

Compensation Management Laws in India

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Abstract – Compensation management is the practice of the organization that involves giving monetary as well as non-monetary rewards to the employees, in order to compensate for the time they allocate to their job. The use of compensation management is increasing as organizations have started to realize the need for leveraging its human capital in order to gain a competitive edge in the industry compensation management involves “maximizing the return on human capital”. The practice of compensation management goes for beyond the mere concept of attracting and retaining talented employees in the organization.

Growing awareness about human rights, democratic institutions and access to judiciary playing a vital role for effective compensation management. Now a day’s workers are not only interested for living wages. They also want to grow their needs, to be respected, to achieve goals and their involvement in decision making process. The present study is focused to laws governing compensation and contemporary issues relating to compensation management.

Keywords: *Compensation, Law, Management, Competitive Advantages and Need.*

• **Introduction**

It can be said that compensation is the “glue” that binds the employees and the employer together and in the organized sector, this is further codified in the form of a contract or a mutually binding legal document that spells out exactly how much should be paid to the employees and the components of the compensation package.

Maslow’s need hierarchy theory talks about compensation being at the middle to lower rung of the pyramid and the other factories like job satisfaction and fulfilment being at the top, for a majority of employees, getting the right compensation by itself is a motivating factors.

The provision of monetary value in exchange for work performed forms the basis of compensation and how this is managed using process, procedure and system form the basis of compensation management.

Hence, compensation management is something that companies must take seriously if they are to achieve a competitive advantage in the market for talent.

• **List of Compensation Laws in India**

Law Governing compensation management in India is not exhaustive but inclusive. Following is the major laws of compensation management in India.

- Factories Act, 1948
- Minimum Wages Act, 1948
- Payment of Wages, 1936
- Equal Remuneration Act, 1976
- Employees State Insurance Act, 1948
- Employees Provident Funds & Miscellaneous Provision Act, 1952
- Payment of Bonus Act, 1970
- Payment of Gratuity Act, 1972
- Employees' Compensation Act, 1923
- Contract Labour (Regulation & Abolition) Act, 1970
- Maternity Benefits Act, 1961
- The Child Labour (Prohibition & Regulation) Act, 1986
- The Industrial Employment (Standing Orders) Act, 1946
- Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959

3. Brief Introduction of Compensation Laws

3.1. Factories Act, 1948

The Factories Act, 1948 enacted to regulate the working conditions in Factories. The Act is meant to provide Protection to the workers from being exploited by the greedy business establishments and it also provides for the improvement of working conditions within the factories premises.

In the case of *Ravi Shankar Sharma Vs. State of Rajasthan AIR 1993 Raj 117* Court held that Factories Act is a social legislation and it provides for health, safety, welfare and other aspects of the workers in the Factories. The Act extends to whole of India. The Act is administered by the **Ministry of Labour and Employment** in India through its **Directorate General Factory Advice Service & Labour Institutes (DGFASLI)** and by the States Governments through their Factory Inspector. DGFASLI advises the Central Government and State Governments on administration of the Factory Act and coordinating the Factory Inspection Services in the States.

3.2. Minimum Wages Act, 1948

The Minimum Wages Act was enacted primarily to safeguard the interests of the workers engaged in the unorganized sector. The Act provides for fixation and revision of minimum wages of the

workers engaged in the scheduled employments. Under the Act both Central and State Governments are responsible in respect of their jurisdiction to fix and revise the minimum wages and enforce payment of minimum wages.

However, there is large scale variation of minimum wages both within the country and within the states owing to difference in the price of essential commodities, paying capacity, productivity, local conditions and items of the commodity basket differences in the exchange rates etc. The Act extends to whole of India. The highest minimum wage rate as updated in 2012 was INR 322/day in Andaman and Nicobar and the lowest was INR 38/day in Tripura.

3.3. Payment of Wages Act, 1936

The Payment of Wages Act, 1936 is a Central legislation which has been enacted to regulate the payment of wages to workers employed in certain specified industries and to ensure a speedy and effective remedy to them against unauthorized deductions and/or unjustified delay caused in paying wages to them.

The main object of the Act is to eliminate all malpractices by laying down the time and mode of payment of wages as well as securing that the workers are paid their wages at regular intervals, without any unauthorized deductions. The Act extends to whole of India.

3.4 Equal Remuneration Act, 1976

In today's globalized liberalized scenario women form an integral part of the Indian workforce. In order to effect to the constitutional provision and also ensure the enforcement of ILO Convention the Equal Remuneration Act, 1976 enacted by Parliament.

The implementation of the Equal Remuneration Act, 1976 is done at two levels. In central sphere the Act is being implemented by the Central Government and in the State sphere, the implementation rests with the state Governments. A Central Advisory Committee has been set up at the Centre under the act to advise the Government on providing increasing employment opportunities for women and generally reviewing the steps taken for effective implementation of the Act.

The Act extends to whole of India.

3.5 Employees State Insurance Act, 1948

The Employees State Insurance Act was promulgated by the Parliament of India in the year 1948. It was first major legislation on social security in Independent India to provide certain benefits to the employees in the organised sector in case of sickness, materiality and employment injury.

The Central Government established a Corporation to be known as the "Employees' States Insurance Corporation" which is the premier social security organisation in the country. The Coverage under the Act is at present restricted to employees drawing wages not exceeding 15000 per month.

The Act extends to whole of India.

3.6 Employees Provident Funds and Miscellaneous Provisions Act, 1952

The Employees' Provident Funds and Miscellaneous Provisions Act - 1952 is a social welfare legislation to provide for the institution of Provident Fund, Pension Fund and Deposit Linked Insurance Funds for employees working in Factories and other establishments. The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress.

The Act is administered by the Government of India through the Employees' Provident Fund Organization (EPFO). The Central Government has constituted Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such by Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The Tribunal consists of one person only one person and appointed by the Central Government.

The Act extends to whole of India except Jammu and Kashmir.

3.7 Payment of Bonus Act, 1965

The term bonus means something in addition to what is ordinarily received by or strictly due to the recipient. The purpose of payment of bonus is to bridge the gap between wages and ideal living wages.

The Payment of Bonus Act, 1965 applies to every factory as defined under the Factories Act, 1948; and every other establishment in which twenty or more persons are employed on any day during an accounting year.

An employer shall pay minimum bonus at the rate of 8.33% of the salary or wages earned by an employee in an year or one hundreds rupees, whichever is higher.

The Act extends to whole of India.

3.8 Payment of Gratuity Act, 1972

Gratuity is a lump sum payment made by the employer as a mark of recognition of the service rendered by the employee when he retires or leaves service. In the case of death of an employee it provides much needed financial assistance to the surviving members of the family.

Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years.

(i). on his superannuation; or

(ii). on his retirement or resignation; or

(iii). on his death or disablement due to accident or disease.

However, the completion of continuous services of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement.

The employer shall pay gratuity to an employee at the rate of fifteen days wages based on the rate of wages last drawn by the employee concerned for every completed year of services or part thereof in excess of six month.

The Act extends to whole of India.

3.9. Employees' Compensation Act, 1923

The passing of the Workmen's' Compensation Act renamed as Employees Compensation Act, 1923 was the first step towards social security of workmen. It aims at providing financial protection to workmen and their dependents in case of accidental injury by means of payment of compensation by the employers.

For the words "Workman" and "employee" and "employees" have been substituted respectively for making the act gender neutral.

For the purpose of calculation of compensation under the act monthly wages has been increased by the Government and minimum rates of compensation for permanent total disablement and death are increased from 80,000 and 1, 40,000 respectively.

The Act extends to whole of India.

3.10 Contract Labour (Regulation & Abolition) Act, 1970

Contract Labour is a significant and growing form of employment. It is prevalent in almost all industries and allied operations and also in service sector. It generally refers to workers engaged by a contractor for user enterprises. The exploitation of workers under the contract labour system has been a matter of deep concern for the Government. The Government enacted the Contract Labour (Regulation & Abolition) Act in 1970 and it came into force on 10/02/1971.

The Act applies to every establishment contractor in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour. Every establishment and contractor, to whom the Act applies, has to register themselves or obtain a license for execution of the contract work. The Act extends to whole of India.

3.11 Maternity Benefit Act, 1961

As per Article 42 of the Constitution of India, under Part IV i.e. 'Directive Principles of State Policies', the State shall make provision for securing just and humane conditions of work and for maternity relief.

The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees who are covered under the Employees' State Insurance (ESI) for certain periods before and after child-birth and provides for maternity and other benefits. The Maternity Benefit Act, 1961 also makes certain other provisions to safeguard the interest of pregnant women workers. The Act extends to whole of India.

3.12 The Child Labour (Prohibition & Regulation) Act, 1986.

As per Article 24 of the constitution of India no child below the age of 14 years to be employed in any factory, mine or any hazardous employment. Further, Article 39 requires the state to direct its policies towards ensuring that the tender age of children is not abused and that they are not forced by economic necessity to enter a vocation unsuited to their age or strength.

Recently, with the insertion of Article 21A, the State has been entrusted with the task of providing free and compulsory education to all the children in the age group of 6-14 years.

Consistent with the constitutional provisions, The Child Labour (Prohibition and Regulation) Act was enacted in 1986.

The Act regulates employment of children in non-hazardous occupation and 65 processes. There are at present 18 hazardous occupation and 65 processes, where employment of children is prohibited.

The Act extends to whole of India.

3.13 The Industrial Employment (Standing Orders) Act – 1946

‘Standing Orders’ defines the conditions of recruitment, discharge, disciplinary action, holidays, leaves etc. go a long way towards minimizing friction between the management and workers in industrial undertakings. The Industrial Employment (Standing Orders) Act requires employers in industry establishments to clearly define the conditions of employment by issuing standing orders duly certified. It applies to every industrial establishment wherein 100 or more workmen are employed or were employed on any day during the preceding twelve months. The Act extends to whole of India.

3.14 Employment Exchange (Compulsory Notification of Vacancies) Act, 1959

The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959 provides for compulsory notification of vacancies and submission to employment exchanges. Thus, the main activities of the employment exchanges are registration, placement of job seekers, career counselling and vocational guidance and collection of employment market information. The employer in every establishment in public sector in any in any State or area shall furnish such prescribed information or return in relation to vacancies that have occurred or are about to occur in that establishment to such prescribed employment exchanges. The Act extends to whole of India.

4 Contemporary issues related to Compensation Management.

4.1. Because of globalization, there is tremendous increase in competition. Thus motivated, well trend and experienced employees plays a vital role in achieving competitive advantage. Therefore it becomes a matter of immense importance to have a better compensation plan so as to attract and retain productive employees.

4.2. Growing awareness among people about their constitutional and legal rights and with increased access to judiciary is very feasible for employees, it is quit important to follow all rules and regulation to avoid unnecessary litigations.

4.3 Labour commissioner is one person authority in most of the laws so it becomes very easy for employers to manage labour commissioner. There shall be Labour Commission instead of Labour Commissioner to regulate and adjudicate compensation laws like Central Information Commission in Right to Information Laws.

4.4 Fines in various laws shall be increased and there shall also be imprisonment along with monetary fines. Only monetary fines is not sufficient to implement the spirit of compensation laws.

4.5 District Legal Services Authority shall be provided the task to visit establishments/factories at least quarterly to educate employees about their right and also to help them in case of violation of there rights.

5. References

1. Bare act of Factories Act, 1948
2. Bare act of Minimum Wages Act, 1948
3. Bare act of Payment of Wages, 1936
4. Bare act of Equal Remuneration Act, 1976
5. Bare act of Employees State Insurance Act, 1948
6. Bare act of Employees Provident Funds & Miscellaneous Provision Act, 1952
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13. Bare act of The Industrial Employment (Standing Orders) Act, 1946
14. Bare act of Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
15. The Constitution of India