppur, where high concentrations of chromium, lead, and other toxic substances have been detected.

2. Untreated sewage (India releases 70% wastewater untreated)

Domestic wastewater is a major source of pollution, especially in urban areas. India generates approximately 72,000 million litres of sewage per day, but only about 30% of this is treated; the remaining 70% flows untreated into rivers and lakes (CPCB Report). Untreated sewage contains pathogens, organic waste, detergents, oils, plastics, and nutrients that cause eutrophication, spread waterborne diseases, and degrade water quality. Cities like Delhi, Kolkata, Patna, and Kanpur suffer from high sewage loads due to inadequate sewage treatment infrastructure.

3. Agricultural runoff (pesticides, fertilisers)

Agriculture contributes to water pollution through runoff that carries fertilisers, pesticides, and herbicides into nearby water bodies. Excessive use of nitrogen and phosphorus-based fertilisers causes nutrient pollution and leads to algal blooms, oxygen depletion, and fish kills. Pesticides like DDT, endosulfan, and organophosphates contaminate soil and enter water systems through leaching and surface runoff. This kind of non-point source pollution is difficult to control and has long-term impacts on groundwater quality, rural drinking water sources, and aquatic ecosystems.

Example Case: Ganga Pollution – Kanpur Tanneries Case

The tanneries in Kanpur's Jajmau industrial area have long been identified as major polluters of the River Ganga due to the discharge of untreated and partially treated wastewater containing chromium, salts, and toxic chemicals. The National Green Tribunal (NGT), responding to petitions and environmental studies, ordered strict action against these units. Hundreds of highly polluting tanneries were temporarily or permanently closed for violating effluent standards. The NGT also mandated the installation of Zero-Liquid Discharge (ZLD) systems and upgraded Common Effluent Treatment Plants (CETPs) to prevent any industrial wastewater from entering the river. This case became a landmark example of judicial intervention in controlling industrial pollution and protecting India's most sacred river.

4.2.6 National Green Tribunal (NGT)

The National Green Tribunal (NGT) is a specialised judicial institution established to adjudicate environmental disputes in India . It was created to provide a dedicated, expert-based, and time-bound mechanism for handling environmental disputes. Before the establishment of the NGT, environmental cases were routed through regular courts, leading to long delays, fragmented judgments, and inadequate technical expertise. The NGT bridges these gaps by combining judicial oversight with scientific and technical assessment, ensuring a more effective approach to environmental protection.

4.2.6.1 Establishment

The National Green Tribunal Act, 2010 formally established the NGT as a specialized judicial body exclusively for adjudicating environmental matters.

a. The Tribunal became operational on 18 October 2010.

b. It is headquartered in New Delhi, with regional benches in Bhopal, Pune, Kolkata, and Chennai, ensuring accessibility across India.

c. The Tribunal consists of both Judicial Members (retired judges of the Supreme Court or High Courts) and Expert Members (environmental scientists, policy experts, and environmental engineers).

The establishment of the NGT aligned India with global best practices, as only a few countries, such as Australia and New Zealand, have similarly specialised environmental courts.

4.2.6.2 Purpose

The NGT has been created with a clear mandate to enhance environmental justice by ensuring quick, effective, and scientific resolution of disputes. Its major purposes include:

a. Providing speedy and effective disposal of environmental disputes

Regular courts often take years to resolve cases involving environmental degradation. The NGT Act mandates disposal within six months, making environmental litigation more accessible and impactful.

b. Enforcing legal rights related to environment

The NGT ensures that citizens' rights to a clean, safe, and healthy environment (linked to Article 21 of the Constitution) are protected. It hears cases involving pollution, deforestation, industrial hazards, biodiversity loss, and conservation of natural resources.

c. Providing relief and compensation for damages

In cases where environmental harm affects people, property, agriculture, or ecosystems, the NGT can award compensation, restitution, or restoration orders. For example, compensation may be provided to affected villagers in cases of groundwater contamination or industrial gas leaks.

4.2.6.3 Powers

The NGT has wide-ranging judicial and administrative powers, making it one of the most influential environmental institutions in the country.

a. Final Appellate Authority for Environmental Clearances

The Tribunal is the primary specialised forum for challenging environmental clearances granted by the Ministry of Environment, Forest and Climate Change, subject to appeal before the Supreme Court of India . For example, large infrastructure projects such as highways, dams, ports, and power plants can be reviewed by the Tribunal if citizens or NGOs raise concerns about environmental impact.

b. Can Award Compensation

The NGT is empowered to award compensation to individuals or communities harmed by pollution or environmental accidents. A well-known case includes the compensation awarded in incidents of industrial chemical contamination or illegal mining.

c. Can Impose Penalties

The Tribunal can impose heavy fines on industries, state authorities, or municipal bodies for violating pollution norms. A notable instance is the penalties imposed on state governments for improper solid waste management or on factories for discharging untreated effluents into rivers.

d. Can Order Closure of Polluting Industries

The NGT can order immediate closure or suspension of operations of industries that endanger human health or violate environmental laws. Example: The shutting down of polluting dyeing and leather units along the Ganga and Yamuna River belts, when they repeatedly failed to install effluent treatment systems.

Case Examples of NGT's Impact

1. Art of Living Festival Case (2016)

The NGT fined Sri Sri Ravi Shankar's Art of Living Foundation for environmental damage caused to the Yamuna floodplain during a cultural event. This highlighted the Tribunal's independence and its willingness to penalize even powerful entities.

2. Sterlite Copper Plant Closure (Tamil Nadu, 2018)

The NGT initially played a key role in reviewing environmental violations at Sterlite's copper smelter plant in Tuticorin, which faced massive public resistance due to pollution concerns.

3. Volkswagen Emissions Case (2018–19)

The Tribunal imposed a fine of ₹500 crore on Volkswagen India for installing "cheat devices" to manipulate emission levels in diesel vehicles.

4. Ganga Pollution Monitoring

The NGT has passed a series of orders directing states like Uttar Pradesh and Uttarakhand to monitor sewage discharge, regulate industries, and restore river ecology.

4.2.7 Landmark Judgments of the National Green Tribunal (NGT)

The National Green Tribunal has delivered several landmark judgments that significantly shaped India's environmental governance landscape. These cases demonstrate the Tribunal's commitment to enforcing environmental accountability, its willingness to take action against powerful organisations, and its role in strengthening environmental rule of law. Three of the most impactful decisions are discussed below.

1. Art of Living (Yamuna Floodplains) Case, 2016

In 2016, the NGT handled one of the most high-profile environmental cases related to the World Culture Festival, organised by the Art of Living Foundation on the Yamuna floodplains in New Delhi. Environmental scientists and experts reported that large-scale levelling of the floodplain, construction of temporary infrastructure, and heavy footfall caused severe ecological damage, including:

i. destruction of natural vegetation,

ii. compaction of soil, affecting its ability to regenerate,

iii. disturbance to the aquatic ecosystem, and

iv. long-term negative impact on the river's natural flood absorption capacity.

After reviewing expert committee reports, the NGT held the organisers responsible for ecological degradation and imposed an environmental compensation of ₹5 crore. The Tribunal observed that the event "resulted in loss of the original riverine topography," and emphasised the need for stricter regulation of activities along ecologically sensitive floodplains.

Significance: This judgment established that even socially influential organisations are not exempt from environmental accountability. It strengthened the application of the 'polluter pays' principle and the protection of urban river ecosystems.

2. Sterlite Copper Plant (Thoothukudi) Case, 2018

The Sterlite Copper Smelter Plant in Thoothukudi (Tuticorin), Tamil Nadu, had long faced allegations of air and groundwater pollution, illegal handling of hazardous waste, and non-compliance with environmental clearances. Local communities complained of respiratory illnesses, crop damage, and contamination of water sources.

Following widespread protests and a tragic police firing incident in 2018, the Tamil Nadu Pollution Control Board (TNPCB) ordered the permanent closure of the plant. The case reached the NGT, which examined:

i. historical environmental violations,

ii. deficiencies in pollution control systems,

iii. continuous community grievances, and

iv. non-adherence to environmental norms and public safety standards.

The NGT examined environmental violations and regulatory non-compliance at the plant; however, subsequent legal proceedings before the Supreme Court addressed procedural and regulatory aspects of the case. " Although the Supreme Court later examined procedural issues related to the reopening, the NGT's judgment remains a landmark in recognising community-led environmental justice.

Significance: The case illustrates the NGT's role in regulating large industries and ensuring corporate environmental responsibility. It also highlights the importance of environmental compliance in industrial licensing.

3. Volkswagen Emission Scandal (India), 2019

The Indian dimension of the global Volkswagen emissions scandal came before the NGT in 2018–19. Investigations by the Automotive Research Association of India (ARAI) found that Volkswagen had installed "defeat devices" in their diesel vehicles to artificially reduce emissions during laboratory tests. In real-world conditions, these vehicles emitted Nitrogen Oxides (NOx) far above permissible limits, contributing to air pollution.

The NGT, taking note of the evidence and the potential public health impact, imposed an environmental compensation of ₹500 crore on Volkswagen. The Tribunal held that the company's actions were "a clear violation of emission norms" and breached India's air quality and environmental regulations.

Significance: This judgment reaffirmed the precautionary principle and strengthened regulatory oversight of the automobile industry. It also brought India into global discussions on vehicular emissions and corporate transparency.

Recap

- ◊ **Environment (Protection) Act 1986:** The umbrella legislation enacted after the Bhopal disaster to protect and improve environmental quality.
- ◊ **Air (Prevention and Control of Pollution) Act 1981:** Regulates industrial and vehicular emissions; establishes CPCB and SPCBs for air quality monitoring.
- ◊ **Water (Prevention and Control of Pollution) Act 1974:** Prevents and controls water pollution; requires industries to obtain consent to establish and operate.
- ◊ **Pollution Control Boards:** Statutory bodies empowered to enforce standards, inspect units, and prosecute violators.
- ◊ **NGT Establishment:** Formed under the NGT Act 2010 to ensure speedy disposal of environmental cases.
- ◊ **NGT Powers:** Can impose fines, order closures, award compensation, and review environmental clearances.
- ◊ **Major Pollution Sources:** Industrial effluents, untreated sewage, agricultural runoff, vehicular emissions, and construction dust.
- ◊ **Landmark Cases:** Art of Living floodplains case, Sterlite copper plant closure, Volkswagen emissions scandal.

- ◊ **Environmental Standards:** Limits on emissions, effluent discharge, noise levels, hazardous waste, and EIA guidelines.
- ◊ **Legal Principles:** Polluter Pays Principle, Precautionary Principle, and Right to a Clean Environment under Article 21.

Objective Questions

1. Under which year was the Environment (Protection) Act enacted?
2. Which disaster directly led to the passing of EPA 1986?
3. Which body sets national air quality standards?
4. CPCB stands for?
5. The Water Act was enacted in which year?
6. NGT was established under which Act?
7. Which body functions as the primary specialised forum for appeals against environmental clearances in India?
8. Which gas emissions were central to the Volkswagen case?
9. Article 48A belongs to which part of the Constitution?
10. Consent to Operate is issued by which authority?
11. Zero Liquid Discharge systems were mandated for which river case?
12. The Delhi Odd-Even rule aimed to reduce which type of pollution?

Answers

1. 1986
2. Bhopal Gas Tragedy
3. CPCB
4. Central Pollution Control Board

5. 1974
6. NGT Act 2010
7. National Green Tribunal
8. NOx Emissions
9. Directive Principles
10. State Pollution Control Board
11. Ganga Pollution Case
12. Vehicular emissions

Self-Assessment Questions

1. Explain the statutory laws for Environmental Protection.
2. Explain the objectives and key features of Environment (Protection) Act, 1986.
3. Explain (Water Prevention and Control of Pollution) Act 1974.
4. Discuss the purpose and functions of National Green Tribunal.
5. Explain the powers and functions of Air (Prevention and Control of Pollution) Acts 1981.

Assignments

1. Discuss the major objectives and features of the Environment (Protection) Act, 1986 with suitable examples.
2. Explain the key provisions of the Air (Prevention and Control of Pollution) Act, 1981 and its role in managing urban air quality.
3. Describe the institutional structure and functions of the Central and State Pollution Control Boards.
4. Evaluate the role of the National Green Tribunal in promoting environmental justice with reference to landmark judgments.

5. Examine the major sources of water pollution in India and discuss the regulatory mechanisms under the Water Act, 1974.

6. Select any industrial region in India and prepare a report on major air and water pollution sources, citing recent data and regulatory actions.

7. Analyse any one NGT judgment (e.g., Art of Living, Sterlite, Volkswagen) and summarise its significance for environmental governance.

8. Visit a local water body and document pollution indicators, public usage patterns, and suggestions for improvement.

9. Interact with an SPCB official or visit their website and prepare a note on "Consent to Operate" procedures.

10. Conduct a simple environmental audit of your home/institution (waste, water, energy) and submit practical recommendations.

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BLOCK 05

Practical Applications

Unit 1

Verdicts in labour-law cases (Recent five-year judicial period): Dec 2020 - Dec 2025

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

- ◊ analyse major Supreme Court and High Court labour-law judgments of the past five years and explain their relevance to employment practices in India.
- ◊ interpret legal principles such as regularisation, workman status, maternity rights, and gig-worker protections, and apply them to real workforce scenarios.
- ◊ evaluate how recent judicial trends influence HRM practices and organisational decision-making, with specific reference to government institutions, service sectors, and nano/micro enterprises .
- ◊ develop ethically compliant hiring and workforce-management practices, informed by contemporary judicial reasoning on fairness, social security, and employee rights.

Prerequisite

There is a small neighbourhood clinic in Hyderabad. For nearly twelve years, Raji, a quiet but dependable woman, had done the morning cleaning work on a “temporary” basis. Her contract was renewed every six months, even though her duties remained the same and the clinic depended on her daily presence. During the pandemic, when most staff struggled, it was Raji who unlocked the clinic at dawn and sanitised every room before the doctors arrived. Yet, when she fell ill and asked for paid leave, she was told she was “not a permanent employee” and therefore not eligible. Around the same time, her cousin, a food-delivery worker, met with an accident while delivering through an app, but had no access to insurance or compensation. These scenarios illustrate the complexities of India’s evolving labour-law landscape .

This unit helps learners make sense of such situations through real Supreme Court and High Court judgments from 2020–2025. Understanding these legal developments is essential for learners because the boundary between “permanent,” "contractual," and "gig-based" work is increasingly blurred. The unit assumes basic familiarity with foundational employment-law concepts such as contract labour, maternity benefits, and industrial disputes . Building on this foundation, the case studies illustrate how courts are redefining fairness in employment, ensuring dignity and protection for millions of workers like Raji, whether they work for governments, NGOs, startups, or tiny neighbourhood businesses.

Keywords

Regularisation, Workman Status, Maternity Benefits, Gig Workers, Judicial Trends

Discussion

5.1.1 How Cases are Selected?

1. Focus on Supreme Court / High Court decisions and authoritative matters that (a) changed legal position or clarified law and (b) have a practical effect for employers and workers (including nano businesses).
2. Prioritised decisions on: regularisation/contract workers, "workman" status, maternity rights for contractual/fixed-term employees, and gig/platform worker social security.
3. Primary sources, including official court judgments and reputed legal reporting platforms, were consulted for each case .

5.1.2 Union of India & Ors. v. Ilmo Devi & Anr. — Supreme Court, 7 October 2021

1. Background and Short Facts

The case arose when a group of part-time sweepers who had been engaged by a government department for several years sought regularisation of their services. They argued that although they were designated as "part-time" and "contingent" workers, the work they performed was of a perennial and essential nature—cleaning government premises, maintaining hygiene, and ensuring the day-to-day functioning of public offices. The High Court accepted their claim in part and directed the Union Government to reconsider their cases for regularisation. In some instances, directions virtually compelled the creation of full-time posts to absorb them into the regular establishment.

The Union of India challenged this decision before the Supreme Court, arguing that the judiciary cannot mandate the State to create posts where none exist, and that part-time or casual service does not automatically mature into a legal right to permanent employment. The appeal required the Court to balance compassion for long-serving workers with constitutional, financial, and administrative limits on government hiring.

2. Supreme Court's Holding

The Supreme Court held unequivocally that courts cannot direct the State to create sanctioned posts. Creating posts is an executive function based on financial allocation, administrative need, and legislative approval. The judiciary cannot compel regularisation of part-time or contingent workers by ordering the Government to create posts that do not exist.

The Court reiterated the principles laid down in earlier landmark cases such as the Secretary, State of Karnataka v. Umadevi (2006), where it was held that long continuation in a temporary or irregular capacity does not automatically confer a right to be regularised. The Court noted:

i. Part-time, daily-wage, and contingent staff do not have a vested right to regularisation.

ii. Regularisation is possible only against existing sanctioned posts, and only when recruitment has been conducted in line with constitutional requirements (Articles 14 & 16).

iii. Courts may consider individual cases sympathetically, especially where workers have served 15–20 years, and the engagement appears exploitative; yet such equitable considerations cannot override the structural requirement of having a sanctioned post.

The judgment reflects the Court's careful balancing of compassion with administrative propriety. While acknowledging the hardships faced by long-term temporary workers, the Court emphasised that judicial directions must remain within constitutional boundaries.

3. Why This Case Matters

This judgment reinforces several core principles that students of Public Administration and HRM must understand:

1. Doctrine of Separation of Powers: Creation of posts is the function of the executive/government, not the judiciary. Courts cannot legislate by mandating recruitment.

2. Sanctioned Strength Concept: Every government office maintains a "sanctioned strength" of posts approved through budgetary and administrative processes. No employee can claim regularisation unless a post exists.

3. Rights of Temporary or Part-Time Workers: Temporary or part-time employment does not evolve into permanent employment merely because the nature of work is perennial.

4. Equity vs. Legality: Courts may express sympathy toward workers, but equitable considerations cannot violate statutory or constitutional recruitment norms.

4. Practical Implications

For Government and Public Sector Organisations

i. No automatic regularisation: Public bodies must ensure that staffing decisions follow proper administrative procedures, including the creation of sanctioned posts through Finance and Personnel departments.

ii. Avoid ad-hocism: Long-term use of part-time or casual workers for regular, daily work creates legal and administrative risks.

iii. Maintain detailed records: Dates of engagement, nature of duties, working hours, and renewal of contracts should be clearly documented.

For Nano Businesses, Startups, and Small Enterprises

Although this case pertains to government employment, it offers important guidance for private nano enterprises:

1. Avoid repeated short-term contracts for permanent needs: If a worker is performing essential, continuous duties (e.g., cleaning, front desk support, delivery logistics), repeated short-term contracts may be seen as exploitative. Labour authorities may grant compensation or limited relief based on applicable labour statutes and principles of equity .

2. Frame a clear hiring policy Businesses should create transparent rules for:
    - fixed-term contracts,
    - renewal conditions,
    - payment of statutory benefits (EPF/ESI, minimum wages),
    - working hours.

3. Assess workforce planning realistically: Businesses should periodically evaluate whether certain recurring roles require permanent staff rather than ad hoc workers. This reduces legal uncertainty and enhances productivity.

4. Document everything: Written contracts, attendance records, wage receipts, and duty lists protect both the employer and employee in case of disputes.

Example : A small tailoring shop repeatedly engages a worker on a six-month contract to operate a stitching machine. The work is continuous and not seasonal. If a dispute arises, a labour court may treat repeated renewals as evidence of unfair labour practice and may grant appropriate relief such as compensation . The Ilmo Devi judgment warns employers to avoid such patterns, even though courts cannot create posts outright.

Conclusion

The Ilmo Devi judgment reinforces that while compassionate considerations exist for temporary workers, regularisation cannot be demanded as a right when no sanctioned post exists. For public administrators, this case serves as a reminder of the importance of proper workforce planning and adherence to constitutional recruitment norms. For small and micro businesses, the judgment highlights the need for transparent, consistent hiring practices to avoid legal disputes and to ensure fair treatment of workers.

5.1.3 Deepika Singh v. Central Administrative Tribunal / PGIMER — Supreme Court, 16 August 2022

1. Background and Short Facts (Expanded)

Deepika Singh, a nursing officer at the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh, applied for maternity leave when she was expecting her first biological child. Her employer rejected the application on the grounds that she had previously availed Child Care Leave (CCL) for her husband's two children from an earlier marriage. The administration argued that since she had already taken CCL for "her children," she could not now seek maternity leave under the Central Civil Services (Leave) Rules, 1972.

Feeling aggrieved, she approached the Central Administrative Tribunal (CAT), which upheld the employer's view. She then appealed to the Supreme Court, leading to an important ruling on women's reproductive rights, changing family structures, and the interpretation of social welfare legislation in India.

2. Supreme Court's Holding

The Supreme Court overturned the decisions of the CAT and the employer, granting maternity leave to Deepika Singh. Its reasoning is crucial for understanding contemporary constitutional interpretation:

a. **Purposive Interpretation of Welfare Legislation:** The Court held that maternity benefits are part of a constitutional commitment to protect women's dignity, health, and reproductive autonomy. Therefore, the law must be interpreted broadly and beneficially, not narrowly or technically.

b. **Recognition of Diverse Family Structures:** The Court explicitly acknowledged that families in India today go beyond the traditional biological model. Stepchildren, adoptive children, blended families, and single-parent households are equally valid. Denying maternity leave merely because the woman previously cared for non-biological children would be discriminatory.

c. **Protection of Motherhood and Parenthood:** The judgment affirmed that maternity leave is not just a leave category but a fundamental component of gender equality. It protects the physical health of the mother, the emotional bond between parent and child, and ensures that women are not forced to choose between employment and motherhood.

d. **Constitutional Rights:** The Court linked maternity leave to:

- Article 14 (Equality)
- Article 15(3) (Special protection for women and children)
- Article 21 (Right to life and dignity)

These constitutional values require the State and employers to create supportive conditions for motherhood. The Court's strong stance reflects India's evolving legal understanding of gender justice and family diversity.

3. Why This Case Matters (Academic Explanation)

This decision is significant in HRM and Public Administration for the following reasons:

1. **Upholding Social Welfare Legislation:** It clarifies that maternity provisions under service rules and welfare legislation must be interpreted purposively and harmoniously .
2. **Humanising Administrative Decision-Making:** Administrators must avoid hyper-technical reasoning and consider the human impact of their decisions.
3. **Evolving Concept of Family:** The case establishes judicial recognition of blended and non-traditional families, which is increasingly relevant in modern society.
4. **Advancing Gender Equity in Workplaces:** The judgment emphasises that denying maternity entitlements can amount to workplace discrimination.

4. Practical Implications

Although the case involved a government institution, its principles apply broadly to private employers, including nano and micro enterprises:

1. Maternity Benefits Cannot Be Denied Based on Family Structure: Nano-business owners must not reject maternity leave or benefits on grounds such as:

i. the employee already has stepchildren,

ii. she has adopted children,

iii. the child is not her "first" under some technical rule,

iv. the family is non-traditional (e.g., blended family).

2. Statutory Compliance is Mandatory: Where the Maternity Benefit Act, 1961 applies (establishments employing 10 or more persons)), small employers must ensure:

i. 26 weeks of paid maternity leave (for eligible employees),

ii. prohibition of dismissal during maternity,

iii. nursing breaks,

iv. non-discrimination in job role or promotion.

Failing to comply can lead to penalties, back wages orders, and reputational damage.

3. Avoid Formalistic and Technical Interpretations: The Court warns against bureaucratic rigidity. For example:

i. A woman who earlier took leave to care for adopted or stepchildren cannot be penalised when she later seeks maternity leave.

ii. Employers should consider the intent of the law: protection of women's health and care of newborns.

4. Maintain Clear HR Policies: Nano-businesses should establish:

i. written leave policies,

ii. transparent criteria for eligibility,

iii. record-keeping systems to avoid disputes.

A simple, human-centred approach can prevent legal challenges and improve employee loyalty.

5. Gender-Sensitive Workplace Culture: Beyond legal compliance, the case encourages employers to create a supportive environment by:

i. offering flexible hours,

ii. allowing work-from-home options where feasible,

iii. avoiding subtle forms of discrimination.

Example: A small retail shop employs a saleswoman who has previously taken leave to care for her husband's daughter from a previous marriage. When she becomes pregnant, the employer refuses maternity leave, arguing she already "used child-related leave."

If a dispute reaches a labour authority, the reasoning in Deepika Singh will apply:

i. The earlier leave cannot disqualify her.

ii. The employer must grant maternity protection.

iii. Denial could be construed as gender discrimination.

Conclusion

The Deepika Singh judgment is a landmark in protecting women's reproductive rights and acknowledging India's diverse family structures. It underscores that maternity benefits are not privileges but essential components of gender justice and constitutional dignity. For public administrators, human resource managers, and small business owners, the case highlights the need for empathy, fair treatment, and strict compliance with social welfare laws.

5.1.4 Dr. Kavita Yadav v. Secretary, Ministry of Health & Family Welfare (and connected rulings) — Supreme Court (Landmark rulings 2023–2024)

5.1.4.1 Background and Short Facts

Dr. Kavita Yadav was employed on a fixed-term contractual basis under the Ministry of Health & Family Welfare. During her employment, she became pregnant and applied for maternity leave under the applicable government rules and the Maternity Benefit Act, 1961. The administration denied her request, arguing that:

i. her contract was temporary and non-renewable.

ii. the term of her appointment would expire during her maternity period, and

iii. maternity benefits cannot extend beyond the duration of an employment contract.

She challenged this before the courts. The case ultimately reached the Supreme Court, along with several similar matters from High Courts involving nurses, outsourced workers, guest teachers, and fixed-term project staff. Collectively, these rulings from the Supreme Court and various High Courts formed a consistent line of jurisprudence establishing maternity protection for contractual employees.

5.1.4.2 Supreme Court's Holding

The Supreme Court delivered a landmark ruling that strengthened the maternity rights of women working on fixed-term, contractual, or non-permanent employment arrangements.

The Court held:

1. Maternity Benefits Cannot Be Denied Due to Contract Expiry

Maternity protection is a statutory and constitutional right, not a generosity dependent on contract duration.

A woman's contract cannot be allowed to conveniently "expire" to defeat her entitlement.

Even if the employment contract ends before or during maternity leave, the employer must:

- grant full maternity benefits, and
- treat the employment as notionally extended solely for the purpose of disbursing statutory maternity benefits .

2. Eligibility Thresholds Matter, Not the Nature of the Contract

If the statutory conditions under the Maternity Benefit Act (e.g., 80 days of work in 12 months preceding delivery) or relevant service rules are met, the woman is entitled to the full benefit.

Thus, once eligibility is satisfied:

- fixed term,
- casual,
- temporary,
- outsourcing, or
- contractual
  status does not dilute rights.

3. Maternity Benefit Act Applies Broadly

The Court reiterated that the Maternity Benefit Act covers "every woman" in an establishment that meets the statutory criteria (10 or more employees).

Government service rules also reflect the same spirit and cannot be interpreted narrowly to exclude contractual personnel.

4. Contractual Employment Cannot Be Used to Circumvent Welfare Obligations

The Court expressed concern regarding the widespread practice of engaging long-term workers through repeated contractual appointments only to deny welfare benefits. It emphasised that the form of employment cannot defeat the substance of welfare rights.

5. Constitutional Foundations

The Court linked maternity rights to:

- Article 21 — Right to life and dignity,
- Article 14 — Equality before law,
- Article 15(3) — Special protection for women,

- Directive Principles (Articles 39, 42) requiring maternity relief and protection of women's health.

Related High Court Rulings (2023–2024)

Multiple High Courts followed the Supreme Court's stance:

- Delhi HC: Maternity leave granted to a contractual teacher whose contract expired during pregnancy.
- Rajasthan HC: Contractual ANM (Auxiliary Nurse Midwife) entitled to paid maternity leave despite non-renewal of contract.
- Gujarat HC: Outsourced hospital staffer granted maternity benefits and wages for entire leave period.
- Karnataka HC: Project-based research assistant entitled to maternity leave even though project funding lapsed.

These rulings make it clear that the principle is now a settled position of law across India.

5.1.4.3 Why This Case Matters

1. Shift Toward Substantive Equality: This line of rulings reflects a feminist constitutional approach that prioritises substantive equality over formal classifications like "contractual" and "temporary."

2. Recognition of Precarious Employment Patterns: India's workforce increasingly relies on temporary and fixed-term staff in:

i. health services,

ii. education,

iii. IT projects,

iv. research institutions,

v. NGOs,

vi. small businesses.

The judgments protect women in these vulnerable categories.

3. Clarifying the Scope of Maternity Protection

By clarifying that maternity rights cannot be truncated by contract terms, the Court ensures that the purpose of maternity law — protection of motherhood and child health — is not defeated by administrative technicalities.

5.1.4.4 Practical Implications

Even though the case involved government employers, its logic applies to all establishments covered by the Maternity Benefit Act (10 or more employees).

1. Contract Expiry Is NOT a Defence

A nano employer cannot avoid paying maternity benefits by:

i. not renewing a contract,

ii. letting the contract expire, or

iii. citing the fixed-term nature of employment.

If the woman has worked the statutory minimum (80 days), maternity leave and benefits are mandatory.

2. Budgeting and Workforce Planning: Small businesses should:

i. budget for maternity liabilities when planning payroll,

ii. factor potential maternity benefits into fixed-term hiring costs,

iii. avoid last-minute non-renewals designed to defeat rights.

3. Draft Clear Contractual Clauses: Employment contracts should explicitly state:

i. maternity entitlements under the Maternity Benefit Act,

ii. procedures for applying for leave,

iii. benefits applicable even if the term ends during pregnancy.

4. Avoid Discriminatory Hiring Practices: It is illegal to avoid hiring women of childbearing age due to potential maternity costs. Such conduct amounts to gender discrimination under constitutional and labour law principles.

5. Maintain Proper HR Records: Nano-employers should maintain:

i. attendance records,

ii. payment ledgers,

iii. appointment letters,

iv. leave registers.

These documents help avoid disputes and demonstrate compliance.

Example : A small bakery hires a female employee on a six-month contract. After four months, she informs the owner that she is pregnant and eligible for maternity benefits.

The owner cannot:

i. refuse leave because the contract will end during maternity,

ii. non-renew the contract to escape liability,

iii. argue that fixed-term employees do not qualify.

Under the principles in Dr. Kavita Yadav, the woman is entitled to full paid maternity leave, and her employment is treated as continuing for that limited purpose.

Conclusion

The *Dr. Kavita Yadav* line of rulings has firmly established that contractual and fixed-term employees enjoy full maternity protection under statute and the Constitution. Administrative technicalities, contract expiry, or non-renewal cannot curtail these rights. For public administration students, the case illustrates how welfare jurisprudence evolves to protect vulnerable workers. For nano and small enterprises, it emphasises the need for responsible, non-discriminatory HR practices and proper compliance with statutory maternity obligations.

5.1.5 SLP(C) No. 5580 of 2024 and Related Supreme Court Commentary on Prolonged Temporary Engagements (Reported 20 December 2024)

The appeals in *SLP(C) No. 5580 of 2024* arose from a series of petitions filed by long-serving temporary, part-time, and contractual employees working in various government institutions, including hospitals, educational bodies, and municipal offices. Many of these workers had been engaged for ten to twenty years on paper as "temporary" or "daily wage" staff, although in practice they performed perennial and essential duties identical to those of regular employees. Their grievance was that the State continued to renew short-term contracts or casual appointments to avoid the financial and administrative implications of creating sanctioned posts. They therefore sought either regularisation or appropriate equitable relief.

The Supreme Court, while reiterating the constitutional limitations laid down in Secretary, State of Karnataka v. Umadevi (2006)—that regularisation cannot be claimed as an automatic right and that courts cannot direct the State to create posts—issued an important clarification. The Court observed that the misuse of temporary, casual, or contractual labels to defeat legitimate expectations of workers is a form of institutional unfairness. It held that courts must examine the *substance* of the employment relationship rather than the formal label used by the employer.

The Bench emphasised several key indicators: the *nature of duties*, *continuity of service*, *absence of any illegality in the initial engagement*, and whether the work was of a *perennial* character. If these elements showed an attempt to bypass fair recruitment or evade welfare obligations, the Court permitted equitable remedies, including continuity benefits, wages for the full period worked, age relaxation for regular recruitment, or preferential consideration in future selections. The Court referred to international labour standards, including principles articulated by the ILO discouraging long-term precarious employment and stressed that the State must uphold constitutional fairness as the country's largest employer.

Practical Implication for Nano Businesses

For nano and micro enterprises, the judgment signals that repeatedly hiring workers on short-term contracts for permanent, ongoing work invites legal scrutiny. Employers should (a) avoid misclassifying roles as "temporary" when the work is not, (b) keep transparent records of contracts and renewals, and (c) consider converting long-held recurring roles into either properly structured fixed-term contracts with statutory parity or permanent posts where appropriate. This reduces legal risk and promotes ethical workforce management.

5.1.6 Supreme Court - Workman / "Workman" Definition Rulings (including Oct 21, 2024 decision on workman status)

The October 21, 2024 Supreme Court ruling addressed a long-standing dispute regarding the status of an employee who claimed protection as a "workman" under Section 2(s) of the Industrial Disputes Act, 1947. The petitioner had been designated as a "supervisor" in a medium-sized industrial establishment but argued that, in reality, her duties consisted mainly of operational and clerical tasks rather than supervision or managerial control. The Labour Court initially accepted her contention and extended the ID Act's protective remedies. However, the High Court reversed the finding, holding that the employee exercised clear supervisory authority and drew a salary inconsistent with workman classification. This conflict brought the matter before the Supreme Court.

The Supreme Court clarified that designation or job title is not determinative. Instead, the true test is the *principal and predominant nature of duties actually performed*. The Court examined documentary evidence, witness testimony, internal correspondence, and salary records. It found that the employee had authority to allocate work, recommend disciplinary action, maintain performance reports, and supervise multiple subordinates. These functions fell squarely within the supervisory/managerial exclusion in Section 2(s). Consequently, The Court held, based on the facts of the case, that she did not qualify as a 'workman' and therefore the Labour Court's award granting reinstatement and back wages was unsustainable.

The Court emphasised that factual evidence is crucial. Salary level, the existence of managerial discretion, ability to control subordinate staff, and involvement in decision-making are indicators that a person does not fall under the ID Act. Conversely, if an employee's tasks are primarily manual, clerical, technical, or operational—even if the employer labels the position "supervisor"—the person may still qualify as a workman. The Court criticised employers and employees alike for relying on misleading designations and stressed the need for clarity and transparency in employment documentation.

Practical Implication for Nano Businesses

For nano and micro enterprises, the ruling has direct consequences. The classification of an employee as workman vs. supervisory determines whether the Industrial Disputes Act applies, especially concerning termination procedures, retrenchment compensation, lay-off rights, and dispute resolution. Therefore, small employers must:

1. Clearly document job descriptions, outlining whether duties are operational or supervisory.
2. Maintain accurate records of responsibilities, reporting structures, and remuneration.
3. Ensure titles match actual duties i.e., mislabeling a worker as "supervisor" cannot exclude them from ID Act protections.

Accurate classification helps avoid legal disputes and ensures compliance with labour standards.

5.1.7 Indian Federation of App-Based Transport Workers (IFAT) v. Union of India — Supreme Court (Proceedings and Directions 2024–2025)

The petition filed by the Indian Federation of App-Based Transport Workers (IFAT) placed before the Supreme Court a pressing question in contemporary labour governance: whether app-based gig workers such as drivers, delivery partners, and service providers on digital platforms are entitled to recognition and minimum social security rights under Indian law. IFAT argued that despite the Social Security Code, 2020, explicitly defining "gig workers" and "platform workers" and establishing Chapter IX for their social-security entitlements, the Union and State governments had failed to frame the necessary rules, schemes, and contributory mechanisms. This regulatory vacuum left millions of workers without accident cover, health insurance, pension benefits, or grievance redressal.

Throughout 2024 and early 2025, the Supreme Court expressed growing dissatisfaction with the prolonged delay. The Union Government repeatedly stated that policy consultation was ongoing. The Court, however, held that statutory rights cannot be indefinitely postponed under the guise of "policy considerations", especially when Parliament has already enacted a framework recognising gig workers as part of the unorganised workforce. The Bench highlighted that the rapid expansion of platform-based services had created a large class of economically dependent workers who fell outside classical employment categories, but whose vulnerability demanded urgent state intervention.

In its observations, the Court echoed global concerns raised by the ILO and comparative jurisprudence from the EU and UK, emphasising that digital labour must not become a zone of legal invisibility. The Court observed that legislative intent requires the timely operationalisation of contributory schemes covering accident insurance, life cover, maternity benefits, and old-age protection . It repeatedly directed the Centre and States to submit timelines for issuing rules, creating databases of platform workers, and beginning contributions to social-security funds. By late 2024, compliance affidavits were demanded, signalling the Court's insistence that Chapter IX be implemented meaningfully, not symbolically.

Practical Implications for Nano Businesses

Nano enterprises that rely on gig-style workers, such as delivery riders, freelance technicians, or on-call service providers, must prepare for future regulatory obligations. As rules under the Social Security Code begin to crystallise, such businesses may be required to:

1. Register gig workers engaged by them;
2. Contribute to social-security schemes, along with workers and aggregators;
3. Ensure basic protections such as accident insurance, clear pay structures, transparent terms during the transitional phase.

Staying compliant will reduce legal risks and support more ethical labour practices in small enterprises.

5.1.8 High Court Decisions on Regularisation of Long-Term Contract Workers (2024–2025)

Across several states in 2024–2025, High Courts increasingly scrutinised the long-term engagement of contract and outsourced workers, especially in essential public services. Courts noted that many workers had served for 10–20 years on temporary or outsourced arrangements, despite performing core, perennial functions.

Examples reported in 2024–2025 include:

- Telangana High Court directing consideration of regularisation or other appropriate relief for long-serving paramedical and support staff working at BHEL-managed hospitals, holding that continuous contractual engagement defeated the spirit of fair labour practices .
- Karnataka High Court directing the regularisation of long-serving municipal and health department workers in Mangaluru, observing that "contractual" status could not be used indefinitely to deny job security when the work is permanent in nature.

These decisions were widely covered in 2025 news reports (e.g., The Times of India), with the judiciary highlighting the misuse of outsourcing for long periods without genuine justification.

Holding / Developments (Essence)

The consistent judicial reasoning across these cases includes:

1. Prolonged contractual engagement is unfair when employees perform continuous and essential duties comparable to permanent staff.

2. Outsourcing cannot be used as a device to avoid statutory obligations such as fair wages, social security, and job security.

3. Courts emphasised that regularisation may be appropriate when:
    - the worker has completed long years of service;
    - the post is permanent/regular in nature;
    - recruitment irregularities, if any, were not attributable to the worker.

4. While Uma Devi (2006) remains the guiding precedent, courts have applied its humanitarian exceptions, particularly for low-wage workers in health, sanitation, and public-utility sectors.

5. The trend indicates a judicial pushback against excessive dependence on contract labour for core organisational functions in government and quasi-government entities.

Practical Implications for Nano Businesses

Even though nano enterprises (micro shops, small services, home-based units) are not directly part of these court cases, the principles have practical implications:

◊ Avoid long-term "contract" arrangements for roles that are continuous and essential to your business (e.g., delivery staff, technicians, shop assistants).

◊ If a worker has been with the business for years on a contract basis, it is advisable to:
  - formalise their employment status,
  - provide written contracts,
  - ensure reasonable job security,
  - and offer statutory benefits (EPF, ESI, leave entitlements where applicable).

◊ Courts frown upon employers who use "temporary" labels for permanent roles — even small employers can face legal challenges under the Shops and Establishments Acts or labour inspectorate scrutiny.

◊ Good HR practice strengthens trust, reduces turnover, and minimises legal risk:
  - adopt clear contract terms,

- specify duration and purpose of temporary roles,
- ensure compliance with minimum wage and safety laws.

In a growing climate of judicial activism on labour rights, nano businesses should proactively regularise long-term workers rather than wait for legal compulsion.

5.1.9 Overall trends & analysis

1. **Judicial scrutiny of misclassification:** Courts increasingly adopt a substance-over-form approach in employment classification. Repeated short-term contracts for perennial tasks may attract relief (regularisation or remedies). Employers should not use rolling casual contracts as a cost-saving device indefinitely.

2. **Expansion of protective reading for welfare laws:** Maternity and similar welfare obligations are being interpreted purposively to protect workers (even contractual/fixed-term/daily wage staff) where statutory eligibility is satisfied. Nano employers must budget for these statutory obligations.

3. **Gig economy in focus:** The Supreme Court has flagged the government to operationalise gig-worker protections under the Social Security Code; litigation is likely to produce rules or directions that will expand social-security obligations for platforms and possibly service providers. Nano businesses using aggregators should monitor developments.

4. **Workman/coverage disputes remain fact-sensitive:** Whether a worker is a "workman" under ID Act depends on actual duties, not mere titles documentation of duties is key.

5.1.10 Practical checklist & recommended actions for nano-business owners

1. Document roles & duties: Maintain written job descriptions, attendance records, duty rosters evidence matters in court. (applies to all judgements above)

2. Avoid serial renewals for perennial work: If work is ongoing, employers should assess whether fixed-term employment with statutory parity or permanent hiring is legally appropriate; otherwise, ensure that seasonal contract terms are genuine .

3. Comply with maternity & social-security rules: If an employee satisfies statutory eligibility, provide maternity benefits even if the contract expiry falls during leave.

4. Treat gig/outsourced workers humanely: Provide accident insurance / minimum transparency about pay; monitor government rules for platform-worker entitlements.

5. Use written contracts & payroll: Pay slips, PF/ESI (if applicable), and a small employer policy will reduce litigation risk.

Reference

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2. Supreme Court of India. (2021). Union of India v. Ilmo Devi & Anr., Civil Appeal No. ___ of 2021. https://www.sci.gov.in

3. Deepika Singh v. CAT / PGIMER — SC, 16 Aug 2022 — maternity / family structure case. Centre for Law & Policy Research+1

4. Dr. Kavita Yadav v. Union / related — SC / HC rulings 2023–2024 — maternity benefits for fixed-term/contractual employees. Sci API+1

5. SLP(C) No.5580 / CWC appeals (regularisation) — SC, Dec 20, 2024 (PDF commentary) — substance over label for temporary staff. Sci API

6. Workman-status appellate judgment (Oct 21, 2024) — SC — nature of duties controls “workman” status. Sci API

7. IFAT v. Union of India — SC hearings / directions 19–20 Nov 2024 & further proceedings Feb 2025 — gig/platform worker social security. MEDIANAMA+1

8. High Court orders (Telangana / Karnataka 2025) — regularisation of long-serving contract staff (news reports). The Times of India+1

9. Medianama. (2024). Supreme Court questions delay in social security rules for gig workers. https://www.medianama.com

10. The Times of India. (2025). High courts question prolonged contractual employment in public services. https://timesofindia.indiatimes.com

11. Union of India v. Ilmo Devi & Anr., (2021) Supreme Court of India, decided on October 7, 2021

12. Deepika Singh v. Central Administrative Tribunal & Ors., (2022). Supreme Court of India, August 16.

13. Kavita Yadav v. Secretary, Ministry of Health & Family Welfare, (2023). Supreme Court of India.
14. Supreme Court of India. (2024). Judgment on interpretation of 'workman' under Section 2(s), Industrial Disputes Act, 1947 (Order dated October 21, 2024).
15. Indian Federation of App-Based Transport Workers v. Union of India, Writ Petition (Civil) No. ___ of 2023, Supreme Court of India.

Suggested Reading

1. A standard Indian labour-law textbook is missing, reducing academic credibility at postgraduate level; Add Srivastava (2022), Industrial relations and labour laws.
2. No authoritative commentary on industrial disputes is cited; Add Malhotra (2020), The law of industrial disputes.
3. Gender and maternity jurisprudence lacks a scholarly legal reference.; Add Agnes (2019), Law and gender inequality.
4. Gig and platform economy analysis is not supported by a global policy report.; Add ILO (2021), World employment and social outlook: Digital labour platforms.
5. Constitutional and human-rights framing lacks a foundational academic source; Add Baxi (2018), The future of human rights.

Unit 2

Practical Application Through Case Studies - Wage Disputes & Labour Rights

Learning Outcomes

At the conclusion of this unit, the learner will be able to:

- ◊ identify and interpret key provisions of the Minimum Wages Act, 1948; Payment of Bonus Act, 1965; and principles of equal remuneration as subsumed under the Code on Wages, 2019, in practical workplace situations .
- ◊ analyse real-life wage dispute cases to understand how courts interpret and apply labour laws in resolving claims relating to wages and compensation .
- ◊ evaluate the socio-economic impact of minimum wages, bonus entitlements, and equal pay principles on the livelihoods of workers, especially in vulnerable sectors.
- ◊ develop practical problem-solving skills by applying legislation to hypothetical and real-life scenarios involving wage theft, gender pay gaps, and bonus non-payment.
- ◊ prepare structured case-based reports demonstrating legal reasoning, ethical evaluation, and policy-oriented recommendations for improving wage compliance in organisations.

5.2.1 Action Plan and Activities for Learners

The following activities are designed to help learners apply theoretical knowledge to real-world labour situations. Each activity includes (1) What to Do and (2) How to Do It (Guidance).

5.2.1.1 Activity 1: Case Identification – Exploring Real Wage Dispute Cases

Activity to Be Performed

Learners are expected to identify one real-life wage dispute case related to either :

- non-payment of statutory minimum wages,
- denial of bonus, or
- gender-based wage discrimination.

The case may be drawn from a court judgment or, where media or NGO reports are used, such sources should be corroborated with official records or judicial findings .

Guidance for Performing the Activity

1. **Sources to Consult:**
    - Supreme Court / High Court judgments
    - Labour court cases available on CaseMine / LiveLaw
    - Government websites on labour inspections
    - Newspapers like The Hindu, Times of India, Indian Express
    - Labour rights NGOs (PRAYAS, SEWA, VV Giri National Labour Institute)
2. **Case Selection Criteria:**
    - The issue must clearly relate to minimum wages, bonus, or equal remuneration.
    - The dispute should involve identifiable parties (workers, contractors, employers).
    - The resolution or court outcome should be available.
3. **Deliverable:** A one-page case note summarising the facts, law applied, and outcome.

5.2.1.2 Activity 2: Legal Analysis – Applying the Acts to the Selected Case

Activity to Be Performed

Learners must apply the relevant labour law(s) to the selected case and analyse:

- Which provisions were violated?
- What were the court's findings or settlement terms?
- What livelihood impacts did the violation cause?

Guidance for Performing the Activity

1. **Minimum Wages Act:**
   - Check scheduled employment, notified minimum wages, allowances, and hours of work, noting the evolving framework under the Code on Wages, 2019 .
   - Identify wage theft (underpayment, delayed payment, piece-rate manipulation).
2. **Payment of Bonus Act:**
   - Determine establishment coverage (20+ workers).
   - Understand eligibility conditions, minimum and maximum bonus limits, and the role of allocable surplus, set-on, and set-off under the Payment of Bonus Act .
3. **Equal Remuneration Act:**
   - Compare wages of men and women for same or similar work.
   - Check for discrimination in allowances, incentives, or benefits.
4. **Analytical Tools:**
   - Use statutory sections to support conclusions.
   - Compare employer arguments and judicial reasoning.
5. **Deliverable:** A 500–700 word legal analysis linking law to facts.

5.2.1.3 Activity 3: Livelihood Impact Assessment

Activity to Be Performed

Learners must evaluate how the violation and resolution affected workers' livelihoods economic, social, and psychologicaln using a structured before-and-after or short-term versus long-term impact framework .

Guidance for Performing the Activity

1. Consider indicators such as:
   - loss of earnings and debt
   - inability to pay rent/education expenses
   - nutritional insecurity
   - loss of dignity
   - gender-specific vulnerabilities (single mothers, migrant women)

2. Assess impact before and after resolution.
3. Reflect on whether the applied law adequately protected the worker.
4. Deliverable: A livelihood impact table + narrative summary (300–400 words).

5.2.1.4 Activity 4: Practical Policy Recommendation Draft

Activity to Be Performed

Learners will propose three actionable recommendations to prevent similar wage disputes in the future.

Guidance for Performing the Activity

Suggestions may involve:

- strengthening wage monitoring systems,
- improving attendance/wage documentation,
- digital wage-payment mandates,
- gender-sensitive HR policies,
- bonus transparency practices,
- grievance redressal cells for small enterprises,
- capacity building for labour inspectors.

Each recommendation should be realistic, legally compliant, and linked to the case study findings.

Deliverable: 200–300 word policy note.

5.2.1.5 Activity 5: Consolidated Case Study Report

Activity to Be Performed

Learners will compile all components into a structured report that demonstrates understanding and practical application of labour law.

Guidance for Performing the Activity

Report structure:

1. Title and details of the case
2. Summary of facts
3. Relevant legal provisions

4. Case analysis
5. Livelihood impact assessment
6. Policy recommendations
7. References (APA preferred)

Maintain clarity, neutrality, and evidence-based reasoning.

5.2.2 Final Notes for Learners

- Use simple but analytical language, focusing on clear reasoning rather than memorising sections.
- The selected case should demonstrate the practical application of legal theory, which constitutes the central objective of this unit .
- You may work individually or collaborate for discussions, but final submissions must be original.
- Always cite legal sources properly to avoid plagiarism.

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MODEL QUESTION PAPER

QP CODE:.. **SET – 01** **Reg. No:…..**

Name:……

FOURTH SEMESTER BA NANO ENTREPRENEURSHIP EXAMINATION

ANCILLARY COURSE (AN) - B23NE03AN

LEGAL ENVIRONMENT OF BUSINESS

(CBCS - UG)

2024-25 - Admission Onwards

Time: 3 Hours **Max Marks: 70**

Section A

(Answer any 10, each carry 1 mark)

(10x1=10)

1. What is Welfare legislation?
2. The Contract Labour (Regulation and Abolition) Act was enacted in which year?
3. Which Article treats payment below minimum wage as forced labour?
4. What is the salary eligibility limit for bonus?
5. Which Act provides medical benefits to employees during sickness?
6. How many weeks of maternity leave are granted after the 2017 amendment?
7. Which Act governs trade unions in India?
8. Who prepares the inquiry report?
9. How many labour laws were merged into the Code on Wages?
10. What is the minimum bonus percentage of annual wages payable under the Code on Wages, 2019?
11. COPRA was enacted in which year?
12. Which body heads the NCDRC?

13. Which disaster directly led to the passing of the EPA 1986?
14. Article 48A belongs to which part of the Constitution?
15. What is the standard workday under the Codes?
16. Who conducts digital inspections under Code 4?

Section B

(Answer any 5, each carries 2 marks)

(5x2=10)

17. Mention any two constitutional provisions of Labour welfare legislation in India
18. Name the penalties of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
19. List any two objectives of the Equal Remuneration Act, 1976.
20. Name any two objectives of the Employees' State Insurance (ESI) Act.
21. What do you mean by domestic inquiry?
22. What is the meaning of Wages?
23. List two objectives of the Industrial Relations Code, 2020
24. What is a Restrictive Trade Practice (RTP)?
25. List the Major Sources of Air Pollution.
26. State Wildlife Protection Act, 1972

Section C

(Answer any 4, each carries 5 marks)

(4x5=20)

27. Describe the applicability of the Contract Labour (Regulation and Abolition) Act, 1970.
28. Describe the major provisions of the Minimum Wages Act regarding wage fixation, revision, and overtime.

29. Discuss the features and purpose of the Payment of Gratuity Act, 1972.

30. Explain the main objectives and provisions of the Trade Unions Act,1926.

31. Explain the penalties under the Industrial Relations Code, 2020

32. Explain the key health and safety measures mandated under the OSHWC Code and their importance for workplace accident prevention

33. Describe the structure and jurisdiction of the three-tier consumer grievance redressal mechanism

34. Explain the key provisions of the Air (Prevention and Control of Pollution) Act, 1981 and its role in managing urban air quality.

Section D

(Answer any 2, each carries 15 marks)

(2x15=30)

35. Explain the responsibilities of employers under the POSH Act to ensure a safe workplace.

36. Explain the major amendments introduced by the Maternity Benefit (Amendment) Act, 2017.

37. Explain Code on Wages, 2019 and the laws consolidated under the Code

38. Critically analyse the Supreme Court's rulings on regularisation of long-term contractual employees. How have these decisions altered the legal position on ad-hoc employment, and what practical compliance challenges do they pose for nano businesses and public institutions reliant on contract labour?

SREENARAYANAGURU OPEN UNIVERSITY

MODEL QUESTION PAPER

QP CODE:.. **SET – 02** **Reg. No:…..**

Name:……

FOURTH SEMESTER BA NANO ENTREPRENEURSHIP EXAMINATION

ANCILLARY COURSE (AN) - B23NE03AN

LEGAL ENVIRONMENT OF BUSINESS

(CBCS - UG)

2024-25 - Admission Onwards

Time: 3 Hours **Max Marks: 70**

Section A

(Answer any 10, each carry 1 mark)

(10x1=10)

1. What year was the POSH Act enacted?
2. What section defines sexual harassment?
3. Which Act ensures equal pay for equal work?
4. What is the minimum revision period under the Minimum Wages Act?
5. Which Act ensures lump-sum payment at retirement?
6. Which Act covers pension under the organised sector?
7. What principle means “hear the other side”?
8. What is the final stage of a domestic inquiry?
9. How many Acts were consolidated into the Industrial Relations Code?
10. What is the maximum bonus percentage of annual wages payable under the Code on Wages, 2019?
11. Appeals from SCDRC go to which body?
12. “Goods” under COPRA include which type of property?

13. CPCB stands for?
14. Which body functions as the primary specialised forum for appeals against environmental clearances in India?
15. What is the minimum rate of overtime wages?
16. What allowance must be given to inter-state migrant workers?

Section B

(Answer any 5, each carries 2 marks)

(5x2=10)

17. Discuss Local Complaints Committee (LCC).
18. Define Child as per the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
19. What is Provident Fund (PF)?
20. State the Stages of Domestic Inquiry.
21. What do you mean by an office bearer?
22. State two Objectives of the Code 1 on Wages
23. State two Penalties of Code on Wages
24. Mention two types of Relief Provided under COPRA
25. State any two Health & Safety Measures of the OSHWC Code.
26. Mention any two objectives of the Code on Social Security, 2020 (Code 3)

Section C

(Answer any 4, each carries 5 marks)

(4x5=20)

27. Discuss the objective of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
28. Differentiate between minimum bonus and maximum bonus under the Payment of Bonus Act, 1965

29. Explain the objectives and employer liability of the Employees' Compensation Act, 1923.
30. Explain the penalties of trade unions under the Indian Trade Union Act,1926.
31. Describe the Major Provisions of the Industrial Relations Code, 2020
32. Explain the objectives of Code on Social Security, 2020
33. Evaluate the role of the National Green Tribunal in promoting environmental justice with reference to landmark judgments.
34. Describe the major reforms introduced under the Social Security Code and discuss how they expand protection to unorganised, gig, and platform workers.

Section D

(Answer any 2, each carries 15 marks)

(2x15=30)

35. Discuss the major prohibitions under the Equal Remuneration Act, 1976 with suitable examples.
36. Discuss the rights and duties of registered trade unions with suitable examples.
37. Describe the major reforms introduced under the Social Security Code and discuss how they expand protection to unorganised, gig, and platform workers.
38. Discuss the judicial clarification of 'workman' status under the Industrial Disputes Act in recent High Court and Supreme Court judgments. How do these rulings affect disciplinary procedures, retrenchment, and collective bargaining, particularly in small enterprises where role designations often blur operational and managerial functions?

സർവ്വകലാശാലാഗീതം

വിദ്യയാൽ സ്വതന്ത്രരാകണം
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ഗ്രഹപ്രസാദമായ് വിളങ്ങണം
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BE TOO LATE

SAY NO TO DRUGS

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HEALTHY

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