



# COMPLIANCE MANAGEMENT PROCEDURES – HR LAWS

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# Three killed in lift collapse

## Two others sustain injuries; pulley wires of the lift had snapped

Staff Reporter

**HYDERABAD:** Three labourers died and two more sustained injuries when a lift meant for carrying building material collapsed at a commercial complex under construction at Madhapur on Monday.

The accident occurred when five labourers -- Palani Velu, Nagarajan, Narayan Ray, Ramesh Ray and V.K Kumar -- all in their mid twenties, were coming down from sev-

enth floor in the goods lift around 1 p.m. for lunch. "Nagarajan said that he felt something had gone wrong as the lift started suddenly plummeting," the Madhapur Inspector Jayaram said.

The labourer managed to jump out and cling to a rod when the lift reached fifth floor while others were trapped inside. While Palani Velu died on the spot, Narayan Ray and V.K. Kumar succumbed to injuries at a hospital. Mr. Jayaram

said the pulley wires of the lift got snapped resulting in its crash. All five were working for VSL company, which was involved in the construction of the 10-storeyed My Home commercial complex near Hi-tech city. Police booked a case under section 174 (suspicious deaths) of Criminal Procedure Code. "We'll alter the sections of law if any evidence suggesting negligence on the part of the builder is found," the Inspector said.

# 3 workers die after entering drain line

**Criminal case booked against three water board officials, two contractors**

Staff Reporter

**HYDERABAD:** Three labourers died after reportedly inhaling poisonous gases when they entered a drainage line to take measurements at the instance of officials at Marredpally here on Saturday.

The Marredpally police booked a criminal case against three officials of the Hyderabad Metro Water Supply and Sewerage Board and two contractors under Section 304-A (causing death by negligence) of IPC in connection with the incident.

Work pertaining to the 20-

feet-deep drainage line from Reddy Wines to YWCA near Judges Colony was completed a year ago.

Though it was not put to use, drainage water accumulated up to a height of five feet. "The drainage has nine manholes but all have been sealed. We believe that poisonous gases like methane formed since the drain had not been exposed to light or air for a year," Marredpally Inspector B. Karunakar Reddy told *The Hindu*.

Water works officials, accompanied by representatives of Ramkee Company that executed

the work, came to take measurements of the drainage line. They initially called in a local labourer Narasimha, 30, and asked him to go inside carrying a tape.

## Negligence alleged

The unsuspecting worker opened a manhole cover and slid down using a rope. "As Narasimha did not respond to their calls for 10 minutes, the officials called two more labourers - Venkatesh and Aravind - but the latter, too, did not come back," the Inspector said.

Panicky officials and contractors then pressed into service a

few more workers who entered the drainage line only to find Venkatesh and Aravind dead.

Narasimha was rushed to Yashoda Hospital where he was kept on a ventilator as he had slipped into a coma. He died a few hours later. Aravind was from Bihar and had none to claim his body.

Relatives and co-workers of the victims gathered in large numbers at the hospital and lashed out at officials for allegedly not taking precautionary measures. Venkatesh is survived by wife Indiramma, two daughters and a six-month-old son.



# Compliance Management Procedures

Plethora of legislations govern a legal entity viz.,

1. Corporate Laws
2. Taxation & Economic Laws
3. Environment, Health & Safety Laws
4. Industrial, Labour & HR related Laws
5. Miscellaneous Laws including State Laws.

Clause-49 (Listing Agreement)/CA 2013 requirement – Board shall periodically review compliance of all applicable Laws as well as steps taken by the Company to rectify instances of non-compliances.

Compliance certificate by the Corporate Executives to the Board.

**Empower the employees quarterly/half yearly law magazine; capture learning experiences and educate the concerned.**

# Major Labour Legislations - Classification

## A. Major Safety and Welfare Legislations

1. Factories Act, 1948
2. The Apprentices Act, 1961
3. Employment of Children Act, 1938
4. The Mines Act, 1952
5. The Motor Transport Workers Act, 1961

# Major Labour Legislations - Classification

## A. Major Safety and Welfare Legislations

6. The Explosives Act, 1884
7. The Petroleum Act, 1934
8. Indian Boilers Act, 1923
9. Employers' Liability Act, 1938
10. Fatal Accidents Act, 1855
11. Plantations Labour Act, 1951

# Major Labour Legislations - Classification

## B. Major Social Security Legislations

1. The Employee Compensation Act, 1923
2. The Employers' Liability Act, 1938.
3. The Employees' State Insurance Act, 1948
4. The Employees' PF and Misc. Provisions Act, 1952
5. The Maternity Benefit Act, 1961
6. Personal Inquiries (Compensation Insurance) Act, 1963

# Major Labour Legislations - Classification

## **B. Major Social Security Legislations**

7. **Contract Labour (Regulation & Abolition) Act, 1970**
8. **Equal Remuneration Act, 1976**
9. **Beedi & Cigar Workers (Conditions of Employment) Act, 1966**
10. **Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996**



# Major Labour Legislations - Classification

## B. Major Social Security Legislations

11. Child Labour (Prohibition & Regulation) Act, 1986
12. Children (Pledging of Labour) Act, 1933
13. The Cine Workers & Cinema Theatre Workers (Regulation of Employment ) Act, 1981
14. Dock Workers (Regulation of Employment) Act, 1948
15. Equal Remuneration Act, 1976

# Major Labour Legislations - Classification

## B. Major Social Security Legislations

16. Inter State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979
17. Private Security Agencies (Regulation) Act, 2005
18. Public Liability Insurance Act, 1991
19. Sales Promotion Employees (Condition of Service) Act, 1976
20. Weekly Holidays Act, 1942
21. The Bonded Labour System (Abolition) Act, 1976

# Major Labour Legislations - Classification

## C. Major Industrial Relation Legislations

1. The Trade Unions Act, 1926
2. The Industrial Employment (Standing Orders) Act, 1946
3. The Industrial Disputes Act, 1947
4. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959

# Major Labour Legislations - Classification

## D. Wages, Bonus & Gratuity Legislations

1. The Minimum Wages Act, 1948
2. The Payment of Wages Act, 1936
3. The Payment of Bonus Act, 1965
4. The Payment of Gratuity Act, 1972

# Major Labour Legislations - Classification

## E. Shops & Establishments Act & Other Acts

1. Shops & Establishment Acts (State Governments have enacted law applicable to such State).
2. Labour Laws (exemption from furnishing of returns & maintenance of registers) Act, 1988



# Pro Employer Legislation

In the beginning the industrial legislation aimed at protecting the employer rather than workmen.

Workmen's Breach of Contract Act, 1859 and Employers' & Workmen's (Disputes) Act, 1860 provided for penalties for workmen **for interference** with the Employers' right to carry on trade and business. In **Binni & Co., Vs The Madras Textile Labour Union (1921)**, Madras High Court treated the Trade Union decision to go on strike as **criminal conspiracy**.



# Pro-Labour Legislations

The logic behind protective Labour Legislations may really astonish us.

The British Textile Mill Owners felt that due to cheap and unregulated labour in India, the cost component of labour in textile manufacturing is low and hence the Indian textile industry could supply the textiles in International markets at cheaper rates. They introduced stringent labour Laws in India, making the employer to incur more cost thereby the cost component of labour is more.

The Laws shall protect the weak.



## Pre/post-Independence Labour Legislations

The word labour/workmen need to be replaced with the word employee.

The word dispute to be replaced with the word industrial relations.

After Independence and in particular after the Constitution of India came into effect the word labour is included in the **concurrent list**, in VII Schedule (52 Items).





## Consolidation of Acts into Codes

Consequently the Central as well as State Governments have enacted various Labour Laws. Currently there are about 50 Central Legislations.

National Commission on Labour (1966-69)

Recommendations – many recommendations not implemented.

Ramanujam Committee on Industrial Relations – not seen the light.

The Workers Participation in the Management Bill remained in cold storage.



## Consolidation of Acts into Codes

In the year 2002, 2<sup>nd</sup> National Commission on Labour recommended that existing Labour Laws should be classified into broader groups for easier compliances. Because of various, social, economic and political conditions recommendations could not move further.

Finally there was a significant momentum in the year 2017 viz., proposed to consolidate existing 44 Central Acts into 4 Codes. Initially Code on Wages was introduced in Lok Sabha on 10<sup>th</sup> August 2017. The Bill could not move further as 16<sup>th</sup> Lok Sabha was dissolved in May 2019. When Mr Narendra Modiji's Govt came into power with full majority in the 17<sup>th</sup> Lok Sabha, fresh Code on Wages 2019 was introduced + following 3 codes were also gained momentum.

(2) The Occupational Safety, Health and Working Conditions Code 2019;  
(3) The Code on Social Security 2019; (4) The Industrial Relations Code 2019.



- *Non compliance of Laws particularly Labour laws by the companies is viewed seriously by the Courts in recent past. The Directors have been summoned in most of the cases for non compliance of labour laws.*
- *Sec. 304A of Indian Penal Code (IPC): Causing death by negligent act, whosoever causes death of any person by doing any rash or negligent act, shall be punished with imprisonment for a term of 2 years/fine/both.*
- *Section 174 of the Cr.P.C provides for procedure of conducting an inquiry by the Police Officer and prosecuting the proceedings before the concerned Courts.*
- *The Corporate Manslaughter and Corporate Homicide Act 2007 of UK*

## IMPORTANCE OF HR - LAWS



Every Balance sheet of a Company shall give a true and fair view of the state of affairs of the Company. (Sec 211 of Companies Act 1956/129 (1) of CA 2013).

Whether our Balance sheet gives true value of Assets??

Assets of the Company??

Methods of computation

- (i) Acquisition cost model
- (ii) Replacement cost model
- (iii) Value approach (NPV of future earnings; discounted future earnings; competitive bidding)



For effective implementation of Labour Laws, recently, the following amendments were made.

- Ceiling on Bonus computation is increased from Rs 3,000/- to Rs 7,000/- or 1 month wages, where minimum wages are paid, whichever is higher;
- Bonus eligibility ceiling is increased from the wages of Rs 10,000/- to Rs 21,000/- per month;
- EPF Pension is increased to minimum of Rs 1,000/- per month;
- Coverage under EPF scheme is increased from wages Rs 10,000/- to Rs 21,000/- per month;
- Rate of interest on EPF savings is revised from time to time – presently it is 8.5%;
- Relief under Employees Deposit Linked Insurance Scheme is increased from 3.5 lakhs to Rs 6 Lakhs;



- Ceiling on maximum amount of gratuity payable under Payment of Gratuity is increased to Rs 20 lakhs.
- The Child Labour (Prohibition and Regulation) Act, 1986; and
- The Maternity Benefit Act - Amendments



## \* Christianity: Commandment 7

1. Commands: Paying of Just Wages. (Not merely Minimum Wages)
2. Forbids: Not giving an honest day's wages (Prohibits Defaults)

\* **Islam** Directs Payment of Wages before the sweat of the labour dries up.

## \* **Manusmriti:**

1. King to take up cases everyday relating to .... Non Payment of Wages.
2. Manusmriti also speaks about duties of workmen.

## \* **Ramayana**

1. Appointment of trusted men of noble lineage and having integrity in strategic position (HR Practices)
2. Sri Rama advises Bharata to “pay just wages to all staff in time”. Further he warns that any delay in payment of wages leads to dangerous consequences.



Primarily you should follow the law.

If you cannot follow the law, then follow the commands of your religion.

If you cannot follow both, you are fit to be punished.






- **Topics of the day.**

- **ESI;**
- **PF;**
- **GRATUITY (COMPUTATION–ACTUARIAL VALUATION);**
- **PAYMENT OF MINIMUM WAGES;**
- **SHOPS AND ESTABLISHMENT ACT;**
- **PAYMENT OF BONUS – ISSUES IN COMPUTATION OF AVAILABLE SURPLUS & ALLOCABLE SURPLUS.**



# EMPLOYEES STATE INSURANCE ACT, 1948

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- \* It is a social security Legislation
  - \* Extends to whole of India
  - \* Applies to all Factories – other than seasonal establishments + notified establishments
  - \* Section 1(5) Appropriate Govt is having power to extend the provisions of this Act to Shops – employing 20 or more employees
  - \* Administered by ESI Corporation
  - \* Applies to employees drawing wages not exceeding Rs. 21,000/- pm.
  - \* Wage definition is exhaustive and includes contribution by employer to Pension; travelling allowance/concession; gratuity; any expenditure paid to employee to defray special expense due to the nature of employment;
  - \* Contribution by employee is 1.75% of the wages and employer is 4.75% of wages. In case of **new establishment** for a period of 24 months it is 1% and 3% respectively.



- \* Registration of Factories/establishments – online – obtain code.
- \* Contribution period and benefit period. Contribution period is divided into Two parts viz., (i) April – September; (ii) October – March. Corresponding benefit period commences from January to June; and July to December respectively.
- \* Benefits under Chapter V of the Act: (i) Sickness Benefit; (ii) Maternity Benefit; (iii) Disablement Benefit; (iv) Dependent Benefit; (v) Medical Benefit; and (vi) Funeral expenses.
- \* Employers not to dismiss or punish employee during sickness.
- \* (Ref to Page No. 68 of LCM)



# EMPLOYEES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT 1952



- \* Applicable to all Factories and other establishments specified in Schedule I, in which 20 or more persons are employed and which have completed 3 years of their existence.
- \* Obtain online PF Code for the organization.
- \* Government is empowered to apply the provisions to establishments employing less than 20 persons by giving not less than 2 months notice of its intention to do so by a notification in official Gazettee. Employer and Employees voluntarily cover with mutual consent - section 1 (4);
- \* Schemes under the Act (i) The Employees Provident Fund Scheme 1952; (ii) The Employees Pension scheme 1995; (iii) The Employees, Deposit Linked Insurance Scheme 1976.
- \* Re EPF - the contribution is 10% from employer + Employee. (However, C Govt by notification may replace 10% with 12%) in respect of employees drawing salary (Basic+ DA+ Retaining allowance + cash value of food concessions) not **exceeding Rs.15,000/-** .



- \* Return shall be filed in **Form 5** to the respective PF Commissioner within 15 days from the close of wage period.
- \*
- \* Re EDLI Scheme 1976 Employees covered under EPF scheme are also covered under this scheme. The minimum amount of assurance benefit is not less than Rs.2.5 lakhs and maximum amount of assurance benefit shall not exceed Rs.6 lakhs.
- \* Re Pension Scheme – Minimum 10 years contributory service is required. Pension is payable after attaining 58 years. Minimum pension is Rs.1000/-.



\* Where pensionable service is less than 10 years, he may withdraw the amount contributed or wait till he attains 58 years. The Pension is computed as “Pensionable Salary X (Pensionable service +2) Divided by 70”. If a person has pensionable salary of Rs 5000/- (preceding 12 months average salary) and has 33 years of service. His pension as computed as follows:

\*  $5000 \times (33 + 2)$

\*  $\frac{\quad}{70} = \text{Rs } 2,500/- \text{ per month}$

\* 70





# GRATUITY COMPUTATION – ACTUARIAL VALUATION



# PAYMENT OF GRATUITY ACT 1972

Ref Page 77 of LCM



## \* Formula for computation of Gratuity

\* Last drawn monthly wage X 15 X No of years of service

\*

\*

26

\* For example: If the last drawn pay is Rs.10,000/- and number of years of service is 20 years, the gratuity payable will be

\* 10,000 X 15 X 20

\*

26

= Rs.1,15,400 or Rs 20 lakh whichever is higher.



**Actuarial valuation of Gratuity is required** at the end of every accounting period for the purpose of preparation of financial statements. This is required, if AS 15 or Ind AS 19 is applicable (whether fully or partially) mainly to

- (i) to recognise liability for employee benefits to be paid in future; and
- (ii) to recognise liability (arising from service provided by an employee in an exchange for employee benefits) when such amount is already used by the organisation.



## When required

\*If Ind AS 19 applies to your company, actuarial valuation is required for both interim and final financial reporting.

\*If AS 15 applies, assess if you are eligible for any exemption or relaxation being in Level II or Level III entities category or being a SMC and avail the same.

Non-corporate entities are classified into 3 categories by ICAI and there are a few relaxations and exemptions in complying AS-15-Employee Benefits for Level II and Level III Enterprises. The applicability is precisely mentioned below:

Corporate Entities

Non-Corporate Entities

SMC

Non-SMC

Level I

Level II

Level III

**Applicability of AS15**

*Fully*

*Partly*

*Fully*

*Partly*

*Partly*



## Minimum Wages Act, 1948

- \* *Object - fixing of minimum rates of wages in scheduled employments listed in Part I and II of schedule.*
- \* Revision for every 5 years
- \* Duty to collect GOs on minimum wages
- \* Important definitions - Wage, Employee (including out-worker) etc.,
- \* No Contracting-out
- \* **Ref Page 63 of LCM**



# Payment of Wages Act 1936

## Timely payment & Restriction on Deductions

- \* Wage period: Max 1 month
- \* Payment: Within 7 days where <1000 employees; 10 days if >1000 employees
- \* Max deductions 50% (May be up-to 75% if certain essentials supplied through approved co-operative societies).
- \* Authorised deductions Sec 7(2) clauses (a) to (q): Fines, damages to property, house accommodation, amenities provided, Court order, etc.





## SHOPS AND ESTABLISHMENT ACTS

It is a matter of State subject. Each State/Union Territory enacted its own Act.

Ref Page 57 of LCM



# PAYMENT OF BONUS ACT 1965

(COMPUTATION OF AVAILABLE SURPLUS AND ALLOCABLE SURPLUS)

Ref Page No.66 of LCM



## **First step – Arrive at Gross profit**

\* Per Schedule I – in case of Banking Company;

\* Per Schedule II – in case of other Company.

## **Second step – compute Available Surplus**

Gross Profits (-) Sums stated in section 6 plus sums specified in Schedule III.

## **Third step – arrive at Allocable Surplus**

(a) In case of a Company (other than a Banking Company) which has not made arrangements prescribed under IT Act for payment of dividend out of its profits per section 194 of IT Act; 67% of available surplus; (b) in other case 60% of available surplus.



Schedule IV deals with set on and set-off principle. It is assumed that the allocable surplus is Rs.12,50,000/-. Minimum Bonus will be Rs.1,04,167/- (8.33%) and maximum bonus will be Rs.2,50,000/- (20%). Based on this assumption, amount payable as Bonus is depicted in Schedule IV (reproduced below)

S.No	Allocable surplus - INR	Amount payable as Bonus - INR	Set on or Set off- INR	Total set on/set off carried forward - INR
1	1,04,167	1,04,167	Nil	Nil
2	6,35,000	2,50,000	2,50,000 (set on) – max 20% only	2,50,000 (set on)
3	2,20,000	2,50,000 (inclusive of Rs.30,000 from year 2)	Nil	2,20,000 (set on)
4	3,75,000	2,50,000	1,25,000	Set on 2,20,000 1.25.000
5	1,40,000	2,50,000 (inclusive of 1,10,000 from year 2)	Nil	Set on 1,10,000 1,25,000
6	3,10,000	2,50,000	Set on 60,000	Nil (1.10,000 of 2 <sup>nd</sup> year lapses being 4 <sup>th</sup> year) 1,25,000 60,000

S.No	Allocable surplus - INR	Amount payable as Bonus - INR	Set on or Set off- INR	Total set on/set off carried forward - INR
7	1,00,000	2,50,000 (1,25,000 from year 4 & 25,000 from year 6)	Nil	Set on 35,000
8	Loss	1,04,167 (inclusive of 35,000 from year 6)	Set off 69,167	Set off 69,167
9	10,000	1,04,167	Set off 94,167	Set off 69,167 94,167
10	2,15,000	1,04,167 (after setting off 69,167 year 8 + 41,666 from year 9)	Nil	Set off 52,501



- **TERMINATED EMPLOYEES (WELFARE) BILL 2020**
- (Introduced on 7<sup>th</sup> Feb 2020 in Rajya Sabha by Sri Rakesh Sinha BJP MP private member bill)
- In case of sudden termination of any employee, Company must give 9 months Full salary with all dues (including PF + other benefits). So that such employee family will not suffer till alternate source is secured)





