

Maternity leave Policies, Benefits and Work policy in India

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Abstract

This paper presents Amendments in Maternity Benefit Act 1961, its impact and effective implementation in India.

Maternity leave policies are designed to address the challenges faced by working mothers and their new born babies. Enhancement in maternity leave provision enables women to take time off during pregnancy and the first months of their child's infancy while maintaining their health and their right to resume work at the conclusion of the leave. Efforts are taken about the bill and comparison with the Maternity benefit act 1961 is also made with regards to Maternity benefits. A brief study about maternity leave, recent amendments, benefits, applicability of the act to contractual or consultant employees, major challenges and issues have been made.

Keywords: *Government, ,Infant, Maternity Benefit Act, Maternity leaves and Women.*

Introduction

Government around the world seeks to improve child development at young ages as a means to promote equality and to improve the efficiency of human capital accumulation. Various Policies, like maternity leave, maternal education and nutrition programs etc, have been made in this regard and amendments have been done from time to time to cope up with the changes in the societies. If a woman chooses to she will certainly be pregnant at one point of time, but that is not going to change her professional capabilities and efficiency. She can perform efficiently and effectively as any other employee. In fact in spite of being pregnant, She will emerge as a strong woman and help the society and organizations in its upliftment.

Thankfully the government of India and many organizations in India sensed the depth of this issue and come up with the Maternity benefit act and amendments thereof.

Maternity leave is a leave given to pregnant women to take care of her newborn child or children in the early stages of infancy and also the last few weeks of pregnancy known as termed as prenatal leave.

For a period of maternity break, the employee is also entitled to full **compensation** from the establishment she works for.

Review of Literature

Rossoin, Maya (2010) discussed about THE EFFECT OF MATERNITY LEAVE ON CHILDRENS BIRTH AND INFANT HEALTH OUTCOMES IN THE UNITED STATES and concluded that

Mothers who were able to take advantage of the full length of leave, the policy affects on infant mortality are largely driven through increases in maternal time at home, and ability to provide and seek prompt care for an ill child during the first few months of life. Maternal stress and mental health

during pregnancy and after childbirth are not affected, at least as measured by child outcomes that are likely impacted by maternal well-being.

Baker, M. & Milligan, K. (2011) discussed about MATERNITY LEAVE AND CHILDRENS COGNITIVE AND BEHAVIORAL DEVELOPMENT and concluded the impact of a change in Canada's maternity leave laws on children's cognitive and behavioral development at ages 4 and 5.

Janjanam, V. & Subbalakshmi, A. (2018). Has discussed about MATERNITY BENEFIT ACT 1961- A STUDY ON HISTORY, SCOPE AND AMENDMENTS IN INDIA and concluded that

With the flexible maternity leave system in India people are allowed to work home option, crèche facility, more easily reachable to unorganized sectors changed the India to one of the best country for women to work.

Objective of the study

1. To study the concept of maternity leave and benefits
2. To understand recent amendments in maternity benefit Act and their advantages over the previous ones.
3. To know the issues and challenges of Maternity benefit Act in India.

Research Methodology

The study focuses on extensive study of secondary data collected from various books, articles, national and international journals, Government reports and publications from various websites which focused on various aspects of Maternity leave and benefit.

Concept of Maternity Benefit

Maternity benefit act was legally introduced for the first time in Bombay legislative council on 28th July 1928. The act was enacted by parliament on 12th December 1961 as act no 53 of 1961. An objective of this act is to regulate the employment of the women for certain period of time before and after the birth of the child.

In the year 2017, government of India approved the bill of amendment to the maternity benefit act 1961

Applicability of the act

1 Establishment

every factory, mine and plantation and any other shop or establishment in which 10 or more persons are employed, or were employed on any day of the preceding 12 months.

It does not, however, apply to factory or other establishments to which other maternity benefit laws apply.

Eg. The employee's state insurance a self financing social security and health insurance scheme for workers provides the maternity benefit to women in lower income jobs. It is applicable to

employees earning Rs. 15000 or less than a month, where the employer contribution is 4.75 percent and employee contribution is 1.75 percentage.

Eligibility

To be eligible for the Maternity benefit act, a women must have been employed at the establishment for atleast 80 days in the last 12 months immediately preceding the date of her expected delivery.

For calculating the number of days on which a woman has actually worked in the previous year, the day she was on holiday with wages, must also be counted.

The definition of a women employee also includes those who were employed through an agency or on a contract basis.

A pregnant employee can start her maternity leave upto 8 weeks before the delivery due date.

Amendments to the Maternity Benefit Act 1961

Following were the Amendments

The maternity benefit act 2017 has increased the duration of maternity leave from 12 weeks to 26 weeks for two surviving children. If a woman has more than two children, the leave is limited to 12 weeks only, post the 26 weeks period, any leave is usually considered as unpaid leave.

As per the latest amendment a women can avail paid maternity leave of 8 weeks before the expected date of delivery. Before the amendment, it was for 6 weeks.

In case of any mishappening like miscarriage, the employee can avail 6 weeks leave from the date of the incident.

However extension of the leave can be availed, if required due to some health issues, by providing the relevant proof such as a certificate from a medical practitioner or an equalent document, but as per the act full pay will be given only for 26 weeks only.

Adopting and commissioned mothers- A woman who adopts a child below three months or commissioning mothers can avail maternity leave for upto 12 weeks. The period of maternity leave is calculated from the date when the child is handed over to the parents.

Provision to work from home- The Act has introduced an enabling provision relating to “work from home” that can be exercised after the expiry of 26 weeks’ leave period. A women can avail this facility, depending upon the nature of work, based on certain conditions mutually agreed upon between employer and employee.

Mandatory provision of on-site day care services- every establishment with 50 or more employees is required to provide for crèche facilities, within a prescribed distance, where The women employees should be permitted to visit the facility 4 times during the day, including the regular rest interval.

The amended act makes it compulsory for the employers to educate women about the maternity benefits available to them at the time of their appointment.

Issues and challenges

- One of the key challenges for employers is that they have to bear the cost of full payment of wages during maternity leave, and mandatory crèche facilities on their own, except for the fraction of employees covered under the Employee State Insurance Act (ESI Act) (i.e. employees earning not more than INR 21,000 per month), maternity benefits have to be financed by the employer. which hike the costs for the employer. Whereas in most of other countries, with extensive childcare benefits the cost is shared by both the employer and the state government, for example Singapore has 16 weeks of paid leave, 8 are funded through public funds.
- The increase in the maternity leave could adversely affect job opportunities for women. The requirement of full payment of wages during maternity leave has made hiring women more expensive” women, in general, may face discrimination at the hiring stage, Newlywed women employees may find it more difficult to get hired.
- The act doesn't specify the minimum and maximum geographical distance between the childcare facility and office.
- The act doesn't not specify the age limit for children to avail the facility nor clarifies compliances such as quality check of all the facilities.
- The provisions regarding the applicability of the Act to the unorganized sector is not clear because as per Unorganized Workers' Social Security Act, 2008 unorganized sector workers as those who are home based, self-employed, or wage workers working in an entity having less than 10 employees. So the provisions did not clarify whether the act is applicable to the women employees in those enterprises having less than 10 employees.

Recommendations

- Awareness about the law has to be raised.
- There is great need to improve the implementation of the Act with regards to access to medical bonus and nursing breaks.
- Standardization on several aspects like crèche facilities, unorganized sectors, paternity leaves and cost born by the employers should be there.

Conclusion

The Maternity Benefit (Amendment) Bill, 2017 was a landmark decision, which bought a huge positive environment, protection and security to all the women in the country. it is a progressive step taken by the government which is in line with India's initiatives towards changing the gender balance in the country

Through this the government intends to empower women by increasing their workforce participation and overall well being of the infant and maternal mortality rate which will have a direct bearing on the economy. The act not only helps women to maintain a balance in their personal and professional lives but also contributes to the economy of India.

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