



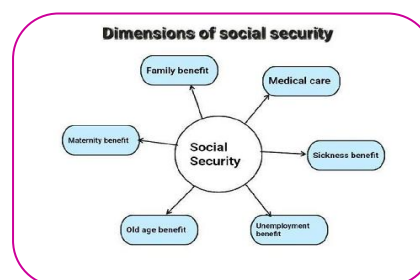
## UNDERSTANDING NON-INSTITUTIONAL PROPORTIONS OF SOCIAL SECURITY AND CASING WORK OF SOCIAL SECURITY LEGISLATIONS IN INDIA

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### ABSTRACT

*'The primary concept of social security is using interpersonal ways to avoid vulnerability and deprivation to deprivation' in order to guarantee lasting human development after a while. In both advanced and developing countries state supported social protection in the form of shielding or even primitive social security measures that has developed in order to product and then to change the assistance that family, neighborhood or any other charitable institution provide. In this paper we will talk about social security in India and Employees' Provident Fund and Miscellaneous Provisions Act, 1952 along with several case studies.*



**KEY WORDS:** Social, security, employee, labour, act, government, etc.

### 1. INTRODUCTION

A Social security is as old as man itself yet in India it began late. It very well may be said that non institutional proportions of social security were working since days of yore. They are in actuality the foundation of present social security projects and plans. Such measures had been given by joint families, network, and statement of faith, position panchayats, vagrant ages, widow homes and religious establishments. At that point in nineteenth century industrialization began in India and this cutting edge industrialization built up another class of modern working class. Because of the beginning of enterprises, new issues emerged and with the development of current manufacturing plant framework, different security and medical issues raised an interest for standardization of assurance measures. Association exercises expanded to pressurized government to establish some social security enactments. Prior to freedom, British Government was very little keen on the welfare of regular workers so less enactment existed around then. Deadly Accident Act, 1885 and Workmen's Compensation Act, 1923 were in power for the security of workers and to repay after any sort of mishappening, yet the arrangements of these Acts gave constrained assistance to workers and it was pricey and entangled to guarantee pay under these Acts.<sup>1</sup>

After autonomy, Indian Government took distinct fascination to give social security to workers. In this way, the parliament altered the current enactments to make them increasingly appropriate and advantageous for the workers. The social security enactments sanctioned were:

- Employees' State Insurance Act, 1948;
- Employees' Provident Fund Act, 1952;
- Maternity Benefit Act, 1961;

<sup>1</sup> Mishra, B.N. Dynamics of Social Security Administration, Anmol Publications, New Delhi, (1993).

- Payment of Gratuity Act, 1972.

## 2. SOCIAL SECURITY IN INDIA<sup>2</sup>

The general casing work of social security legislations in India incorporates Employees' Provident Fund, Gratuity, Employee's Insurance, Employee's Pension Scheme and National Social Assistance Program. Social Security to the workers in the sorted out division is given through five Central Acts, to be specific, the Employees State Insurance Act, the Employees Provident Fund and Miscellaneous Provisions Act, the Workmen's' Compensation Act, the Maternity Benefit Act, and the Payment of Gratuity Act. Also, there are an enormous number of welfare assets for certain predetermined portions of workers, for example, beedi workers, cine workers, development workers and so on.<sup>3</sup>

The kinds of projects in India incorporate Provident Fund with Survivor (Deposit Linked) Insurance and benefits subsidize, tip plans for mechanical workers and social help framework. In 2004, a deliberate maturity, inability and survivors advantages plan presented under disorderly part social security plot for workers and independently employed people between the age of 36 to 50 having a month to month pay Rs. 6500/- or less. This implies India is having a great deal of social security benefits under various heads, progressively more than, a solitary advantage is given under numerous heads too. For instance seniority advantages are given by opportune reserve, annuity plot, tip plan and maturity benefits under social help too.<sup>4</sup> Like astute lasting handicap advantage is given by opportune reserve conspire, annuity plan and tip plot. The survivor's advantages are given through fortunate store, survivor (store connected) protection conspires, annuity plot (widower's) benefits, vagrant's benefits, and other qualified survivor's annuity), tip conspires, memorial service award and survivor award under social help.<sup>5</sup> For the most part the inclusion goes under social help and social protection.<sup>6</sup>

## 3. EMPLOYEES' PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT, 1952

The Employees' Provident Fund and Miscellaneous Provisions Act were comprised to shield the eventual fate of workers after the retirement, to help the wards in the event of his initial passing and to develop the soul of sparing among the workers.

Without precedent for 1925, government enacted the Provident Fund Act yet it was distinctly for government workers. In 1931, Royal Commission worried on maturity benefits and the Third Labor Ministers Conference (1942) arranged a model for Provident Fund rules. The model was put before the Standing Labor Committee in 1944. Further, Labor Investigation Committee in 1946 thought on the issue extensively. In result to all the previous strides, without precedent for 1948, government executed the Coal Mines Provident Fund and Bonus Scheme. Be that as it may, the plan was uniquely for the coal mineshaft workers and to extend it to entire workers by and by an exchange occurred in the Labor Conference in 1948 and in 1950 the Standing Labor Committee suggested for initiating of an opportune reserve conspire for all workers. Later Government of India affirmed the Employees' Provident Funds Ordinance on 15 November, 1951 that gave a mandatory fortunate supports plot for the representatives of different factories and different foundations. This mandate was supplanted by the Act in 1952.

<sup>2</sup> Chapter 5, 6 and 8 elaborately discuss social security in India. This part is narrating the present system in India for the purpose of comparative study only.

<sup>3</sup> Mamoria, C.B, and Satish, Labour Welfare Social security and Industrial peace in India, (1983), Kitab Maha

<sup>4</sup> Sachdeva, D.R. social welfare administration, in India, (2000) Kitab Mahal Allahabad

<sup>5</sup> Sharma, A.M, Aspects of Labour Welfare and Social security 2005, Himalaya publishing house, Mumbai

<sup>6</sup> Saxena, R.C., Labour Problems and social welfare, K. Nath and Co, Meerut, (1974)

On a survey of working of the plan throughout the year it was discovered that opportune reserve is without a doubt a powerful maturity advantage however on the off chance that provider kicks the bucket during and after the activity this cash can not be adequate for long haul insurance of the family so this prompted the constitution of Employees' Family Pension Scheme with impact of March 1, 1971. Further, in 1976 the Act was corrected to connect the plan to insurance and the Employees' Deposit Linked Insurance was confined which worked from August 1, 1976. In any case, in 1995, government rolled out certain improvements in Employees' Family Pension conspire and supplanted it with the Employees' Pension Scheme, 1995 (EPS, 95)

### 3.1 Objective of the Act

The central target of the Act is to give a representative money related security after retirement or during his seniority. After retirement gives financial help before the retirement for explicit work. Earlier, Family Pension Scheme however now Employees' Pension Scheme is comprised to give money related security as annuity to the group of specialist after his passing.

### 3.2 Scope and Coverage

The Act reached out to entire of the India with the exception of the province of Jammu and Kashmir. It applies to each foundation indicated in calendar I in which at least twenty people are utilized. In any case, the film and theaters utilizing at least 5 people can be secured under the Act.

Prior to the change, a specialist need to finish one year constant administration to wind up qualified under the Act however now a worker is qualified for the participation of the Act from the day he joins the secured foundation. The Central Government by notice in the Official Gazette may determine, some other foundation utilizing at least twenty people or class of such foundation, to which the Act will apply. Till the March 2009 the Act covers 5.73 need foundation and roughly 4.71 crore endorsers under three plans in both open and private areas.

A foundation to which this Act applies will keep on being represented by this Act despite that the quantity of people utilized there in whenever falls beneath twenty.

### 3.3 Exemption under the Act

The foundations enrolled under Co-usable Societies Act and utilizing under 50 people working without the guide of intensity are excluded from the usage of the Act, A foundation which has its own fortunate reserve plot or some other retirement advantage conspire which isn't less ideal than the statutory plan can get the exclusion from the activity of the Provident Fund Act, yet most of workers ought to be agreeable to it and getting a charge out of the advantages. The exception is conceded by 'Proper Government' through a notice. In the event that the workers of excluded foundation are not happy with existing opportune reserve plan of their foundation and dominant part of them are agreeable to the Act, at that point the Act might be appropriate to such foundation and the business can get intentional inclusion under section (4).

## 4. PAYMENT OF GRATUITY ACT, 1972

The installment of tip is a kind of retirement advantage which gives money related help to a worker to verify his maturity. It is an extra advantage request than fortunate store and annuity. The primary component of this Act is that it is a non-contributory kind of plan. Worker has not to store any add up to profit it but rather just business stores cash for his representative at the endorsed rate.<sup>7</sup>

<sup>7</sup> Ins. by Act 26 of 1984, sec. 2 (w.e.f. 18-5-1984)

It's anything but another idea its underlying foundations found in antiquated Indian culture. At the hour of rulers, persevering and productive workers got the reward subsequent to finishing their administration to live effortlessly and comfort. Subsequent to breathing easy, numerous ventures were built up and some of them gave money tip to its workers; however around then it was deliberate in character.<sup>8</sup> So any solid enactment was expected to make it obligatory for each business.

To direct the installment of tip the Working Journalists (Conditions of Service) and Miscellaneous Act, 1955 was passed, thusly, Kerala passed Gratuity Act in 1971 for its Employees and West Bengal likewise tail it with constitution of Employees' Payment of Compulsory Gratuity Act, 1971. Further, some different states additionally enacted Act in this regard yet an incorporated focal enactment was important for the consistency in installment of tip all through the nation.<sup>9</sup>

In the State Labor Ministers' Conference and furthermore in the Indian Labor Conference held at New Delhi on August 1971, and October 1971 individually examined about the issue. After this talk the then Labor Minister set the Payment of Gratuity Bill, 1971 in Parliament on December 10, 1971.<sup>10</sup> At that point the Bill was alluded to the Select Committee and after its proposals Parliament passed it in a similar structure as Select Committee recommended. The Act came into power from September 16, 1972 and executed whole over the India<sup>11</sup> This Act is revised in 1984, 1987, 1994, 1998 and 2008 and as of late in 2010.

The vast majority of the Gratuity plans are legitimate under the accompanying ircumstances.<sup>12</sup>

- On retirement or superannuation;
- On willful retirement or acquiescence after a predetermined times of administration;
- On physical or mental insufficiency which may under a worker unfit to proceed in administration;
- On end of administration by the organization for the reasons other than unfortunate behavior or indiscipline; and

## 5. CASE STUDIES

### Case: Kochu Velu v/s Purkkattu Joseph (1980) 1 Lab. I.C. 902

Intriguing inquiries are brought up in this intrigue which is at the occurrence of an individual who asserted the advantage of the Workmen's Compensation Act; however who was denied the advantage under the Act by the order of the Commissioner for Workmen's Compensation under intrigue. The litigant was one occupied with the avocation of climbing coconut trees to cull the nuts. The contrary party who is the main respondent in the intrigue possesses a little coconut garden and the candidate who is the litigant here was locked in by the contrary party for climbing the coconut trees every once in a while to edit the nuts from the trees intermittently. On 16-6-1972 while the candidate was at his work of climbing cocoanut trees in the cocoanut garden having a place with the contrary party to cull the nuts he tumbled down bringing about fracture of the left hand. He is said to have been hospitalized. Later he experienced Ayurvedic treatment. The candidate is said to have gotten a lasting invalid because of the mishap. He guaranteed compensation of Rs. 5,000 from the contrary party by virtue of the mishap. That the candidate tumbled down from the trees while occupied with climbing it isn't disputed. That the tree from which the candidate tumbled down had a place with the contrary party and the candidate was locked in by the contrary party was additionally not in debate. Be that as it may, according to the contrary party even so the arrangements of the Workmen's Compensation Act can't be conjured by the candidate as he would not be a workman inside the importance of the term in

<sup>8</sup> Bhatnagar, Deepak, op.cit. p.99.

<sup>9</sup> Substituted by the Payment of Gratuity (Amendment) Act, 2009 (47 of 2009), dated 31- 12-2009 (w.r.e.f. 03-04-1997).

<sup>10</sup> Sub. by Act No.26 of 1984, sec. 3 for clause (c) (w.e.f. 18-5-1984).

<sup>11</sup> Sharma, A.M., op.cit., p. 309.

<sup>12</sup> Valid, K.M., Labour Welfare in India, Sri Ram Centre for Industrial Relations, 1970, p. 286.

the said Act. The primary respondent is said to claim just around 100 cocoanut trees and the work of climbing these trees would take just around 6 or 7 hours once in around 50 days. The primary respondent had no trade or business in cocoanuts and, therefore, according to him, the candidate couldn't be said to have tumbled from the tree while he was occupied with the work which was a piece of the trade or business of the respondent. It is additionally said that by its very nature the work attempted by the candidate was of an easygoing sort and for that reason too he would not be a workman inside the importance of the Act.

### **Case: Santaben v/s New Raipur Mills (1968) 1 Lab.I.C. 787**

This is a Letters Patent Appeal against the choice in First Appeal No. 1079 of 1960 which was a First Appeal favored right now the order of the Commissioner for workmen's compensation Application No. 87 of 1958 which emerged on the accompanying facts. The candidate in that mater was the widow of one Chandulal Hemchand who was a worker of the New Rajpur Mills Company Limited, Ahmedabad, the present respondent and who kicked the bucket on twelfth February 1958 when he was on work in the stamping branch of the mills. On that day Chandulal felt overjoyed and got oblivious and hence kicked the bucket in the office. The month to month sways of Chandulal were between R. 80 and R. 100 and his widow the original candidate as the dependant of the expired, claimed Rs. 3,000 as compensation by virtue of the death of her expired spouse having happened because of individual damage got by him unintentionally emerging out of and throughout his work. The scholarly Commissioner for Workman's Compensation, Ahmedabad, by his order dated 23rd August 1960 granted Rs. 3,000 as compensation. The business, the New Rajpur Mills Company Limited favored First Appeal No. 1079 of 1960 in the High Court which was chosen by Raju J. On eleventh February 1963 the appeal by the business was permitted by the scholarly Judge against whose choice the present Letters Patent Appeal is favored by the original candidate.

## **6. CONCLUSION**

Social security has existed since days of yore and it is as old as man himself. It has been eluded to even in early 'Vedic Hymns'. Social security is a unique idea so it generally continues changing and does not remain in a similar spot or condition. It is a sort of assistance given to workers at the hours of perils of life however in antiquated time or before independence it was in unorganized structure and after opportunity its improvement turned out to be quick and Indian government established a great deal of legislations to guarantee social security to workers. Different advances have likewise been taken for the social security of general individuals. Social security is a worldwide idea so in India as well as at global level a great deal of endeavors has been taken for it.

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