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**SUPPLEMENT FOR  
INDUSTRIAL, LABOUR  
AND  
GENERAL LAWS  
MODULE 2  
PAPER 7**

The study material Industrial, Labour and General Laws (Executive Programme) available on the web link: [https://www.icsi.edu/media/webmodules/publications/IL&GL\\_AU\\_GUST\\_2017.pdf](https://www.icsi.edu/media/webmodules/publications/IL&GL_AU_GUST_2017.pdf).

The students are advised to read their Study Material along with these updates. These academic updates are to facilitate the students to acquaint themselves with the amendments in the Employee's Compensation Act, 1923 and the Payment of Gratuity Act, 1972.

## **Employee's Compensation (Amendment) Act, 2017**

The Employee's Compensation Act, 1923 provides for payment of compensation to the employees and their dependants in the case of injury by industrial accidents including certain occupational diseases arising out of and in the course of employment resulting in death or disablement.

To rationalize penalties and strengthen the rights of the workers, Parliament enacted Employee's Compensation (Amendment) Act, 2018. The Employee's Compensation (Amendment) Act, 2017 inserted one new Section 17A dealing with duty of employer to inform employee of his rights and amended Section 18A and Section 30 dealing with Penalties and Appeals respectively.

### **Duty of employer to inform employee of his rights**

According to Section 17A of the Employee's Compensation (Amendment) Act, 2017, every employer shall immediately at the time of employment of an employee, inform the employee of his rights to compensation under the Act, in writing as well as through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee.

### **Penalties**

Section 18A provides that whoever employers (a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or (b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or (c) fails to send a report which he is required to send under section 10B, or (d) fails to make a return which he is required to make under section 16 or (e) fails to inform the employee of his rights to compensation as required under section 17A,

shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

Prosecution under section 18A shall not be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Commissioner.

### **Appeals**

Section 30(1) provides that an appeal shall lie to the High Court from the following orders of a Commissioner, namely:--

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(aa) an order awarding interest or penalty under section 4A;

(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased \*[employee], or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

The period of limitation for an appeal under this section shall be sixty days.

The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeals under this section.

### **Withholding of certain payments pending decision of appeal**

Section 30A of the Principal Act dealing with withholding of certain payments pending decision of appeal is omitted by the Employee's Compensation (Amendment) Act, 2017.

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## **Payment of Gratuity (Amendment) Act, 2018**

The Payment of Gratuity Act, 1972 was enacted to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments who have rendered a minimum five years of continuous service with the establishment employing ten or more persons. The calculation of gratuity amount is based on a formula, which is fifteen days of wages for each year of completed service, subject to a ceiling. The ceiling was provided under section 4 of the Act is rupees ten lakhs which was fixed in the year 2010.

To provides flexibility to the Central Government firstly to increase the ceiling limit of gratuity to such amount as may be notified from time to time and secondly to enhance the calculation of continuous service for the purpose of gratuity in case of female employees who are on maternity leave to such period as may be notified from time to time, Parliament enacted the Payment Of Gratuity (Amendment) Act, 2018.

Central Government vide Notification S.O. 1419(E) dated 29th March, 2018, the ceiling limit of gratuity has been increased from Rs. 10 Lakh to **20 Lakh** and this period of maternity leave for calculation purpose has been enhanced from 12 weeks to **26 weeks**.

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