



EMPLOEES STATE INSURANCE ACT 1948

CS M.K. PANDEY

AMENDMENTS

- WAGES LIMIT- RS 10000 TO Rs 15000 . Wef-1 May 2010
- Inspectors- Social Security officers
- Family- extended
- ESIC TO OPEN- MEDICAL COLLEGE,PARAMEDICAL COLLEGE
- Medical Facilities to other beneficiaries
- Third party participation, private parties

ESI Scheme ...

- ESI Scheme for India is an integrated social security scheme tailored to provide Social Production to workers and their dependents, in the organised sector, in contingencies, such as **Sickness, Maternity and Death or Disablement due to an employment injury or Occupational hazard**

COVERAGE ...

The ESI Act 1948 applies to

- Non – seasonal Factories using power in and Employing ten (10) or More persons
- Non – seasonal and non- power using factories and establishments employing twenty(20) or more persons
- Employees of the Factories and Establishments in receipt of wages not exceeding Rs.7500 /- Per month are covered under this Act.

WAGES FOR ESI CONTRIBUTIONS

TO BE DEEMED AS WAGES

- Basic pay
- Dearness allowance
- House rent allowance
- City compensatory allowance
- Overtime wages (but not to be taken into account for determining the coverage of an employee)
- Payment for day of rest
- Production incentive
- Bonus other than statutory bonus
- Nightshift allowance
- Payment for un-substituted holidays
- Meal / food allowance
- Suspension allowance
- Lay off compensation
- Children education allowance
- Heat, Gas & Dust allowance

NOT TO BE DEEMED AS WAGES

- Contribution paid by the employer to any
- Sum paid to defray special expenses
- Gratuity payable on discharge
- Pay in lieu of notice retrenchment
- Benefits paid under the ESI Scheme
- Encashment of leave
- Payment of Inam which does mean part of employment
- Washing allowance for livery
- Conveyance Amount towards reimbursement for duty related journey

WAGES Defined ...

- **Wages** means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes any payment to an employee in respect of any period of authorised leave, lock out, strike which is not illegal or layoff and other additional remuneration, if any, paid at intervals not exceeding two months, but does not include :-
 - a). Any contribution paid by the employer to any pension fund or Provident fund, or under this act;
 - b). Any traveling allowance or the value of any traveling concession;
 - c). Any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or
 - d). Any gratuity payable on discharge.

WAGES Defined ...

The above definition has three parts

1. All remuneration paid or payable in cash to an employee following from the term of employment (including agreement) express or implied. The periodicity of payment is not relevant in this case.
2. Any additional remuneration even if not flowing from any agreement or settlement but paid at intervals not exceeding two months.
3. The exceptions as provided in Clause (a) to (d) above. Any remuneration paid or payable under para 1 and 2 is wages and chargeable to contribution whereas any amount paid towards items mentioned in clause (a) to (d) are not wages and therefore no contribution is chargeable on the amount.

Finances ...

- The Scheme is primarily funded by contribution raised from Insured Employees and their employers
- Payable such as
 1. **Employees' Contribution – 1.75% of the Wages**
 2. **Employers' Contribution – 4.75% of the Wages**

TOTAL – 6.5 % of the Wages

Employees in receipt of an average daily wage of Rs.40/- or Less, are exempted from Payment of their share of contribution (w.e.f 8.4.00) but are entitled to all social security benefits under the Scheme.

Contribution & Benefit Period ...

- Employees covered under the ESI Act, are required to pay contribution towards the scheme on a monthly basis. A contribution period means a six month time span from 1st April to 30th September and 1st October to 31st March.
- Cash benefits under the scheme are generally linked with contributions paid. The benefit period starts three months after the closure of a contribution period. The two type of periods are elucidated below.

Contribution Period

1st April to 30th September

1st October to 31st March

Benefit Period

1st January to 30th June
of the following year

1st July to 31st Dec.

ADVANTAGES OF EMPLOYERS ...

- 1. Employers are absolved of their liabilities of providing medical facilities to employees and their dependents in kind or in the form of fixed cash allowance, reimbursement of actual expenses, lump sum grant or opting for any other medical insurance policy of limited scope unless it is a contractual obligation of the employer

ADVANTAGES OF EMPLOYERS ...

2). Employers are exempted from the applicability of the

: -

(a). **Maternity Benefit Act**

(b). **Workmen's' Compensation Act**

in respect of employee covered under the ESI Scheme

3). Employers have their disposal, a productivity , well secured workforce, an essential ingredient for better productivity

ADVANTAGES OF EMPLOYERS ...

- 4). Employers are absolved of any responsibility in times of Physical distress of workers such as sickness, employment injury or Physical disablement resulting in loss of wages, as the responsibility of Paying cash benefits shifts to the corporation in respect of insured employees

- 5). Any sum paid by way of contribution under the ESI Act is deducted in computing 'income' under the Income Tax Act

Benefits to Employees ...

- ESI Scheme Major Social Security Benefits in Cash and Kind include ...
 1. **Medical Benefit** – for self & Family
 2. **Sickness Benefit** – for self
 3. **Maternity Benefit** - for self
 4. **Disablement Benefit**
 - a). Temporary Disablement Benefit – for self
 - b). Permanent Disablement Benefit – for self
 5. **Dependents' Benefit** – for dependents in case of death due to employment injury

Benefits to Employees ...

- In addition, the Scheme also provides some other need based benefits to insured workers. These are:
 - i). **Funeral Expenses** – to a person who performs the last rites of IP
 - ii). **Rehabilitation allowances** – for self
 - iii). **Vocational Rehabilitation** - for self
 - iv). **Old age Medicare** – for self and spouse
 - v). **Medical Bonus** – for insured women and IP's wife

Medical Benefit ...

- Medical Benefit means Medical care of IPs and their families, wherever covered for medical benefit.
- The Standard medical care consists of out-door treatment, in-patient treatment, all necessary drugs and dressing, pathological and radiological specialist consultation and care, ante-natal and post natal care, emergency treatment etc.,
- Out-door medical care is provided at the state Insurance Dispensaries or Mobile Dispensaries manned by full-time doctors (service' system) or at the private clinics of Insurance Medical Practitioners (Panel System)

Medical Benefit ...

- Insured worker and members of his family are eligible for medical care from the very first day of the worker coming under ESI Scheme.
- A worker who is covered under the scheme for first time is eligible for medical care for the period of three months. If he/she contributes at least for 78 days in a contribution period the eligibility is there up to the end of the corresponding benefit period.
- A worker is also eligible for extended sickness benefit when he/she is suffering from any one of the long term 34 diseases listed in the Act. This is admissible after the worker has been under ESI these conditions are satisfied medical benefit is admissible for a maximum period of 730 days for the IP and his/ her family.

Sickness Benefit ...

- Sickness signifies a state of health necessitating Medical treatment and attendance and abstention from work on Medical grounds. Financial support extended by the corporation is such a contingency is called sickness Benefit
- Sickness Benefit represents periodical payments made to an Insured Person for the period of certified sickness after completing 9 Months in insurable employment.

Benefits to Employees ...

- To qualify for this benefit, contributions should have been payable for at least 78 days in the relevant contribution period.
- The Maximum duration for availing sickness Benefit is 91 days in two consecutive benefit periods
- **Standard benefit rate** – this rate corresponds to the average daily wage of an Insured person during the corresponding contribution period and is roughly half of the daily wage rate.

Extended Sickness Benefit ...

- Extended Sickness Benefit is a Cash Benefit paid for prolonged illness (Tuberculosis / Leprosy, Mental and Malignant diseases) due to any of the 34 Specified diseases
- The IP should have been in continuous employment for a period of 2 years and should have contributed for at least 156 days in 4 preceding contribution periods

Extended Sickness Benefit ...

- The daily rate of Extended Sickness Benefit is 40% more than the standard Sickness Benefit rate admissible
- After exhausting sickness Benefit Payable for 91 days the Extended Sickness Benefit is payable upto further period of 124 / 309 days that can be extended upto 2 years in special circumstances

Enhanced Sickness Benefit ...

- Is Cash Benefit for IP undergoing sterilisation operation of vasectomy / tubectomy for family planning.
- The contributory conditions are the same as for claiming **sickness benefits**
- The daily rate of this benefit is double the standard benefit rate. Say, not less than the daily wage.
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- The benefit is available upto 7 days for vasectomy and upto 14 days for tubectomy operations.

Maternity Benefit...

- Maternity Benefit is cash payable to an Insured women for the specified period of abstention from work for confinement or mis-carriage or for sickness arising out of pregnancy, “confinement” “premature birth of child or miscarriage” “confinement” connotes labour after 26 weeks of pregnancy whether the result issue is alive or dead,
- “Miscarriage” means expulsion of the contents of a pregnant uterus at any period prior to or during 26th week of pregnancy.

Maternity Benefit...

- Criminal abortion or miscarriage does not, however, entitle to benefit.
- The contribution condition is the same as for Sickness Benefit.
- The daily benefit rate is double the sickness Benefit rate and is thus roughly equivalent to the full wages. Benefits is paid for Sundays also.

Maternity Benefit...

- The Benefit is paid as follows (Duration)

- a). For **Confinement**

For a total period 12 Weeks beginning not more than 6 weeks before the expected date of child birth, if the insured women dies during confinement or within 6 weeks thereafter, leaving behind the living child, the benefit continues to be payable for the whole of the period. But the child also die during that period, the benefit will be paid upto and including the day of the death of the child.

Maternity Benefit...

b). For **Miscarriage**

For the period of 6 weeks following the date of miscarriage

c). For sickness arising out of pregnancy, confinement, Premature birth of child or miscarriage :

For an additional period or upto four weeks.

In all the cases, the benefit is paid only if the insured women does not work for remuneration during the period for which benefit is claimed. There is no waiting period.

Maternity Benefit...

- Medical Bonus

Medical Bonus is lump sum payment made to an Insured woman or the wife of an insured person in case she does not avail medical facility from an ESI hospital at the time of delivery of a child. This bonus of Rs. 250/- has been increased to Rs. 1000/- from 1st April 2003

Disablement Benefit ...

a). Temporary disablement benefit :

- In case of temporary disability arising out of an employment injury or occupational disease.,
- Disablement benefit is admissible to insured person for the entire period so certified by an Insurance Medical officer / Practitioner for which IP does not work for wages.
- The benefit is not subject to any contributory condition and is payable at a rate which is not less than 70% of daily average wages.
- However, not payable if the incapacity lasts for less than 3 days excluding the date of accident.

Permanent disablement benefit ...

- In case an employment injury or occupational disease results in permanent, partial or total loss of earning capacity,
- Periodical payments are made to the IP for life at a rate depending on the actual loss of earning capacity as may be determined and certified by a duly-constituted Medical Board.
- The rates of Disablement Benefits are determined in accordance with the provisions of Rule 57 of ESI (Central) Rules, 1991.
- In order to product erosion in real value of the periodical payments of Permanent Disablement benefits, against rise in the cost of living index, periodical increases are granted, based on actuarial calculation

Permanent disablement benefit ...

- Commutation of periodical payments into lump sum (one time payment) is permissible where the permanent disablement stands assessed as final and daily rate of benefit does not exceed Rs. 1.50. per day.
- Commutation of Permanent Disablement Benefit into lump sum payment is also allowed in case the total commuted value does not exceed Rs.10000/- (The ceiling is now being raised to Rs.30000/-).

Dependants' Benefit ...

- Dependents Benefit is a monthly pension payable to the eligible dependents of an insured person who dies as a result of an Employment Injury or occupational disease
- Beneficiaries and Duration of benefit
 - a). Widow / widows during life or until remarriage
 - b). Legitimate or adopted son until age 18 or if legitimate son is infirm, till infirmity lasts.
 - c). Legitimate or adopted unmarried daughter until age 18 or until marriage, whichever is earlier, or if infirm, till infirmity lasts and she continues to be unmarried.

In the absence of any widow or legitimate child, the benefit is payable to a parent or grandparent for life, to any other male dependent until age 18 or to an unmarried or widowed female dependent until age 18.

Dependants' Benefit ...

- How much ...
- The total divisible benefit is equivalent to the temporary disablement benefit rate (roughly 70% of the wage rate). The widow / widows share $3/5^{\text{th}}$ of the benefit and the legitimate or adopted son and daughter $2/5^{\text{th}}$ each of the benefit. If the total benefit so divided exceeds the full rate, there is a proportionate reduction in the respective shares of the beneficiaries.
- The amount of pension paid to the dependents of a deceased insured person is reviewed vis-à-vis the cost of living index and increases are granted from time to time to compensate for erosion in its real value.

Other Benefit ...

(i). Funeral Expenses

Funeral Expenses are in the nature of lump sum payment up to a maximum of Rs.2500/- made to defray the expenditure on the funeral of deceased IP. The amount is paid either to the eldest surviving member of the family or, in his absence, to the person who actually incurs the expenditure on the funeral.

Other Benefit ...

Rehabilitation Allowance

The corporation, vide its Resolution dated 22.12.1979, resolved to grant rehabilitation Allowance to the IPs, for each day, on which they remain admitted in an Artificial limb centre. On the rates, which generally confirm to double the Standard Sickness Benefit rate. The above benefit was introduced with effect from 1.1.1980

Levy of Interest & Damages ...

- Under Section 39(5)(a) of the ESI act, read with Regulation 31(A) of the ESI (General) Regulations 1950, the employer is liable to pay simple interest at the rate of 15 percent per annum in respect of each day of default or delay in payment contributions. In addition, under the Provision of Regulation 31-C of ESI (General) Regulations, 1950, read with sec.85(B)(i) of the ESI Act, the Corporation is empowered to recover damage as under:

<u>Period of delay in payment of Contribution</u>	<u>Rate of Damages on the amount due</u>
i). Up to less than 2 months	5 %
ii). 2 months and above but less than 4 months	10%
iii). 4 months and above but less than 6 months	15%
iv). 6 months and above	25%

Interest and damages can also recovered as arrears of land revenue Section 45(c) to Section 45(I) by the Recovery Officer of ESI Corporation.

Obligation of the Employers ...

- 1). Get your Factory / establishment registered with in 15 days after the Act becomes applicable. Submit **Form 01** to the Regional office for this purpose. Obtain Employer's code No. for use in all ESIC Forms / documents and correspondence with the offices of the ESI Corporation.
- 2). Fill up Declaration Forms in respect of all coverable employees and submit the same to the Regional Office/ Local Office of the corporation well before the 'Appointed Day' and obtain insurance Numbers from the concerned Local Office/ Regional Office, In respect of newly appointed employees, fill up the declaration form soon after appointment of such employees and submit the same to the Local Office Concerned.

Obligation of the Employers ...

- 3). Pending receipt of identity cards/ identity certificates you may issue “certificate of employment” in Form 86 to the covered employee(s) enabling them to avail cash/medical Benefits
- 4). Pay ESI contribution (Employee's Share @4.75% and the Employer's share @ 1.75% of the wages) with in 21 days of the month following, in which the wages fall due.

Obligation of the Employers ...

- 5). Maintain an Accident Book as prescribed under the Factory Act / ESI Act.
- 6). Submit an Accident Report to the Local Office / ESI Dispensary concerned immediately in respect of accidents that could result in death or disablement and within 24 hours of its occurrence otherwise. Minor accidents which do not cause absence from work need not be reported
- 7). Grant leave to insured employees on the basis of sickness certificates issued by any authorised ESI doctor.

Obligation of the Employers ...

Maintain the following records/ registers properly for the purpose of inspection

1. Attendance Registers / Muster Rolls (in respect of all employees including those employed through contractors)
2. Wage register
3. Cash Book / Bank Book
4. Account Books including Ledgers and Vouchers, Balance Sheet.
5. Employees' Register
6. Accident Book
7. Returns of Contribution
8. Return of Declaration Forms
9. Copies of Challans
10. Inspection Book

Obligation of the Employers ...

9. Submit return of contribution within 42 days of the expiry of contribution period.
10. Intimate the date of closure of shifting (Temporary or Permanent) of the Factory / Establishment to the Regional office / Local Office within seven days of its closure or shifting
11. Promptly report change in business activity, ownership of the concern or its management.
12. Ascertain the liability towards ESI dues, while taking over the ownership of any factory/establishment by purchase, gift, lease or license or in any other manner whatsoever as new owner is liable to discharge the past liabilities if any



Thank You