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SOCIAL SECURITY MEASURES FOR INDIAN WORKFORCE - A LEGAL INTERVENTION

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Abstract:

Ancient Indian Literature 'Manusmrithi' mentioned about codes for the protection and safety of the people. The concept of Social Security was associated with the Hindu Joint Families which was the 'Original Cell of Security' and 'First Line of Defense' against any misfortune. Then in Vedic period 'Guilds'a group of merchants or artisans worked during calamities for the security of life and property. Organized Social Security Measures in statutory form are of recent originas a key factor in Industrial system to protect employees and their dependents against contingencies like disability, sickness, employment injury and unemployment. The Industrial Programmes based on the ideals of human dignity and social justice will relieve the anxiety of the poor labours through financial benefit and medical care. Social Security as a National Programme aims to reduce Social sufferings due to Poverty, Unemployment and Intensity of Diseases. The Schemes for Provident Fund, Medical Insurance, Maternity Benefit, Compensation and Gratuity are useful in India. The efficiency, extent of coverage, finding suitable policy and approaches to strengthen the delivery system according to priorities through planned justice for inclusive growth is the need of the day.This paper describes about the implications of various social security benefits provided to the labours in India.

Index Terms: Ancient, Social Security, Legislations, Benefits, System & Welfare

1. Introduction:

According to Sir Beverage "Social Security means an attack on want, disease, ignorance, squalor and idleness.The term "Social Security" was first officially used in the title of the United States Legislation in The Social Security Act of 1935. According to Madhava Rao P (2002) Social Security comprises the economic security provided by the society generally or by the family, communities, organizations and other social groups, for the social well-being of an individual for his journey from the birth to death. Social Security varies from country to country. In Great Britain it covers National Insurance, Industrial Insurance, Family allowance, National assistance and National Health Service. In India, it is considered to be a mechanism to redistribute a portion of profit to protect employees and his family from uncertain risks. The organizationassists the workforce against certain contingent risks, which cannot be effectively faced by small earners by their own ability. The scheme under Social Security Measures includes health services for sickness, Fringe Benefits to increase the morale of the employees, Pension facility for the Post Retirement Life, Economical Support to face the Widowhood and Compensation for Industrial Accidents, Occupational Diseases and Unemployment due to Retrenchment and Layoff. Generally, the State Policy for Social Security follow philosophy of Compensation to render security, Restorationby re employment after curing sickness and Preventing the diseases through available resources which reduce the productive capacity. According to Sharma A.M. (1984) International Labour Organisation insisted to develop Social Insurance Scheme by the countries based upon compulsory premium to render Pension and Sick Benefits. India along with Social Security Legislations adopted Schemes like, Integrated Rural Development Programmes, Jawahar Rozgar Yojana, and Prime Minister Rozgar Yojana etc. to ensure social security to the poor.

2. Objectives of Social Security:

Social Security Schemes includes both Social Assistance and Social Insurance. The government provides these protections through its institutions against certain risks through the collective contributions of employees, employers and the state. The Surplus fund over current benefits will be invested further by the government to earn income emphasizing upon contingency oriented approach for future need. The benefit one receives will be proportional to the contribution he has rendered to the scheme. The core purpose behind providing Social Security Measures to workforce is to create sound industrial relations, creation of qualitative work environment, meeting legislative requirements, safeguarding against the risk of accidents, protecting health and securing against social risks like old age, maternity, unemployment etc. It meets the requirement of retirement, loss of support by the death of the bread winner and exceptional expenditure related to birth, marriage and death. Actually in the beginning it was restricted only to children's allowance, comprehensive health services, rehabilitation and avoiding mass unemployment. It covers mainly nine components like Medical care, Unemployment Benefits, Old Age Benefits, Employment Injury Benefits, Family Benefits, Maternity Benefits, Invalidity Benefits and Survivor Benefits

3. Importance of Social Security:

Social security is becoming a distinct part of social policy in all countries and time has come to give serious consideration to meet the ever increasing social security needs of the population. We can experience diversified views about the extension of social security coverage, some say it should be only for the labours and others says that the entire population should be covered. According to Saxena R.C (1974) Social Security is concept conceded in all advanced countries of the world as an indispensable chapter of the national programme to strike poverty, unemployment and disease. Naidu (2003) The success of Social Security schemes however requires the active support and involvement of employees and employers. The social security works to reduce human deprivation to eliminate vulnerability in a developing country. According to ILO Social Security means "the result achieved by a comprehensive and successful series of measures for protecting the public from the economic distress in the absence of such service, would be caused by the stoppage of earnings in sickness, unemployment, old age and death for medical care and subsidizing families to bring up young children. The social security adopted by the International Labor Conference on 28th June, 1952 under convention (No. 102) for the medical care, protection of skin, employment, old age, employment injury, family protection, maternity and survivor benefits by comparing social security of industrially advanced countries of the Asia and Africa. Varadani G (1989) Restriction of study to a socio economic condition to provide social security benefits to the industrial workers at the subsistence level. Social security as "protection given by society to its members through series of public measures from economic and social distress that otherwise would be caused by stoppage of or substantial reduction of earnings from sickness, maternity, employment, injury, unemployment, invalidity, oldage and death. ILO Geneva, (1984) It also includes provisions for medical care and the provision of subsidies for families with children. According to Dr. Amartya Sen and Jean Dreze "The basic idea of Social Security is to use Social means to prevent deprivation and vulnerability" Sen and Dreze (1991).Robin Burgers and Nicholas Stern (1993) Vunerability is a chronic stage arising from the absence of any asset or resource that can ensure adequate livelihood. Social security may be viewed as a means for this. Guhan (1994) The scope of the term social security was expanded to include not only contingency related measures but also several programmes aimed at improving endowments, exchange entitlements, real incomes and social consumption. The emphasize on measures to tackle persistant poverty through enhanced income levels was important.

4. Historical Implications on Social Security:

In India joint families, Panchayats, religious and charitable institutions are providing assistance against common risks, misfortunes and calamities. Kautilya's Arthashasthra' and Manu's 'Smriti' bear testimony about social structure of those days and codes designed to provide security to all people. India had a Joint Family system take care of the social security needs out of material assets like land. The breaking down of the joint family system created demand for social security in the industrial and urban sectors. Krishna Kumar Sinha (1987) the social security would ultimately accelerate the progress and prosperity keeping cultural traditions, by encouraging the members of the family to shareresponsibility with each other. References to such guilds are found in Rigveda, Upanishads and other ancient Literatures for the collective security of life and property, freedom from want and misery, and security against common risks. But organized social security measures in statutory form are only of recent origin. Increasing migration, urbanization and demographic changes resulted in degradation of large family units. Education and awareness encouraged the formal system of social security. Social Security is a comprehensive approach designed to prevent deprivation and assurance of basic minimum income. The State has the primary responsibility to developappropriate system to protect the workforce. Social Security is increasingly viewed as an integral part of the development process. Guhan S (1988) it helps to create positive attitude towards facing the challenge of globalization with structural and technological changes. The social security legislations for industrial workers suffershortcomings of ineffective access to varied benefits.Majority of workers in less developed regions from unorganized sector in urban areas, agriculture and allied sectors, suffer due to the absence of pension schemes, provident fund, information and foresight to the problems of oldage etc. Lakshmanaswamy T (2012) the irregular flow of income during their working lives and the constant pressures to meet current needs depending on their children. Ladusingh and Narayana (2011) public funding for education is mainly consumed by the young and private funding for health careby the elderly. The major share of family support goes to those who are below the age of 20, and rest to aged family members. These findings run counter to the widespread assumption that in the absence of a viable public social security safety net, kin provide protection to the elderly.

5. Dimensions of Social Security:

Social Security Delivery can be attained through following methods to alleviate poverty among workers.

(a) Social Insurance: A compulsory contributory employment utility approach wherethe benefit liability is passed directly or indirectly upon the length of employment or period of contribution. The periodic cash payment on the occurrence of a specified contingency is related to current or past earnings of contribution period. Benefits are distributed entirely from specified contributions paid by the employee and employer for a publicly supervised fund. Risks and resources are pooled in a social insurance program.

(b) Social Assistance: Assistance for the specified need to any citizen of the country. The entire cost for this social security is paid from the general revenue of government.

(c) Employers Liability: This aims at involving the employer in providing social security benefits to his employees whereby employers are required by law to provide security against liabilities like employment injury, sickness, pension, provident fund, maternity benefits of the employees and their dependents. Employees may be required to be insured against risks with public or private insurance schemes.

(d) National Provident Fund: A scheme of compulsory savings designed by the government in which employees make regular contributions to be credited to a separate account maintained for each employee. The balance in their accounts attracts interest and is payable in lump sum upon the event of a specified contingencies.

(e) Universal Schemes: Universal schemes are not linked to income, employment or any other means. These universal schemes are usually financed from general revenues. This is a government programme including old age and disablement pension for the worker, widow, widower, orphans. Family allowances granted receive substantial support from general revenues.

6. Social Security Movement:

History of social security is divided into two phases namely, during colonial India and Independent India. After the establishment of Cotton Mills in 1851 and Jute Mills in 1855 the government felt the need for social security to the working class due to the prevalence of unhuman working environment in factories due to more working hours, neglect of welfare, lack of holidays and absence of medical care. The lack of safety provisions at workplace, increased accidents to result in labour unrest. The Fatal Accidents Act, 1855 enacted by the British Government was inadequate restricting dependents like brother, sisters from claiming compensation and awarding inadequate rate of compensation.

(a) First Phase (1919-1941): After First World War, the world turned to peace by ending hostility. The policy of reconstruction established International Labour Organisation (ILO) by adopting 17 Conventions which was later increased to 28. The Minimum Standard of Social Security (Convention No. 102)is a comprehensive instrument covering many branch of social security against contingencies of sickness, unemployment, oldage, death, employment injury, invalidity etc. Government of India ratified Workmen's Compensation (Accident) Convention 1925 (No 17), Workmen's Compensation (Occupational Disease) Convention 1925 (No. 18), Workmen's Compensation (Occupational Disease) Convention (Revised) 1934 (No 42), Equality of Treatment (Accident) Convention 1925 (No. 19) and in 1962, The equality of Treatment (Social Security) Convention.

(b) Second Phase (After 1920): Trade Unionism emerged in India when workers started organizing themselves to redress their grievancesas per Trade Union Act 1926. The Workmen's Compensation Act, 1923 eliminate the hardship of employees due to accidents by ensuring benefits with minimum legal formality. The government of India enacted the Provident Fund Act, 1925for Railways and Government Industrial Establishments. In 1929, Royal Commission on Labour investigated the working conditions of Industrial labours recommending Maternity, welfare and old age benefits. Upon its recommendation, The Government of Bombay adopted The Maternity Benefit Act in 1929 and The Central Provinces Act in 1930. The following provincial legislations relating to Maternity Benefit was passed in Ajmer Merwar (1934), Delhi (1937), Madras and United Province (1938) and central legislation for Mines Maternity Benefit Act (1941). By abrogating the doctrine of common employment Employers Liability Act was passed in 1938. It alsoreviewed the process of Payment of Gratuity to Railway Employees by modifying 15 years of service which was the eligibility for the gratuity on retirement or resignation. It also recommended to include voluntary withdrawal from service with previous notice.

(c) Third Phase (After 1942): The Beveridge Report of British Social Insurance and Allied Services in England, Wagmur-Murray, Diongal Bill in USA and Marsh Plan (Report on Social Security) in Canada compelled colonial Indian Government to enact meaningful legislative measures for social security. Agarwala A. N. (1960) in India Social Security started with the third Labour Ministers conference 1942 proposing schemes for sickness insurance through the advancement of loan to run the schemes in cotton, jute, textile and heavy engineering industries. In 1943, The Government of India appointed a committee presided by Prof. Adarkar B.P to formulate a scheme of health insurance for Industrial workers. This scheme was examined and endorsed by experts of International Labour Organisation Mr. Mistach and R.Rao in 1945 with the modification of separation of administration of medical and cash benefits, integration of maternity benefits with workmen's compensation and extension of the scheme in all perennial factories to cover non manual workers. A high powered "Health Survey and Development Committee" was formed under the chairmanship of Sir Joseph Bhoseto survey the health conditions and health organizations in British India for recommending future developments. The Rega Committee (1944) was constituted to investigate the matters related to wages, employment, housing and general social conditions to detect labour problems of different industries covering the relief for oldage, death and retirement benefits like P.F, Gratuity and Pension.

(d) Fourth Phase (Free India after 1946): India became independent on 15th August, 1947. The interim government formulated five year programme for the welfare of the labour class including Health Insurance scheme for factory workers, Revision of Workmen's compensation act, a central law for maternity benefits which is based on the report of National Commission on Labour (1969) and extension of right to sickness allowance to other class of workerswithin specific limits. The enactment of Industrial Disputes Act, 1947 entitled the industrial workers to gratuity as a legal right.

(e) Fifth Phase (After 1950's): After India became republic on 26th Jan, 1950 it emphasized upon various provisions to stress socio economic security through Indian Constitution. Indian constitution being the law of the land aims towards Justice, Equality, Liberty and Fraternity to all. It emphasized social security of the people by granting the right to equality before law under (Article 14) as a Fundamental Rights. It also ensured that the state should direct its policy towards securing the right of adequate means of livelihood (Article 39(a)), Equal pay for equal work (Article 39(d)), secure public assistance in case of unemployment, old-age, sickness, disablement and other cases of undeserved wants (Art 41), securing just and humane conditions of work and for maternity relief (Article 42), secure all workers with living wage, conditions of work and decent standard of life (Art 43). The Five Year Plans emphasized a better standard of life and social justice to all. Under Third Five Year Plan special welfare funds has been constituted for financing welfare measures.

7. Social Security Legislations in India:

Under Social Security Legislations coverage, implementation and benefit delivery is important. It is also proposed to attempt to suggest methods to strengthen administrative arrangements available for benefit dispensation.

A. The Workmen's Compensation Act, 1923: The object of the act is to impose an obligation upon employer to pay compensation to workers. In Mackinnon Mackenziee and Co (P) Ltd Vs. Ibrahim MahmmedIssak The Supreme Court held that any injury due to accident arisen out of and in the course of employment will come within the act. The act equates personal injury by accident with specified "occupational diseases" for the purpose of liability of the employer to pay compensation under Section 3 enumerated in Parts A, B and C of Schedule III of the Act. In Mackinnon Makenzie & Co Vs. Smt. Habiba Eusoof Karbelkar held that If the employment has a contributing cause or accelerate the death or disease, then, the employer is liable.The act extends to the whole of India covering railways, factories, mines, plantation, construction works, ship, circus and other hazardous occupation specified in the schedule excepting the members of armed forces, casual workers and workers covered in employee state insurance Act 1948. Under the act compensation is payable by the employer to workmen for all personnel injuries caused by accident arising out of and in the course of employment which disable him from work for more than three days.In Vijay Ram Vs. Chander Prakash the onus to show that a person did not fulfill the conditions of a workmen would lie on the employer. In Union of India Vs. Mrs. Noor Fahan The High Court of Allahabad held that the accident taken place within the duty hours when the deceased was proceeding to discharge his duty at the behest of his employer at the second site, the accident must be taken to have occurred in the course of employment. The full bench of Assam High Court in Assam Railway and Trading Co Vs Saraswati Devilaid down test for determining whether an accident arose "out of Employment". If the workman was employed at the time of accident, accident occurred where he was performing these duties and result of the accident havesome form of causal relation with the performance of these duties. The employer is not liable for the injury which does not resultin total or partial disablement for the period exceeding three days, caused because of the fault of worker, act under consumption of alcohol or willful violated the rules of safety and if he does not present himself for the medical examination when required. In B.M.H Maricar Vs Periyaswami held that the act does not confer the benefit on all the heirs of the deceased workman who, to some extent, depend upon him thus, it excludes sons who have attained majority and married daughters. Compensation is calculated on the monthly wage of the workmen. Twelve months average monthly wage preceding the accident is considered with a salary limit of Rs. 8000. Sec. 6 permits the alteration of the amount fixed as compensation on the ground of subsequent change to a half monthly payment for temporary, partial or total disablement. The Act imposes an obligation upon the employer to give notice within 7 days of the death or serious bodily injury and send a report to the commissioner. In Satyendra Chandra Vs S.B. Trading Coheld that any contract relinquishing the right of compensation is null and void. If compensation is not paid by the employer, the workmen or his dependents can claim the same by filling an application before commissioner within 2 years of occurrence of accident.The amount of compensation depends upon the nature of injury caused by the accident, the monthly wages of the workmen concerned and the age factor specified in the schedule to the act. The rate of Compensation Refer (Table 01)

Table 1: Rate of Workmen's Compensation

Nature of Injury	Amount of Compensation
Death	An amount equal to 50 % of the monthly wages of the deceased workman multiplied with the relevant factor or an amount of Rs1,20,000 whichever is more
Permanent Total Disablement	An amount equal to 60 % of the monthly wages of the injured workmen or an amount of Rs1,40,000 (whichever is more)
Permanent Partial Disablement	• In the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement

	• injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner).
Temporary disablement	A half monthly payment of the sum equivalent to 25% of monthly wages of the workmen.
Ceiling Limit	Rs 4.56 lakhs for Death and Rs 5.48 Lakhs for Permanent Total Disablement.

Source: Amendment notified by the Central Government Notification No. S.O. 1258(E) vide Ministry of Labour& Employment dated 31st May 2010.

B. The Employee State Insurance Act, 1948: As per the recommendations of Adarkar Committee (1942) endorsed by the experts of ILO enactedEmployees State Insurance Act, 1948 to provide compulsory Health Insurance. In Royal Talkies Vs. E.S.I. Corporation it was held that the act is designed to confer benefits on the weaker segments during distress. In E.S.I Corporation Vs M.B. Nagarajthe Act is administered by the Employees State Insurance Corporation which is financed by contributions of both employer and employee. The act confers benefits on the employees against sickness, maternity and other disabilities. Sampath Kumar D reports that Cash benefits are disbursed by the Corporation through its Local Offices (Los) / Mini Local Offices (MLOs) / Sub Local Offices (SLOs) / Pay offices, subject to certain contributory conditions. A new Chapter VA is added to extend medical care to non insured persons against payment of user charges to the below poverty line (BPL) families and other unorganized sector workers covered under the Rashtriya Swasthya Bima Yojana (RSBY). Venkatachalam K.S (1990) the act applies to establishment employing 10 or more workers employed in shops, hotels, restaurants, cinemas and road transport undertakings employees. The act prescribes a salary limit of Rs. 21,000 for the membership of the scheme. Every month the employer contributes 4.75 % and Employee 1.75% of average basic pay towards Employee State Insurance Scheme. State Insurance (ESI) Scheme draft rules (July, 2016) the Central Government has proposed to decrease the contribution from employer to 3 % and employee 1 % for two years in areas where it plans to set up a dispensary or a hospital for the first time. At present ESI Corporation has a presence in 393 districts of the country. It is planning to cover all the states and expand the scheme to India's 683 districts by March, 2017. ESIC is present in all states, except the north-eastern states of Manipur, Sikkim, Arunachal Pradesh and Mizoram. Sec. 40 imposes a liability upon the employer in the first instance to make contribution of every employee that could be recovered from their wages later. It was held in Inayat Husain Vs E.S.I. Corporation the contribution is recoverable only when something is to be paid to the employee in respect of the period for which contribution was made. The section 46 of the Act envisages following six social security benefits.

(a) Medical Benefit: Free "full medical care" covering hospitalization to the Insured Person against sickness and employment injury. Maternity benefit is extended even to his spouse if insured retires under Voluntary Retirement, premature retirementand Superannuation.

(b) Sickness Benefit: Periodical cash payments made to an inpatient during the period of certified sickness in the benefit period for medical treatment and attendance with abstention from work on medical grounds.In Bareilly Electric Supply Co Vs Workmen if workmen received cash benefit, then the employer could not exercise his right to make deduction from wages by way of leave salary. Sickness Benefit provided at 70 per cent of wagesduring the periods of certified sickness for a maximum of 91 days in a year. In order to qualify for sickness benefit the insured worker is required to contribute 78 days in a contribution period for 6 months. An insured person who has completed two years of insurable employment and contributed for not less than 156 days is entitled for extended sickness benefit for a period of 309 days for the 34 specified long term diseases. This period can be extended up to 730 days or till the insured person attains the age of 60 years whichever is earlier. The insured person and his family are also entitled to Medical Benefitsduring this extended period. The daily rate of extended sickness benefit shall be equal to 80 % of the standard benefit rate (Sec. 99).

(c) Enhanced Sickness Benefit: The ESI Corporation provides additional cash incentive to insured persons to promote acceptance of sterilization method by providing sickness cash benefit equal to full wage for a period of 7 days for vasectomy and 14 days for tubectomy from the date of operation or from the date of admission in the hospital as the case may be. The period for which cash benefit is admissible is extended beyond the above limits in the event of any complications after Family Planning operations.

(d) Maternity Benefit: The benefit is payable in cash to an insured woman for confinement, miscarriage, sickness arising out of pregnancy and premature birth of child. For confinement at the rate of full wage earned by the insured person for 12 weeks, in case of miscarriage for 6 weeks and for sickness arising out of confinement for additional 30 days.According to PRS Legislative Research (August, 2016) The Maternity Benefit (Amendement) Bill, 2016 is introduced by Mr. Bandaru Dattatreya, the Minister for Labour and Employment which proposed that every women will be entitled to maternity benefit for 26 weeks. Maternity benefit should not be availed before eight weeks from the date of expected delivery. In case of a woman who has two or more children, the maternity benefit will continue to be 12 weeks, which cannot be availed before six weeks from the date of the expected delivery. To grant 12 weeks of maternity leave to a women who legally adopts a child below three months of age and a commissioning mother who is a biological mother who uses her egg to create an embryo implanted in another women calculated from the date the child is handed over to the adoptive or commissioning mother. An employer may permit any women to work from home if the nature of work assigned to the women permits her to work from home. This option can be availed after the period of maternity leave, for a duration that is mutually decided by the employer and the women. Every establishment with 50 or more employees shall provide crèche facilities within a prescribed distance. The women will be allowed four visits to the crèche in a day including her interval for rest. Every establishment shall intimate a women at the time of her appointment about the maternity benefits available to her in writing or electronically. In Malayalam Plantation Ltd. Cochin Vs Inspector of Plantationthe Kerala High Court while linking average wage with maternity benefit indicated that such benefit was to be calculated with reference to the working days only.

(e) Disablement Benefit: Disablement is a condition resulted from employment injury, to render the insured person temporarily or permanently incapable of doing his work and requires medical treatment G.I.P Railway Vs Shanker. Accident to an insured person while commuting from his residence to the place of employment and vice-a-versa shall be deemed to have arisen out of and in the course of employment for the purpose of benefit under the Act (Sec. 51 E).The rate of temporary disablement benefit is about 90% of the wages as long as the temporary disablement lasts. In case of Total Permanent Disablement the insured person is examined by a Medical Board to access the loss of earning capacity.The insured person can also opt for the payment in lump sum but the commuted value within Rs. 60000.

(f) Dependant's Benefit: In case of death, as a result of employment injury, the dependants of an insured person are eligible for periodical payments. Pension at the rate of 90% will be paid periodically to widow (s) and children in accordance with the prescribed share. An eligible son or daughter is entitled to dependant's benefit up to the age of 18 without any proof of education. The benefit is withdrawn if the daughter marries earlier.

(g) Funeral Expenses: Cash payment payable on the death of an insured person towards the funeral expenses not exceeding Rs.10,000/-.

(h) Rehabilitation Allowance: Disabled Inpatients who remain admitted in an Artificial Limb Centre for fixation, repair or replacement of the artificial limb are entitled to a rehabilitation allowance for each day on which they remain admitted at Artificial Limb Centre at 100% of daily average wages.

(i) Vocational Rehabilitation: This scheme has been designed to provide financial assistance to Insured persons below 45 years having more than 40 % disability due to employment injury are referred to Vocational Rehabilitation Centre for training. Those who are not in gainful employment subsequent to Employment injury are entitled to receive cash allowance equal to the expenditure charged by the Vocational Rehabilitation Centre or Rs.123/- per day whichever is more during his stay at the Vocational Rehabilitation Centre. Such IPs is also paid conveyance charges for the journey from their normal residence to the centre and back.

(j) Medical Benefit to Retired IP's and Permanently Disabled Insured Persons: On payment of Rs.10/- P.M. or Rs. 100/- Per annum in lump sum for one year, Medical Benefit for the contribution period to Insured Person or his spouse is paid who leaves insurable employment on attaining the age of superannuation if insured for not less than five years. An Insured Person and his/her spouse who ceases to be ininsurable employment on account of permanent disablement due to employment injury shall be entitled to medical benefit. (For benefits refer Table -02)

Table 02: Highlights ofBenefits for Insured Person and his Family under ESI Scheme

S.No	Purpose	Benefit
01	Sickness Benefit	Not less than 70 % of Average Wage upto 91 days
02	Extended Sickness	Not less than 80% of Average Wage initially for 124 days extendable to 309 and upto 730 days for specified 34 diseases under the act.
03	Enhanced Sickness Benefit	100% of daily average wages for 7 days for vasectomyand 14 days for tubectomy extendable in cases in post operative complication
04	Maternity Benefit	12weeks of which not more than 06 weeks precede the expected date of confinement.It is proposed to be amended to 26 weeks and 08 weeks respectively.6 weeks for miscarriage and additional one month for sickness arising out of pregnancy confinement, premature birth of child or miscarriage
05	Confinement Expenses	Rs. 2,500 per case.
06	Temporary Disablement	90% of the daily average wage Till the incapacitylasts.
07	Permanent Disablement Benefit	Depends upon the loss of earning capacity of the workers which is determined by a Medical Board for Life.
08	Dependents Benefit	90% of the daily average wages to bedivided amongst the dependants in the prescribed ratio.
09	Medical Care	Primary, Secondary and Territiary Medical care with no cap on

		Individual Expenditure. Till the disability/disease lasts
10	Medical Benefit To Retired/Disabled Insured Persons and His/Her Spouse	Period for whichcontribution is paid. Insured Person is entitled forfull medical care forself and spouse only.
11	Funeral	Actual expenditure on funeral not exceeding Rs. 10,000/-
12	Rehabilitation Allowance	At 100% of daily average wages
13	Vocational Rehabilitation allowance Skill Development Scheme under R.G.S.K.Y.	Rs. 123/- per day or the actual amountcharged by Vocational Rehabilitation Centre, whichever is higher for All the days of training in Vocational Rehabilitation Centre.
14	Unemployment Allowance	About 50% of averagedaily wage for the Maximum period of one year during life time.
15	Vocational Rehabilitation SkillDevelopment Scheme under Rajiv Gandhi Shramik Kalyan Yojana	Entire fee charged by the Institutions is to be paid by the Corporation. To and fro Rail/Bus fare to IP/IW who has to travel to attend the training programme at AVTIs as charged, is reimbursed for Short duration of tenweeks or other longer duration courses of upto six months at Advance Vocational Training Institutions.
16	Conveyance Allowance	Under this Scheme, PDB beneficiaries are paid Rs. 100/- as conveyance allowance on their personal visit to branch Office for submission of life certificate once in a year.

Source: Employees State Insurance Corporation, Ministry of Labour and Employment, Government of India.

C. The Employee Provident Fund and Miscellaneous Provision Act, 1952: As per the Report of the Committee on Labour Welfare (1969)The employee provident fund Act was passed to safeguard future of the industrial workers by saving during employment for the benefit upon retirement or to benefit his dependents in case of his early death. Provident Fund is a kind of retirement benefit where all financial burden falls on the employer which is contributory in nature by the parties. The act applies to specific scheduled factories and establishments employing 20 or more employees. The act does not apply to co-operative societies and new establishments for three years from the date of constitution. In Nadir Ali Khan Vs Union of India held that exempting factories belonging to the government or local authority is reasonable, as the employees in those factories are safeguarded and in case of permanent employees, already enjoying the benefits of a provident fund hence the appropriate Government is empowered to grant exemption. The schemes under the act are administered by a tripartite Central Board of trustees consisting representatives of employers and employees and nominated persons of central and state Government. The act comprises Employees provident scheme, 1952, Employees deposit linked insurance scheme, 1976 and Employees' pension scheme, 1995. The object of the act is to provide substantial security and timely monetary assistance to industrial employees and their families during distress to protect them in old age, disablement, early death of bread winner and other contingencies.The benefits likeImmediate withdrawal of full amount after retirement, superannuation, retrenchment, discharge on medical ground, or permanent settlement in abroad. The member can withdraw the PF amount for acquiring immovable property, during lockout, Treatment for illness of any member or his family, Marriage or post matriculation education of children, Damages to immovable or movable property by claiming for exceptional nature and for Financing of member's Life Insurance Policy.In case of death of the member the entire P.F amount is payable to the nominees. For the employee's pension minimum 10 years contributory service is required to pay normal superannuation pension on attaining the age of 58 years.The amount of monthly pension will vary from member to member depending upon his pensionable salary and pensionable service.Ceiling Limit for PF is Rs 15000. In C.C.P Pvt. Ltd Vs V.H.C. Rao. The Provident Fund Act creates a statutory liability on the employer to contribute to the provident fund or any charges under the act and he is not permitted to reduce the wage or total benefits. (For Contributions Refer Table No-03).

Table 3: Provident Fund Administration

Contributor	**Percentage**	**Shares**	**Provident Fund**	**Pension Fund**	**Admin Charges**
Employer	13.36 %	PF=12% PF Admin Charge=1.36	3.67 %	8.33 %	PF=0.85% EDLIS=0.5% EDLIS Admin Charges=0.01%
Employee	12 %	PF=12%	12 %	NIL	NIL
Total	**25.36**	**25.36**	**15.67**	**8.33**	**1.36**

D. The Maternity Benefit Act, 1961: The convention "protection of mother wood" 1919 was the earliest among the I.L.O convention. The maternity benefit act is a piece of social legislation enacted for the welfare of working women. The act prohibits the working of pregnant women for a specified period before and after her delivery. The act aims to protect the dignity of motherhood through the healthy maintenance of the woman and child when she is unable to work. It provides for maternity leave and monetary benefits for women workers during the period of pregnancy. Benefits like Payment of Medical Bonus, Leave for Miscarriage, Nursing breaks, Payment of maternity benefit in case of death, Leave for illness arising out of Pregnancy, Delivery, and premature birth of child or Miscarriage. Any Women Ten weeks before the date of her expected delivery, may ask the employer to give her light work for a month. At that time she should produce a certificate that she is pregnant.She should give written notice to the employer about seven weeks before the date of her delivery that she will be absent for six weeks before and after her delivery. She should also name the person to whom payment will be made in case she cannot take it herself.She should take the payment for the first six weeks before she goes on leave.She will get the rest amount for the six weeks after child-birth within 48 hours of giving proof about delivery. No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage (Sec 4). Giving birth is the right of the women and no one can interfere with this right. The eligibility is that she has actually worked for a period of not less than 70 days in the twelve months. As per the Press information bureau Government of India Cabinet (August 2016) The Union Cabinet, chaired by the Prime Minister Shri. Narendra Modi, has given ex-post facto approval for amendments to the Maternity Benefit Act, 1961 by introducing the Maternity Benefit (Amendment) Bill, 2016 in Parliament. The amendments will help 1.8 million (approx.) women workforce in the organised sector. The amendments will increase Maternity Benefit from 12 weeks to 26 weeks for two surviving children and 12 weeks for more than two children.12 weeks Maternity Benefit to a 'Commissioning mother' and 'Adopting mother'.Facilitateto 'Work from home'. Mandatory provision of Creche in respect of establishment having 50 or more employees upon the justification of Maternal care to the Child during early childhood crucial for growth and development of the child.The 44th, 45th and 46th Indian Labour Conference had recommended for the enhancement of Maternity Benefits to 24 weeks. Ministry of Women & Child Development proposed to enhance Maternity Benefit to 8 months.In Tripartite consultations, all stake holders, in general supported the amendment proposal.

(a) Cash Benefit: She is entitled to leave with average pay for six weeks before and after the delivery (Sec 5) proposed with a change to eight weeks. A medical bonus of Rs. 2500 should be paid if the employer does not provide free medical care to women (Sec 8). In case of miscarriage, six weeks leave shall be provided along with average pay from the date of miscarriage (Sec 9). An additional leave with pay upto one month shall be provided if the women shows proof of illness due to the pregnancy, delivery, miscarriage or premature birth (Sec 10).

(b) Non Cash Benefits/Privileges: Light work for ten weeks (Eight weeks plus one Month) before the date of her expected deliveryfour nursing breaks shall be granted on her request in the course of her daily work until the child is 15 months old (Sec 11). No discharge or dismissal is allowed during maternity leave (Sec 12). No change shall be done in the condition of her employment shall be done when she is on maternity leave. Pregnant women discharged or dismissed may still claim maternity benefit from the employer. No deduction from the normal wages of a woman entitled to maternity benefit act shall be made (Sec 13). If a woman works after she has been permitted by her employer to absent herself for any period she shall forfeit her claim for maternity benefit for such period (Sec 18). If a woman entitled to maternity benefit dies before receiving such benefit it should be paid to the person nominated by the woman and in case there is no such nominee, to her legal representative (Sec 7). For discharging or dismissing such a woman for absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will fine not exceeding Rs.5, 000 (Sec 18).

E. The Payment of Gratuity Act, 1972: Gratuity means an Exgratia amount paid in gratitude by the employer to any employee for the good service rendered by them to the organisation. The act applies to all Factories, Mines, Oil fields, Plantation, Ports, Railways etc. which employed 10 workers.All employees irrespective of status or salary are entitled to gratuity on completion of five years of continuous service except in case of death or disablement (Sec 2e).In *Express Newspaper Ltd Vs. Union of India* court held that however, an employee voluntarily resigns from the service of the employer after the period of eligibility under the act, there will be no justification for non awarding the gratuity. The employer should obtain nomination after one year’s service in Form F (Sec 6 Rule 6). Forfeiture of gratuity is permitted on termination of employee from employment on the ground of moral turpitude, riotous behavior, willfully causing loss or destruction to the organizations property etc (Sec 4 (6)). The eligible employees are entitled to gratuity that can be claimed at the time of separation from the organisation. Recovery of gratuity through Form I when it is not paid within 30 days (Sec 8). The amount received as per Gratuity Act is fully exempted from Income Tax Act. Refer (Table-04).

Table 4: Disbursement of Payment of Gratuity

S.No	Particulars	Contribution/Calculation
01	Piece Rated Employees	At 15 days wages for every completed years of service on an average of 3 months’ wagesubject to a maximum of 20 month’s
02	Seasonal Employees	At 7 days’ wages for every completed year of service.
03	Employer	Deposited at the rate of 4.81% of Basic per month
04	Maximum Gratuity	Rs 10,000,00

8. Highlights of Social Security Benefits:

Social Security is a Programme of protection provided by society against the contingencies of modern life, sickness, unemployment, old age, dependency, industrial accidents and invalidation against which the individual cannot be expected to protection himself and his family by his own ability or foresight. Sinha D.K (1980) studied the Historical causation of the concept of social security from the historical origin to the operational result in India by analyzing the social security legislations in India.(Refer Table-05).

Table 5: Highlights on Social Security Schemes

Laws	Objectives	Coverage	Eligibility	Benefits
Workmen's Compensation Act 1923	Compensation occupational injuries or death	Establishments mentioned in Schedule II of the Act	Workers and dependents not covered by the ESI Act	Compensation for Death, Disablement and occupational disease.
Employees State Insurance Act, 1948	Health care and cash benefits in the case of sickness, maternity and employment injury.	Establishments to which law is made applicable by the government	Employees drawing salary not exceeding Rs 21,000	Benefit for sickness, Maternity, Disability and death.
Employees Provident Fund and Miscellaneous Provisions Act, 1952	To provide compulsory Provident Fund, Pension, Deposit Linked Insurance	More than 20 Employees in the scheduled industries	Employee drawing pay not exceeding Rs. 15000	Provident Fund, Pension and Refundable Withdrawals.
Maternity Benefit Act, 1961	Maternity protection before and after child birth	Establishments to which law is extended	The workmen is not covered by the ESI	Payment for actual absence upto12 weeks on average daily wages. It is proposed to be increased to 26 weeks
Payment of Gratuity Act, 1972	To provide for payment of gratuity on ceasing to hold office	Factories, Mines, Oil fields, Railways, Shops and other establishments to which law is extended	05 years continuous service is required for entitlement of gratuity.	15 days wages for every completed year of service or part thereof in excess of 6 months subject to a maximum of Rs 10,00,000

9. Conclusion:

Social Security has been universally accepted as the responsibility of the state to protect employee and his dependents against certain hazardswhen they are unable to earn and restore themselves. However, the application of social security to the developing countries in South Asiais a challenging task due to the existence of large informal sectors, incomplete structural transformation and high level of poverty. According to Dreze and Sen (1989) Social security in developing countries needed to be viewed from a broader perspective as an objective to be pursued through public means rather than depending upon a definite set of strategies as it is influenced by external factors like changing economic and political pressure, rapid inflation, high unemployment, changing employment patterns and budgetary pressure etc. Joseph Bonder (1983) examined the Direct Deposit Programme through the electronic fund transfer system to state that since 1975 monthly benefit is paid directly to the bank account of the beneficiaries. The Statutory Schemes in India has limited coverage by keeping away the small industrial workers, unorganized and agricultural labors from the modern forms of social protection which is undesirable. Modern Social Security Programmes may be regarded as the device to distribute incomeas per the need to divert part of the fruits of current production for the benefit of injured workers, secure minimum pensions for lowly paid employees, partly at the expense of their better paid colleagues, spread the social cost of widowhood by appropriate tax measures and the industrial sector to directly assist the development of basic health services for the people at large. The efficiency of the state in providing the benefits as per the expectations of the beneficiaries by extending the coverage need to be focused.The coverage of Employees State Insurance Scheme should be extended to agricultural workers and self-employment. The corporation should focus to establish more dispensaries and hospitalswith improved medical facilities. Steps should be taken to include Old age benefits. According to William Ambaka (2011) financial viability for sustained generation of sufficient funds to provide pension benefits and other social securityto the retirees is the principal challenge in most countries which created severe pressure and uncertainty for future. Comprehensive social security policy should link and co-ordinate different schemes to achieve inter complementary goals of different schemes. Social security schemes will contribute towards social protection if carefully designed to meet the local needs, adequately supported with resources, and integrating with the National Policy which is committed to providing social protection to the excluded majority.

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