New Labor Courts of India
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Lecture 38
Employee's Provident Fund

Dear students, in this class we are going to discuss about the Employees Provident Fund scheme and which is very popular in the post-independent time and is a very favourable or very useful scheme, the savings scheme for all the workers and why I said that this is a very useful scheme for the workers because this is the one you have a saving scheme for the workers in the country you get the highest interest rates paid since independence and the interest rates are much higher than the bank interest rates.

So we are going to see what is the setup or what is the interest scheme of the provident fund and which talks about and then what is the contribution, who is eligible to join the scheme and also what are the benefits and what is the contribution. So this is also an employer/employee contribution is to these Indian funds, so we will see what is the actual concept.

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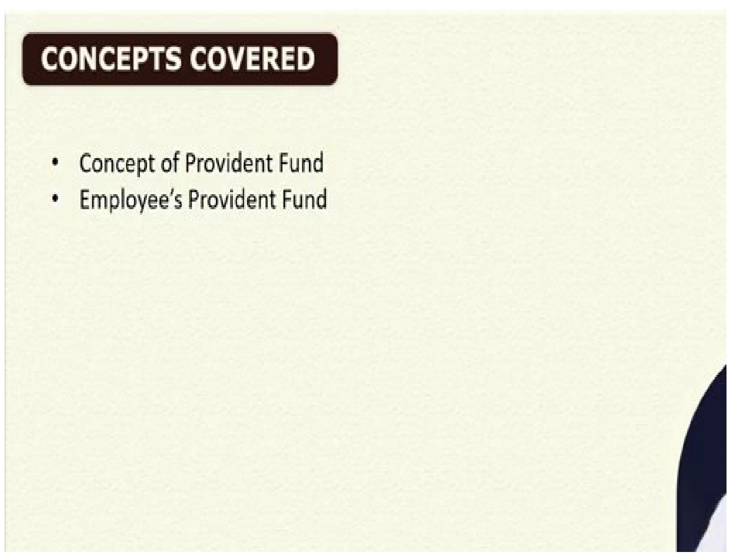

KEYWORDS

- Provident Fund
- Central Board
- Schemes
- Contribution
- Tribunal

- **Concept of "Provident Fund"**

Vision

- An innovation driven social security organisation aiming to extend universal coverage and ensuring Nirbadh (Seamless and uninterrupted) service delivery to its stakeholders through state-of-the-art technology.

So the provident fund is basically the concept that talks about payment after superannuation or retirement and this amount is like the contribution throughout the service and then finally they get it as an amount after retirement. So the provident fund the Indian scheme they said what is their vision; they say that an innovation-driven social security organization aiming to extend universal coverage and ensuring Nirbadh that is seamless and uninterrupted service delivery to its stakeholders through state of the art technology.

This is the vision of the new corporation, the new establishment of the provident fund, which is mentioning officially declaring their vision and they said that their mission is to meet the evolving needs of comprehensive social security in a transparent contactless faceless and paperless manner, because the advent of technologies now most of these schemes are gone online.

Also, they say that to ensure the service Nirbadh services with multilocational and auto claim settlement process for disaster proofing employees provident offices and also to ensure ease of living for members and pensioners at an ease of doing business for employees by leveraging government of India's technology platform for reaching out millions. So there are millions of people who are enrolled in the PF scheme and who are going online with the advent of technology by the provident fund organization.

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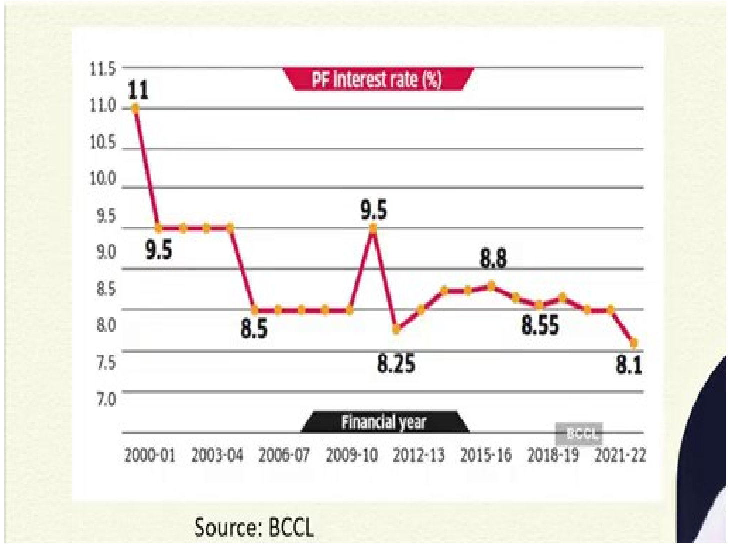
1.Employees' Provident Fund Scheme, 1952: Employees' Provident Fund Scheme was set up under the Act for the purpose of providing a **post-retirement benefit** for the employees or a class of employees or their legal heirs in case of death, employed under an establishment to which this Act applies.

2. Employees' Pension Scheme, 1995: Monthly benefit for superannuation/retirement, disability, survivor, widow(er) and children

•Minimum pension on disablement

•Past service benefit to participants of erstwhile Family Pension Scheme, 1971

3.Employees' Deposit-linked Insurance Scheme, 1976: Employees' ***Deposit-linked Insurance Scheme*** (EDLI Scheme) was framed under the Act for the purpose of providing insurance benefits to the employees of an establishment or a class of establishments to whom this Act applies in case of death while in service.



So, one of the largest organizations with the largest contribution, the money can be utilized by the government under this particular scheme. So we can see this is into different schemes so the provident fund is not a single scheme as they are the different schemes, so one is employees provident fund scheme and another one is employee's pension scheme and these both together the monthly contribution towards these 2 schemes together. So here in 1952 itself, the provident scheme came into effect. To provide a post-retirement benefit scheme for the employees or class of employees or the case of the death of employees to their legal heirs and this particular scheme is applicable to the establishments.

Then in 1995, you can see that the employees' pension scheme come up, so this is a monthly benefit after superannuation or retirement or in case of disability in case of survivors, widowers, and also children are going to be benefited out of this scheme. In the case of minimum pension for disablement also provided then we can say that the past service benefit to the participants of the erstwhile family pension scheme of 1971. So the family pension scheme is replaced with the Employee pension scheme of 1995. That is why I said there are different schemes under the same scheme itself, and also in 1976 the Employees Deposit Linked Insurance scheme, so there are at least 3 schemes under the same scheme provident fund scheme and this deposit linked insurance scheme.

Here the Employees Deposit Insurance scheme was framed for the purpose of providing insurance benefits to the employees of the establishment, which are covered by this particular Act. So that this Act applies in case of death while in service, so there is a provident fund scheme, there is a pension scheme and also there is an insurance scheme as well deposit linked insurance scheme also is as a part of this particular scheme. Here you can see why I said that this is one of the best schemes for the employees working class, you can see the PF interest rates for the last 22 years, and one some point of time it was one of the highest 11 percent interest paid per annum and unfortunately after the pandemic so we are finding it only 8.1 percent one of the lowest fixed rates after the post-independent time.

So even though there are a lot of fluctuations in interest rates but still it remains to be the highest interest paid you can say that interest paid savings scheme for workers in the country. So the government is always looking into those particular schemes so the government said that why they have put limitations on the withdrawal of certain restrictions are put by the Government so that there will be a long time investment and the government can use this particular money in long-term investments which we will see that what are those restrictions. If you are looking into this scheme, you can see that so when compared to these bank interest rates again even though it is one of the lowest this is the highest at present.

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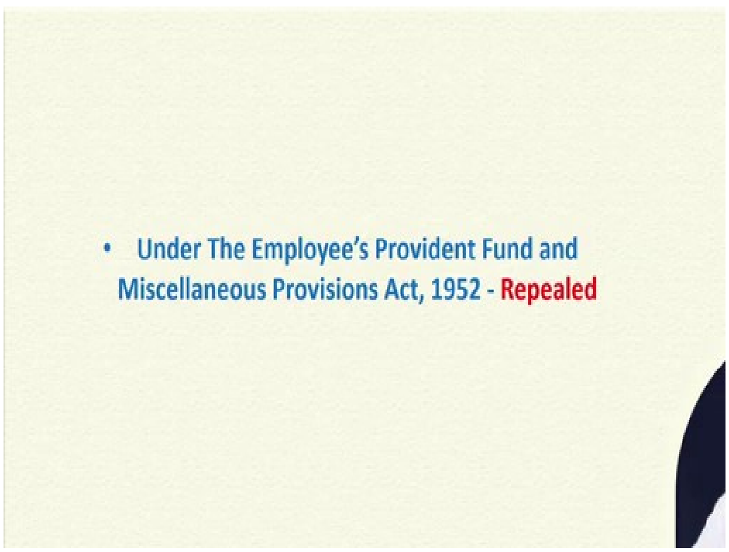

Applicability

- **First Preference Industries**:
  i. Cement
  ii. Cigarettes
  iii. Electrical
  iv. Mechanical
  v. General engineering products
  vi. Iron and steel
  vii. Paper and textiles
  viii. Wool or jute

Applicability

- **Other Industries**:
  i. Any establishment working for more than 3 years and employ more than 20 or more persons.
  ii. The **Act does not apply** to Co-operative societies employing less than 50 persons.
  iii. The 3 years benefit for new industries were withdrawn by the Government in 1997.

- Educational institutions are included under the definition of establishments from 1982

Conditions

- As per the rules, in **EPF**, employee whose 'pay' is more than Rs. 15,000 per month at the time of joining, is not eligible and is called non-eligible employee.

- **Employees drawing less than Rs 15000 per month** have to mandatorily become members of the EPF.

- However, an **employee who is drawing 'pay'** above prescribed limit (at present Rs 15,000) can become a member with permission of Assistant PF Commissioner, if he and his employer agree.

❑ **Benefits**

1.Employee can take advances or make withdrawals.

2.PF amount of a deceased member is payable to the nominees or legal heirs.

3.The employer not only contributes towards the PF but also makes the necessary contributions towards the employee's pension which can be used by the employee post-retirement

4.Under the EDLI Scheme employees are properly insured in order to avail the lump sum benefit at **the time of death while in service.**

5.EEE (Exempt, Exempt, Exempt) tax benefit under the Income Tax Act enables tax-free returns for the employees.

6.Employees receive special benefits in the form of added income to their savings in the form of interest.

7.PF account can be transferrable if any member changes employment from one establishment to another where such a Provident Fund scheme is applicable.

So we can see that the employee scheme which we are going to look into is the earlier scheme as well as the new scheme because there is not much difference between the old Act and the new code. So this is specifically applicable to certain areas like the cement industry, cigarettes, electrical, mechanical, general engineering products, iron steel, paper and textiles wool or jute, but I would say that now this is covered by most of the areas whether it is of the plantations or these constructions or any other areas.

For other industries, so you can see that if any establishment working for more than 3 years and employ more than 20 or more persons so this scheme is applicable but the scheme is not applicable to cooperative societies employing less than 50 persons, so this is the 3 years benefit scheme for new industries were withdrawn by the government in 1997 and education institutions are included in 1982.

So the educational institutions are also covered under this particular scheme since 1982 and so the schemes which we can see the rules of the Employees Provident Fund, the employees getting more than 15000 rupees or less than 15000 rupees are not eligible and people who are getting less than 15000 rupees salary per month is presently eligible to be enrolled under the scheme and others are known as non-eligible employees, and also the people those who are getting salary below 15000 they are mandatory to enrol and people those who are getting more salaries they are wondering they can join so it is mandatory to join people those who are getting less than 15000 rupees salary per month.

So drawing pay above 15000 can also become a member with the consent of officials and the employer has to agree because the employer has to pay his contribution. So it is like one scheme is a mandatory contribution and the other one is a voluntary contribution and also the government has made more money that can be invested in the provident fund scheme. So, if you want to invest more money in the provident fund scheme with the ceiling you can invest more money in the provident fund scheme and so it is mandatory to have the scheme for those who are getting below the fifteen thousand salaries.

If you look into the benefits so here the employees can have the benefits they can take advances, they can take withdrawals, so at present government has put certain restrictions but these restrictions are for encouraging long-term investment and here the provident fund amount is payable to the nominees of legal heirs of the deceased and the employer not only contribute towards the PF but also he also makes necessary contributions towards the pension scheme as well and so that the employees will get a pension in the post-retirement time.

So under the other scheme the insurance scheme the employees are properly insured in order to avoid this lump sum benefit at the time of death while in service. So another scheme so all contributions to the provident fund are the benefits under the income tax, it is tax-free returns of the employees, but now the government has put an income tax ceiling for the bitter oils.

So the government says this is to promote long time investment in the provident fund, and this interest will be added every year it is the interest is added to their capital again the interest will be paid to the total amounts, and also this provident fund can be transferred from one employment to another employment anywhere in the country those who are availing the provident fund. So even though you change your employment you need not change the PF account so you can transfer from one employer to the other employer.

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- Employee's Provident Fund Schemes

- Administered by a Central Board – Trustees
  - i. 5-appointed by Central govt.
  - ii. 15-state govts
  - iii. 10 – employers
  - iv. 10-employees
  - v. State boards –Trustees

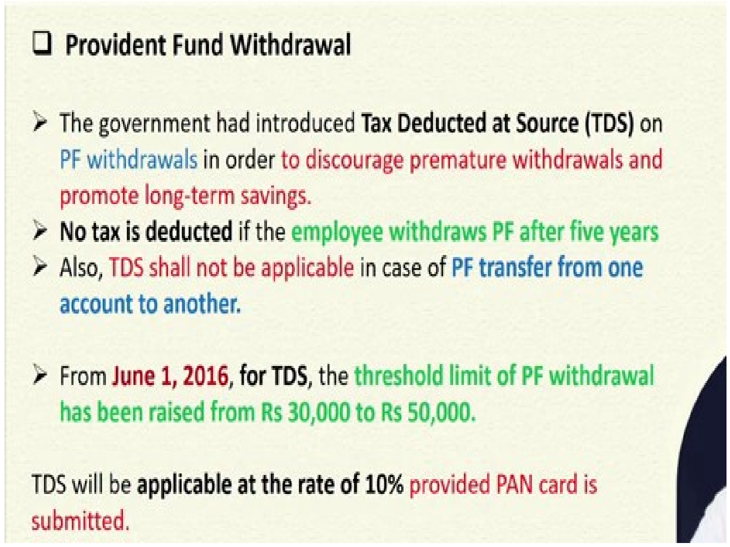
- Contribution

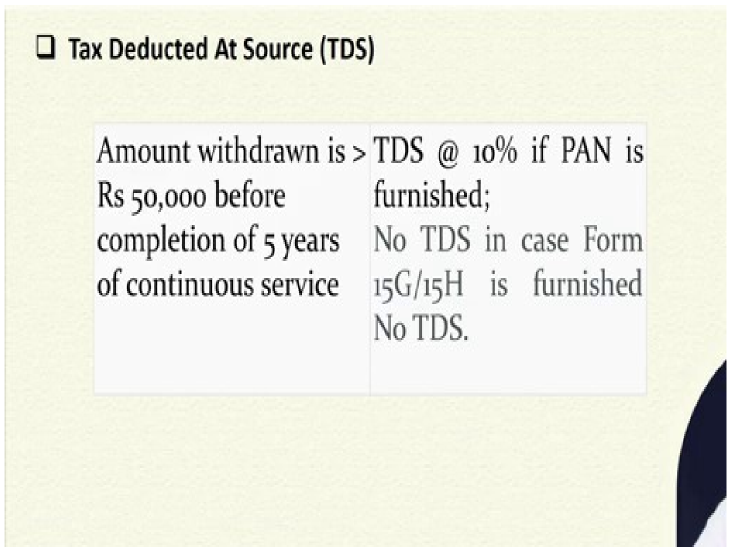
- 12%/10% of the employee's salary goes towards the EPF.
- Whereas the employer's contribution is divided as below:
- 3.67% goes towards contribution for EPF
- 8.33% goes towards contribution for EPS
- 0.50% goes towards contribution for EDLI
- 1.1% goes towards contribution for EPF administration charges
- 0.01% EDLI administrative charges
- Therefore, the employer contribution is 13.61%.
- The premium and management charges are borne by the employer and the maximum limit is set at 0.5% of Rs.15, 000.
- Soon be Rs.21000/-

As of 2017 ....subject to changes from time to time...

- Penalties for Delayed Payments

Delayed payments	Penalty
Up to 2 months	@ 17%
2 months to 4 months	@ 22%
4 months to 6 months	@ 27%
Above 6 months	@ 37%





Amount withdrawn is > Rs 50,000 before completion of 5 years of continuous service	TDS @ 10% if PAN is furnished; No TDS in case Form 15G/15H is furnished No TDS.

Here the scheme is administered by a central board of trustees and here 5 members are appointed by the central government and 15 members are appointed by the state governments and 10 members are appointed by the employers and 10 members are appointed by the employees and the state board these trustees will be appointed and also we can see that there is private trust with the permission of the commissioner of provident funds. So the employer can manage their own provident funds, but at the same time always this is subject to the supervision and invigilation of the provident fund offices of the regional fund. The contribution to the employees' provident fund scheme is from both the employer as well as the employee contribution.

The employee contribution is fixed from 10 percent to 12 percent towards the employee's provident part, at the same time the employer's contribution is divided into various heads. So the employer's contribution 3.67 percent goes towards the EPF, 8.33 percent goes towards the employee's pension scheme, 0.50 percent goes towards the contribution to the insurance scheme, and 1.1 percent goes towards the contribution for the EPF administration charges, and 0.01 percent is the insurance administrative charges and the total is coming to 13.61 percent for the employer. As we already said that the government changes these administrative charges from time to time and also special schemes will be introduced like for the newly appointed, the women employees will be imposed by the corporation proposed by the provident organization on the delayed payment of employees.

So up to 2 months the penalty is 17 percent, up to 4 months it is 22 percent, up to 6 months it is 27 percent, and above 6 months it is 37 percent of the contribution. So if the employers are deducting the employee contribution and not paying to the organization then the employers will be fined for the delayed payment up to even 37 percent and if we look into the provident fund withdrawals we already said that the withdrawals the government has introduced TDS that is tax directed at source on PF withdrawals, so I already said that the government says this is to discourage the premature withdrawals and promote long term savings and we do not know really the actual intention whether it is going to work out or not because the PF withdrawals are basically done for certain purposes and now so after the employee withdraws the PF amount after 5 years there is no tax is directed and also so transferring from one account to other another account there is no TDS.

Now from 2016 onwards, the government has fixed the withdrawal limit to 50 thousand rupees so they have said that up to 50 thousand rupees there is no TDS and beyond 50 thousand rupees everybody has to pay the tax deduction at the source have to pay income tax. So and the TDS applicable is 10 percent; 10 percent tax is directed. So as we can see that as a social security legislation and the employer contribution and employee contribution I find no justification for income tax on the income of a social security measure because these are basically the subscribers who are not on the higher side of their income, subscribers are on the lower side of their income and now it is the 15000 rupees per month.

So if somebody is withdrawing some amount for various purposes there is no justification for imposing 10 percent income tax on such kind of withdrawals beyond 50 thousand rupees. So I already said that it is beyond 50 thousand rupees and we have before completion of 5 years of service so there is a 10 percent income tax is imposed on all kinds of withdrawals.

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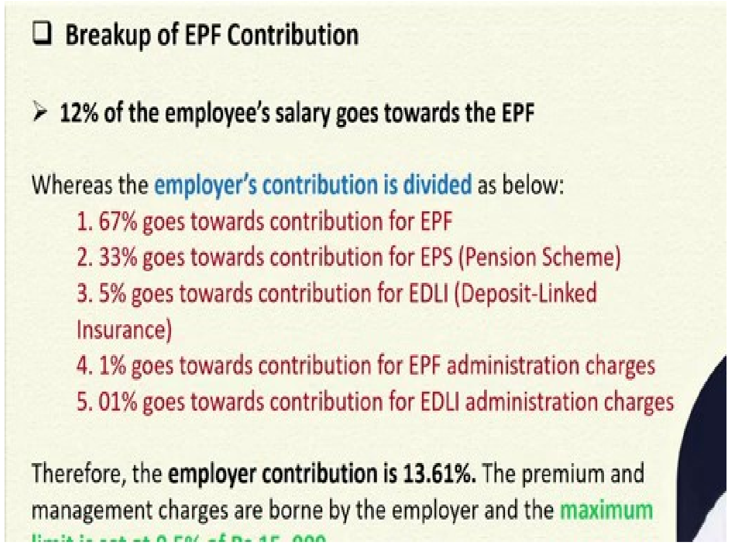

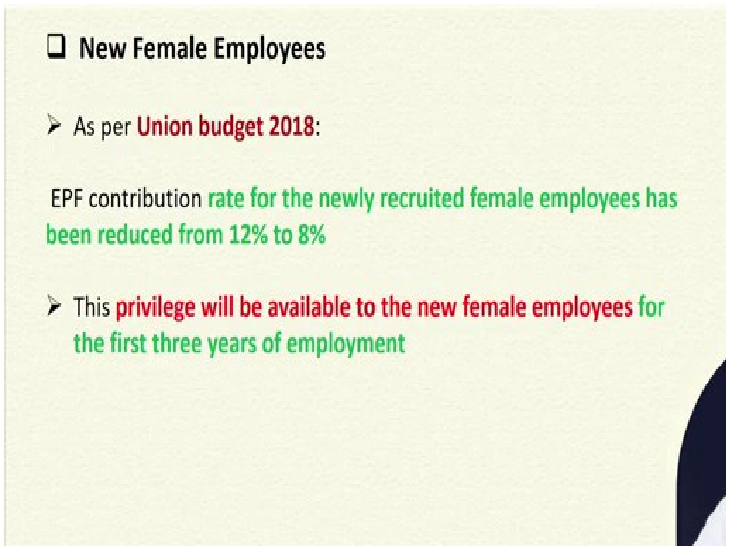

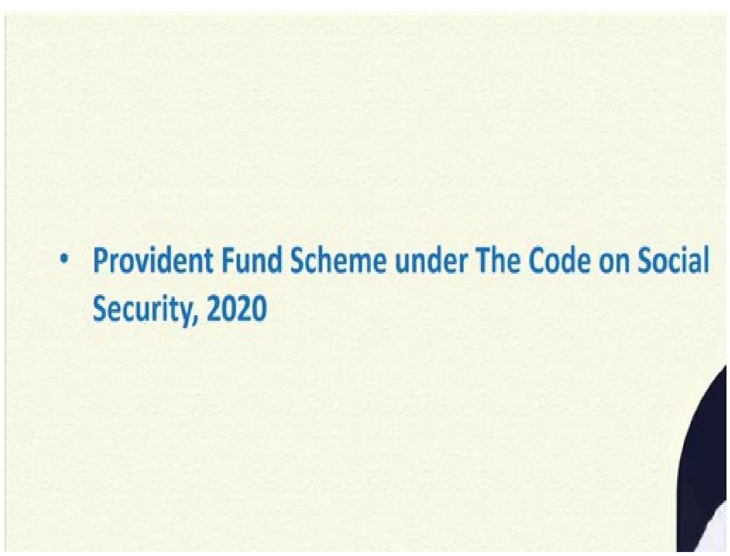

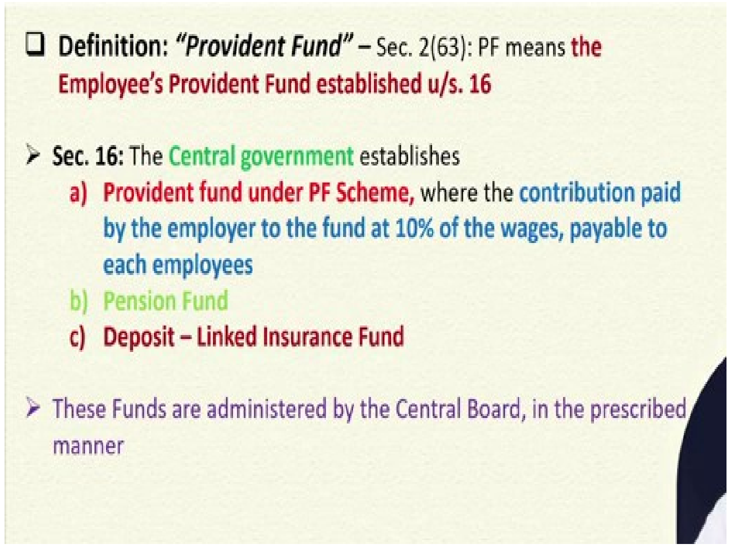

So we already said that is this the total distribution of the contribution breakup of the contribution. Here you can see that now there is a provision which is inserted by the 2018 union budget, so the newly recruited female employees, here they are reduces their contribution from 12 percent to 8 percent. So if somebody is a newly joined women employee they have to only contribute 8 percent and also this particular scheme is available for a period of first 3 years from employment so they have to only contribute, so the employer contribution will remain the same but the employee's contribution will be only 8 percent of the first 3 years of their employment.

So now quickly look into this scheme under the new code there are not much changes made to the total scheme but it can be made to the provident fund scheme is 10 percent of the wages and pension fund and also a deposit-linked insurance fund. So again the funds are administered by the central board and the central board is constituted again we can see that is managed by the central government appoints certain officers like the central provident fund commissioner who is considered to be the chief executive officer of the central board, financial advisor, chief accounts officer and additional central provident fund commissioners, deputy province commissioners, regional provident fund commissioners and assistant provident fund commissioners. So there is a hierarchy of offices appointed to manage the entire front all over the country which is why we can find the regional offices and assistant province fund commissioners throughout the country in order to manage the entire fund in the country.

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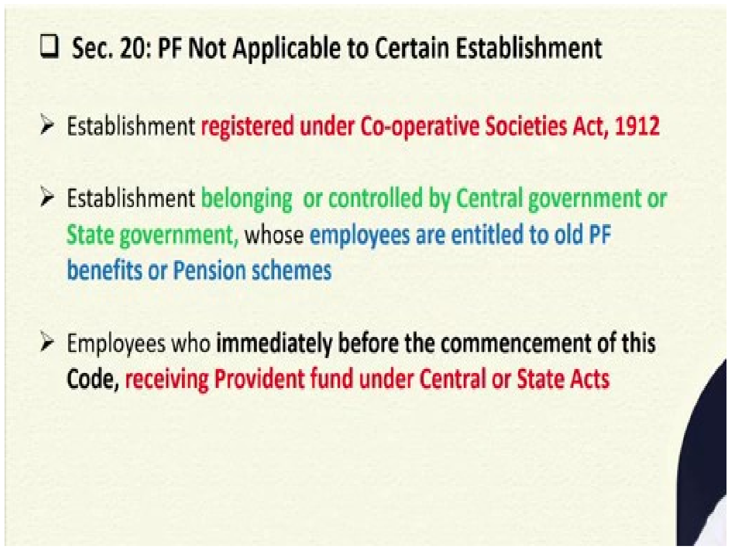

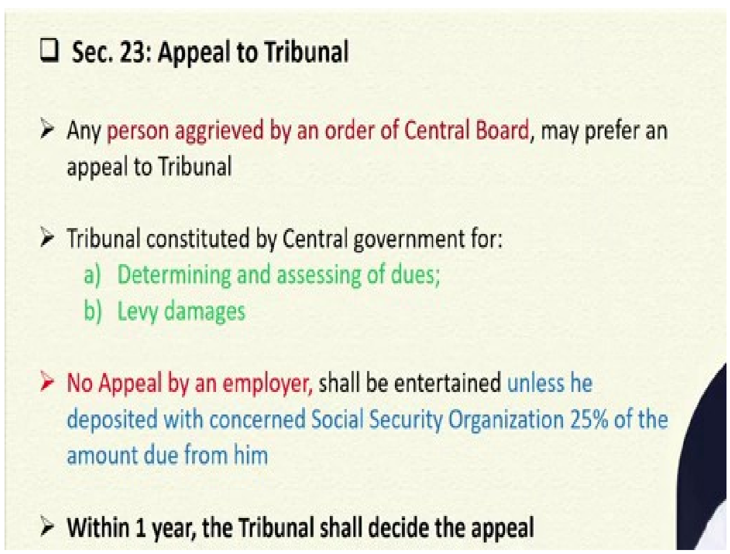

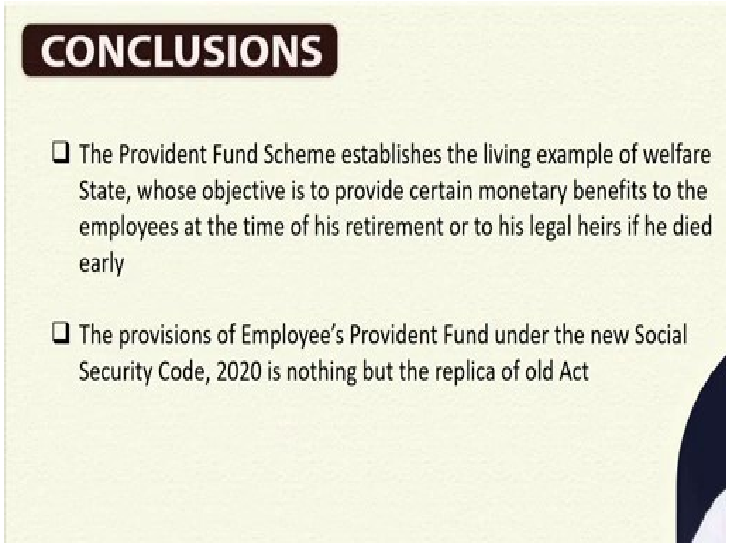

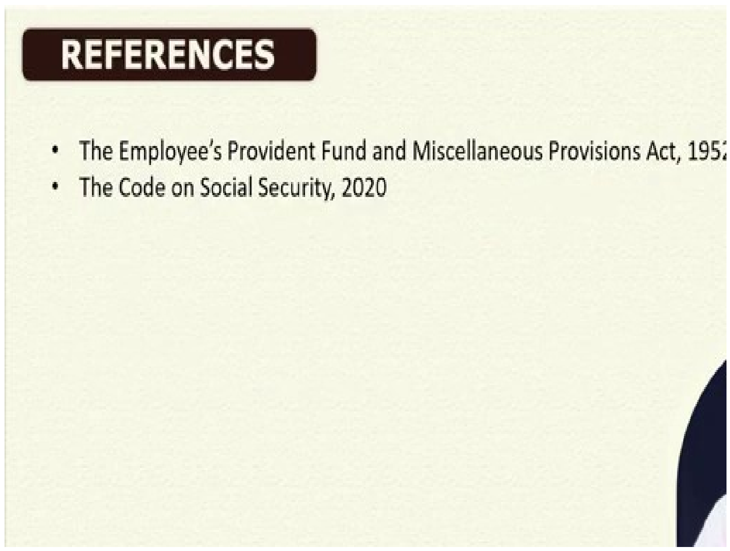

This PF scheme is not applicable to certain establishments we already said that this is not applicable to cooperative societies and also now they are saying that these establishments belong to or are controlled by central government or state governments whose employees are entitled to the old PF benefits or pension schemes, they are not eligible to the new scheme they are only eligible to the odd scheme, because the government forced to come out this particular provision that central government for example if you take the central government employees people those who are joined after 2002 they are not eligible for provident fund rather than they are eligible for the new pension scheme.

So the government employees all of them are getting salaries of more than 15000 rupees so they are eligible for the new pension scheme rather than the provident fund. So it is a provident fund under the central government and state government schemes are certain exemptions are made in the new code.

Also if any person is aggrieved by the decision of the central board of provident fund they can appeal to the tribunal, so the tribunal must be constituted by the central government for determination of assessing dues and levy of damages and also any decision taken by the board and you can see that the condition which put forward for appeal is that so he must deposit with consent source security organize 25 per cent of the total amount due from him. So that means within one year the tribunal shall decide on the appeal, time frame also is given. The case cannot go on unextendedly for more than one year period of time, so there is an operation provision also given under the new scheme.

So we can see that we already said that this is one of the best investment schemes for all the workers in the country those who are receiving less than 15 thousand it is mandatory and for people who are taking more than 15 thousand it is voluntary so the employer also has to agree for this particular scheme and still it is continued to be one of the best scheme paying one of the highest interest rates by the government for any investment scheme in the country commercially or by the government and it is managed by the central employee's provident fund organization.

So it is a central government organization which organizes or completely manages this particular fund, so the India provisions of the old scheme are incorporated into the new scheme and I am very sure that the new scheme is also applicable to the new set of employees which we talked about that is the platform workers, jig workers and also in the unorganized sector. So the ambit of the provident fund scheme is going to be increased and we hope that the complete digitalization of the records and working of the organization is going to give a positive result in the coming future, thank you.