

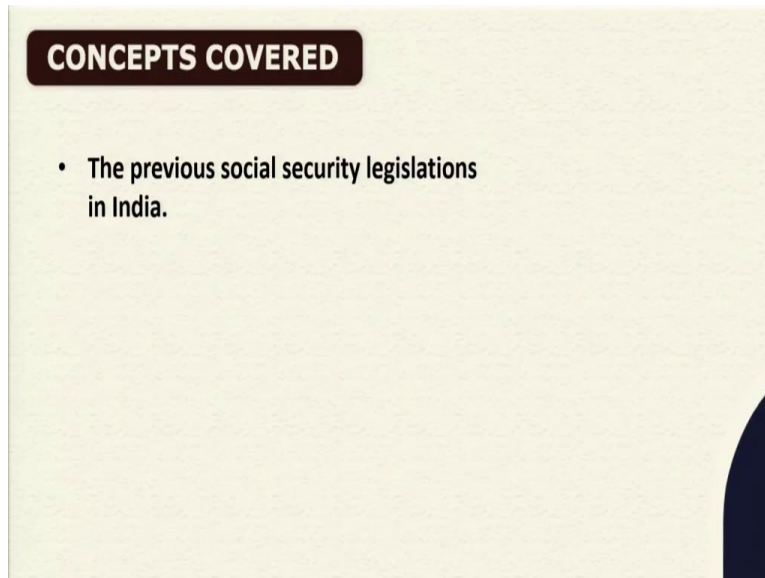
New Labour Codes of India
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Lecture 04
History - Previous Social Security Legislations in India (Contd.)

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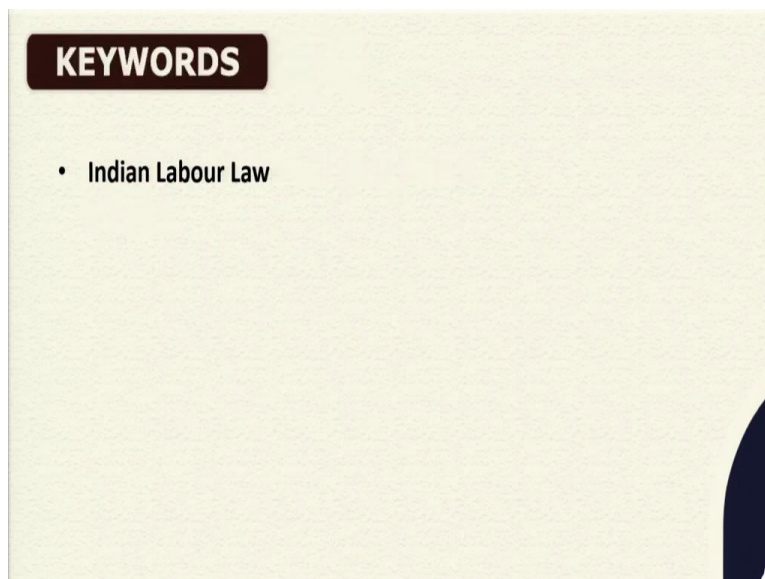
Dear students, today we are going to discuss and also, we are going to see what are the Previous Social Security legislations in the country. So, this Social Security legislation was mainly the contribution of Britishers and also the post-independent India, which constituted social security to the Indian workers in this country.

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So, we are specifically going to see that which are those legislations very briefly because we are going to deal with this elaborately in the Wages Code or Social Security Code or Industrial Relations Code and also the Occupational Health and Working Conditions Code.

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Workmen's Compensation Act, 1923

- To provide compensation for workmen in cases of industrial accident / Fatal Accidents/occupational diseases in the course of employment resulting in disablement or death.
- It applies to employees working in factories, mines, docks, construction establishments, plantations, oilfields, and other establishments listed in Schedule II of the Employee's Compensation Act.
- Modeled with British law.



So, we start with the Workmen Compensation Act again one of the British contributions, this particular Act specifically provides for compensation to workmen in cases of industrial accidents, fatal accidents, occupational diseases, and other accidents or disablement happening during the course of employment. And there are a lot of interpretations with regard to the course of employment.

So, we will see it elaborately in the coming classes. And the Workmen's Compensation Act 1923 is applicable to the establishments like factories, mines, docks, construction establishments, plantations, oil fields, and other establishments listed in schedule two of the Employee's Compensation Act. So, basically, this is a British Act which they have made in favour of some

kind of benefits to the workers, those who are meeting accidents or fatal accidents during and in the course of employment.

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Benefits

Death

Permanent total disablement

Permanent partial disablement

Temporary disablement

Occupational disease

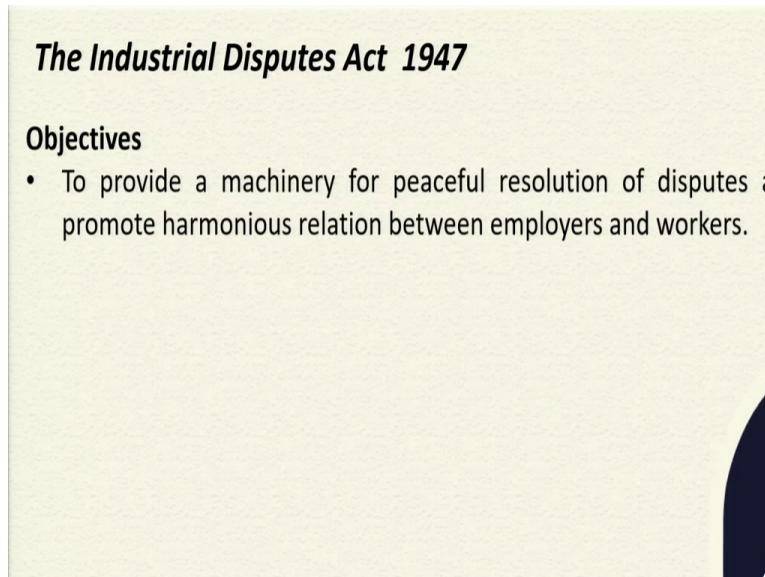
Benefits

- Compensation for Death Rs 80,000 to Rs1.20 lakh.
- In case of permanent disablement, the amount is increased from 90,000 to Rs 1.40 lakh.
- Temporary disablement 50% of wages for a maximum period years.
- The funeral expense of the deceased workman has been increased from Rs 2,500 to Rs 5,000.

So, the benefit which includes the benefits in case of death, in case of permanent total disablement, in the case of permanent partial disablement, the case of temporary disablement and also for occupational diseases, and the last one added to the benefits are the funeral expenses. So, presently, it is in the tool of compensation in the case of death to around 80,000 to 1.2 lakhs, this will depend upon many criteria and it may depend upon the age of the worker and also the wages of the workers.

In case of permanent disablement, the amount can be increased from, so, 90,000 to 1.4 lakhs. So, for temporary disablement, the calculation is 50 percent of wages for a maximum period of 5 years. And the funeral expenses provision which was 2500 rupees is increased to 5000 rupees. So, this particular legislation gives some kind of benefits to the workers who are meeting eventualities during the course of employment.

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And when you look into the Industrial Disputes Act 1947 one of the very important post-independent legislation which provides for the complete machinery for peaceful resolution of disputes or and also you can see that there must be you know, to promote harmonious relations between the employees and workers.

So, this Industrial Disputes Act is the one point where we can see that all the disputes are resolved between the employer and workers. And it has existed from 1947 onwards to maybe 73 or 74 years and it is going to be replaced by the new code.

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Scope and coverage

- Applicable to all industrial and commercial establishments
- Covers all workers and supervisors drawing salaries up to F 1600/- per month.
- Not applicable to person employed in managerial and administrative capacities.

So, its coverage is applicable to all industrial and commercial establishments including plantations. And even though there are some ceilings of salary ceilings, this was the old one 1600 rupees is the initial assignment it was amended from time to time. And most probably it is not applicable to the employees in the managerial and administrative capacities, but the new code has added some more categories to this dispute settlement mechanisms. So, almost all the workers or employees have now covered under the Industrial Disputes Act or Industrial Disputes provisions in the new code.

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Main provisions

- Defines industry, industrial dispute, layoff, lockout, retrenchment, trade union, strike, wages, workman, etc.
- Provides machinery for investigating and settling disputes through works committees, conciliation officers, boards of conciliation, courts of enquiry, labour courts, tribunals and voluntary arbitration.
- Reference of dispute for adjudication.
- Awards of labour courts and tribunals.
- Payment of wages to workers pending proceedings in High Courts.

So, if you look into the main provisions of the Industrial Disputes Act, it defines the industry, industrial dispute, it defines layoff, lockout, what is retrenchment and also the strike, wages, workman, etcetera. And because the coverage is applicable to these people, and it provides machinery for investigating and settling disputes through work committees, conciliation officers, board of conciliation, the court of inquiry, labour courts, tribunals, and even voluntary arbitration.

The governments can refer to it or refer to the dispute for adjudication. So, the reference is done by the appropriate governments, that is the state governments and the central government. And the labour courts and tribunals give awards. So, the appeal can go to the respective high courts and the Supreme Court of India.

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Main provisions

- Rights of appeal.
- Settlements in outside conciliation.
- Notice of change in employment conditions.
- Protection of workmen during pendency of proceedings
- Strike and lockout procedures.
- Lay-off compensation.
- Retrenchment compensation.

And you can see that yes, the hierarchy of codes hierarchy of tribunals, the hierarchy of dispute settlement we can see. And also the dispute settlement alternate dispute settlement mechanism, so like conciliation also is provided under this particular code. And also you can see that the protection of workmen during the pendency of proceedings is also provided.

And the provisions for subsistence elements are also provided in this particular code. So, it elaborates the strikes and procedures lay of compensation, retrenchment, compensation, etcetera in this particular code.

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Main provisions

- Proceedings for retrenchment.
- Compensation to workmen in case of transfer of undertakings.
- Closure procedures.
- Reopening of closed undertakings.
- Unfair labour practices.
- Recovery of money due from employer.
- Penalties.
- Obligations and rights of employees.

So, we are talking about the old code which is the Industrial Disputes Act 1947. So, and also it provides for the process or procedure for retrenchment and also the compensation to workmen in case of transfer from one undertaking to another undertaking and which excludes the transfer from one branch to the other branch.

And also, provides for the closure procedures and reopening of undertakings, and what are unfair labour practices and the recovery of money from the employer and penalties, obligations and rights of employees , are also provided under this particular Act.

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When to consult and refer

- When a dispute arises with the workers' union.
- When you plan changes in employment conditions.
- When there is a strike.
- When there is a lockout.
- When retrenchment of workmen.
- When undertaking is being transferred
- On closure of an establishment.
- On re-opening establishment.

And we can see that disputes can arise by the respective unions and even provisions for individual disputes also can be raised by individuals in certain cases like retrenchment or termination of employment. So, and also any kind of disputes between employer and workmen can be raised.

And there are, so, the specific provisions or specific circumstances or specific instances on when there is a strike, so, the reality of strike can be cosseted, when there is a lockout, retrenchment and relating to the pending salaries or you can say the deductions from salaries or the closure of establishment reopening of establishment and the disputes can be of any nature, which is relating to the workmen and in between employer and employees or workmen and employers.

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***The Contract Labour (Regulation & Abolition) Act,
1970***

- To prevent exploitation of contract labour.
- To provide proper and habitable working conditions.
- To regulate the functioning of the advisory boards.
- To lay down the rules and regulations regarding the registration procedure of the establishments employing contract labour.
- To state the necessary requirements and the procedure of licensing contracts.
- To provide the penal provisions in case of violation of offences under the Act.

So, another Act is the Contract Labor Regulation and Abolition Act 1970. So, in accordance with the international obligations and also the standards developed by the International Labour Organization, so we have come up with this particular legislation, the Contract Labor Regulation and Abolition Act, but I have serious doubt about whether we have abolished contract labour.

So, I would say that it is for the regulation of contract labour rather than abolishing contract labour. So, mainly this is to regulate or prevent the exploitation of contract labour in the country. So, and also it provides for, so, the proper working conditions and also the proper functioning of the advisory boards. And also it lays down rules and regulations regarding the registration procedures of not only the contractors and the establishments, those who are providing contract labour.

And you can see that, so, there is a licensing system for the contractors also provided. So, every contractor who is provided provides contract labour must get a license from competent authorities. And the variation of the provisions will be with penal provisions. And also, we can see other provisions penal provisions, which can be seen in this particular Act.

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Maternity Benefit Act, 1961

- The object of the Maternity Benefit Act, 1961 is to protect the dignity of motherhood by providing for the full and healthy maintenance of woman and her child when she is not working.
- It shall be twenty - six weeks of which not more than eight weeks shall precede the date of her expected delivery and the remaining eighteen weeks can be availed after delivery.
- In case of miscarriage, six weeks leave with average pay from the date of miscarriage

And one of the most important Acts enacted in post-independent India for the welfare of women workers is the Maternity Benefit Act of 1961. So, the Act very clearly says, the object of this Act is to protect the dignity of motherhood by providing full and healthy maintenance for women and their children and when she is not working, so, before childbirth, and after childbirth, because the health of the pregnant woman is very important.

And so, this particular Act provides paid leave before and after childbirth, it is not only childbirth, we can see that the various provisions have various benefits under this particular Act. Presently, the government has increased straight away from 12 weeks to 26 weeks of the paid maternity benefit to every mother.

And now, so, it is 8 weeks to receive before the date for expected delivery and the remaining 18 weeks can be availed after the delivery. And it is not only as I say already said that the other benefits include in case of miscarriage, there are six weeks leave with the average pay from the date of miscarriage, so this particular Act provides.

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Maternity Benefit Act, 1961

- No work of arduous nature, long hours of standing likely to interfere with pregnancy/normal development of foetus or may cause miscarriage or likely to affect health to be given for a period of one month immediately preceding the period of six weeks before delivery.
- On medical certificate, advance maternity benefit to be allowed.
- A medical bonus of Rs. 3500.00 if the employer does not provide free medical care to the woman.
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And also, other provisions, other provisions, which are not directly related to but related to pregnancy. So, the pregnant woman should not be given very heavy work hard work. So, the provision says that no work of arduous nature or long hours of standing. So, likely to interfere with the pregnancy or normal development of the fetus and may cause miscarriage or likely to affect the health to be given for one month immediately preceding six weeks before delivery.

So, this particular provision is to see that the mother carrying a gets not very hard work. So, it is going to affect the health of the mother. And here also, and also the new provision, which provides a medical bonus of 3500 rupees. So, the free medical bonus can be availed if the employer is not providing free medical care. In most the establishment, there is no free medical care. So, they have to provide a medical bonus of 3500 rupees as well. So, this legislation also we will deal with in detail in the coming classes.

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Equal Remuneration Act, 1976

- 39(d) of the Indian constitution.
- Accomplishment of equality clause contained in Article 14 and 16 of Indian Constitution.
- Payment of equal remuneration to men and women workers for same or similar nature of work protected under the Act.
- No discrimination permissible in recruitment and service conditions except where employment of women is prohibited or restricted by or under any law.

And another act is the Equal Remuneration Act of 1976. So, this is in accordance with the mandate of the Constitution of India under Article 39 d. So, equality before the law, the equal protection of laws. So, the equality clause contained in article 14 and even article 60, talks about Equal Remuneration for men and women workers of similar nature. So, the equal payment of men and women for similar work is protected under the Equal Remuneration Act of 1976.

So, no discrimination is permissible in the recruitment of services and conditions except certain exempted services of employment, but now, exemptions are also going, for example, in the case of the fire force earlier there was an exemption, but now, women are recruited even in the fire force and even army and other forces as well. So, the Equal Remuneration act is basically looking into equal payment or Equal Remuneration for equal work or similar work.

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The Payment of Gratuity Act, 1972

Objective

- To provide for payment of gratuity on ceasing to hold office

Coverage

- Factories, Mines, Oil fields, Plantations, Ports, Railway Companies, Shops & Commercial Establishments, and to other establishments to which the Government extends the law.
- The Act provides for payment of gratuity at the rate of 15 days wages for each completed year of service subject to

When it comes to the Payment of Gratuity Act 1972 and which is also one of the Social Security legislation we can see that people who are benefits from people who are retiring or superannuated people say the object of this particular act is the payment of gratuity on ceasing to hold office. So, this is a solution when you repair it. So, a lump sum amount which you get after your retirement or secession of work.

It covers factories, mines, oil fields, plantations, ports, railway companies, shops and establishments and other establishments and even all government institutions had extended this particular law. And also the quantum of the payment, this particular payment is 15 days of wages for each completed year of service. So, it is calculated that 15 days of wages into the number of years of service and the present government has increased the total ceiling from 5 to 10, and now, it is 20 lakh rupees.

So, if a person is working for a long period of time and the service is getting a sizable amount for the post-retirement life, now the ceiling is 20 lakh rupees as payment of gratuity. So, in many cases in between, there is a lot of jurisprudence emerged from the judgments of the courts, for example, the courts dealt with the cases of whether teachers are eligible to get gratuity. So, we will see these cases and presently the Supreme Court said that yes, the teachers are eligible, we will see this case law in the later classes.

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EPF Act 1952

Objective: Provident fund is a welfare scheme for the benefit of the employees.

Contribution:

Employee @ 10% of the basic wage/salary and the higher rate is @ 12%.

Employer equal amount of which 8.33% will be diverted to the pension fund.

And when it comes to the Employees Provident Fund Act 1952. Again, one of the post-independent India legislation provides for a contributory scheme, a contributory scheme in the sense that the employers and employees contribute to this particular fund so that the employees will be benefited in long term. So, presently the contribution can be from 10 to 12 percent. So, the employer and employee contributions and the equal amount they contribute and one portion which goes to the pension fund.

So, what is the provident fund? This secession of work or retirement superannuation or even much before so they can withdraw this particular money and also there is a long process or long procedures are also available for various purposes under this Provident Fund and Miscellaneous Provisions Act. So, the people also get a pension scheme also is included in this particular Act.

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Employees State Insurance Act, 1948

Objective

- The ESI scheme is a self-financed comprehensive social security scheme devised to protect the employees covered under the scheme against financial distress arising out of events of sickness, disablement or death due to employment injuries.
- To provide for health cover, Medical care and Cash benefits for Sickness.
- Maternity
- Employment injury
- Pensions to dependents in case of Death (or) Employment injury

So, when it comes to the Employees State Insurance Act of 1948, again, post-independent legislation. So, quickly after the independence, they come out with the Employee State Insurance Act. So, this only objective is it is the completely self-financed scheme of Social Security devised to protect the employees covered under the scheme in case of distress during sickness or disablement or death due to employment injuries or you can say that the medical benefit basically is provided under the Employees State Insurance Act.

So, it covers health cover, medical care and cash benefits and sickness allowances provided under the ESI scheme. And we can see that maternity benefits also are provided under this scheme. So, if anybody is availing of the maternity benefit act, they cannot claim this particular benefit under the ESI Act. So, they have to claim only under one act. And also, you can find there is provisions for employment insurance.

So, the Workmen's Compensation Act is different from ESI Act because ESI Act is covered by only a small number of employees. And also, the pensions are also pension provisions that are also included for dependents in the case of death or in the case of employment injury under the Employee State Insurance Act. So, we can see a sizable number of hospitals are running under the Employees State Insurance Corporation all over the country so the employees can abide by the medical benefits from these particular hospitals.

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Employees State Insurance Act, 1948

Broadly, the benefits under this scheme are categorized under two categories,

- 1) cash benefits (which include sickness, maternity, disablement (temporary and permanent), funeral expenses, rehabilitation allowance, vocational rehabilitation, and medical bonus) and,
- 2) non-cash benefits through medical care.

And also, the benefits can be divided into the different benefits under this particular scheme. And the two main categories are cash benefits, cash benefits include sickness benefits, maternity benefits, and disablement benefits, whether it is temporary or it is permanent, then funeral expenses, rehabilitation allowance, vocational rehabilitation, medical bonus and non-cash benefits through medical care.

So, there is a close relationship between the benefits under the ESI and what you can find in the Workmen's Compensation Act. And there are more benefits you can see in the ESI Act. Because ESI provides more categories of benefits and especially the non-cash benefit of medical care.

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The Payment of Bonus Act, 1965

Objectives

- To provide statutory obligations for payment of bonus to persons employed in certain establishments on the basis of profits or productivity.

And the payment of the Bonus Act is another legislation which provides again an ex gratia payment, so every year to the employee, those who are working. So, it is a statutory obligation. So, this is not the sweet will of the employer to provide a bonus, it is a statutory obligation to pay a bonus on the basis of actual profits or productivity of the establishment. But even though it is related to the profits or productivity of the employment or productivity of employer or the company, there is a minimum prescription of bonus as well.

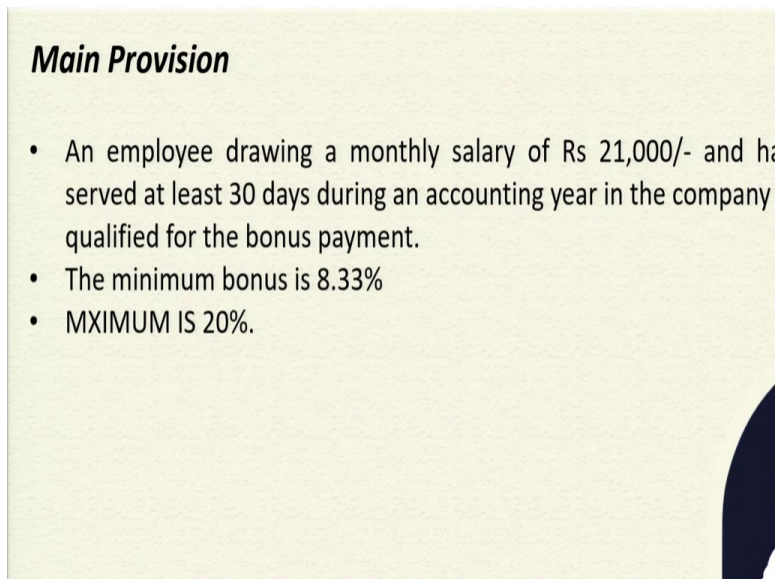
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Scope and Coverage

- Applicable all over India to factories under the Factories Act and to other establishments employing 20 or persons on any day during a year.
- Government can extend its coverage to establishments employing between 10 and 20 workers.

So, it is applicable to, I think it is applicable to like factories, it is applicable to the Factories Act and other establishments, those who are employing 20 or more persons. The Bonus Act is applicable to the plantation Labor Act also. So, it is applicable to the plantations as well. So, you can see that, now, it is covered, the government is made applicable to 10 and 20 workers, those who are working.

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Main Provision

- An employee drawing a monthly salary of Rs 21,000/- and has served at least 30 days during an accounting year in the company qualified for the bonus payment.
- The minimum bonus is 8.33%
- MAXIMUM IS 20%.

So, under this particular act, the Bonus Act, so, you can see that there is a ceiling, the people who are getting a monthly salary of 21,000 this is the present level and even work for 30 days during the whole year in a particular company or establishment or a plantation, they are qualified to get a bonus. So, the present minimum prescription is 8.33 percent of wages or the maximum is a 20 percent bonus provided.

So, even though it is related to productivity as I have already said that it is related to the productivity or profitability of the establishment, a minimum bonus is prescribed which is 8.33 percent. So, the excess bonus or excess profits can be even carried forward to other years as well. So, you can pay even though there is less profit in the coming years.

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The Shops and Establishments Act, 1953

Objectives

- To provide statutory obligation and rights to employees and employers in the unorganised sector of employment, i.e., shops and establishments.

So, one legislation which is applicable to a large number of people, those who are working in shops and establishments is the Shops and Establishment Act 1953. So, this provides statutory benefits and also the rights to employees especially those working in the unorganized sector, especially in the lack of shops and establishments in this particular country.

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Scope and Coverage

- A state legislation; each state has framed its own rules for the Act
- Applicable to all persons employed in an establishments with or without wages, except the members of the employer's family.
- State government can exempt, either permanently or for specified period, any establishments from all or any provisions of this Act.

So, this particular Act also provides various benefits and mostly we can find state legislations and also or state legislations or the rules framed by the states, it is applicable to establishments. So, people who are working in these shops and establishments. So, except for the member's

family, so, the state government can exempt either permanently or for a specified period any establishment from this particular period, the applicability of this particular act, but later on it is applicable.

That means, in the case of, for example, a special economic zone or other areas or a certain class of establishments for a very short period of time they can make exemptions. Otherwise, this is applicable to all shops and establishments in the country. And the benefits are applicable to all people.

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Main Provisions

- Compulsory registration of shop/establishment within thirty days of commencement of work.
- Communications of closure of the establishment within 15 days from the closing of the establishment.
- Lays down the hours of work per day and week.
- Lays down guidelines for spread-over, rest interval, opening and closing hours, closed days, national and religious holidays, overtime work.
- Rules for employment of children, young persons and women
- Rules for annual leave, maternity leave, sickness and casual leave, etc.
- Rules for employment and termination of service.
- Maintenance of registers and records and display of notices.
- Obligations of employers.
- Obligations of employees.

So, if you look into the main provisions, you can see the first provision is the registration of all shops and establishments. So, we can see that any shop now if you want to open up any shop or any establishment you have to get a license from the local authorities. That is the registration of the shops and establishments.

And also, we can see some of the provisions like the closure of the establishments will be reported back to the authorities, the consent authorities and also the working hours and weekly holidays are controlled or regulated under this particular legislation. And holidays, so national holidays working hours and overtime work, all the provisions are provided under this particular provisions.

And you can see that even provisions for annual leave and also provisions for maternity leave, sickness and casual leave are also provided. And the provisions and also what are the obligations of employees and also the dispute settlement is provided under this particular act.

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The Trade Unions Act, 1926

Objective

An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions.

S.2(h)"Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions

So, in the last class also we talked about the Trade Union Act, the Trade Union Act is again a British contribution at that point of time, which recognized or legalized the trade union activities. So, these trade union activities as part of we can say that in India, it is a story of part of independence, which we will see in the next week class, the history as well as the struggle of Indian trade unions, which we will discuss elaborately, but this is one provision, where the Britishers made, the trade union activity is made legal.

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Main Provisions

- Registration of a trade union by any seven or nine workers of an establishment on applying with a copy of the rules of the union, the name and address, and the list of office-bearers.
- Cancellation and dissolution of trade unions.
- Obligations of registered trade unions.
- Rights of registered trade unions.

So, the various provisions are provided for the registration of trade unions and also the selection election of office bearers. And what are the provisions or circumstances under which the registration can be cancelled or dissolution of the trade union can be done and what are the obligations of trade unions and the rights of trade unions and also the collection of the political fund is also explained under this particular act.

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The Bonded Labour System (Abolition) Act, 1976

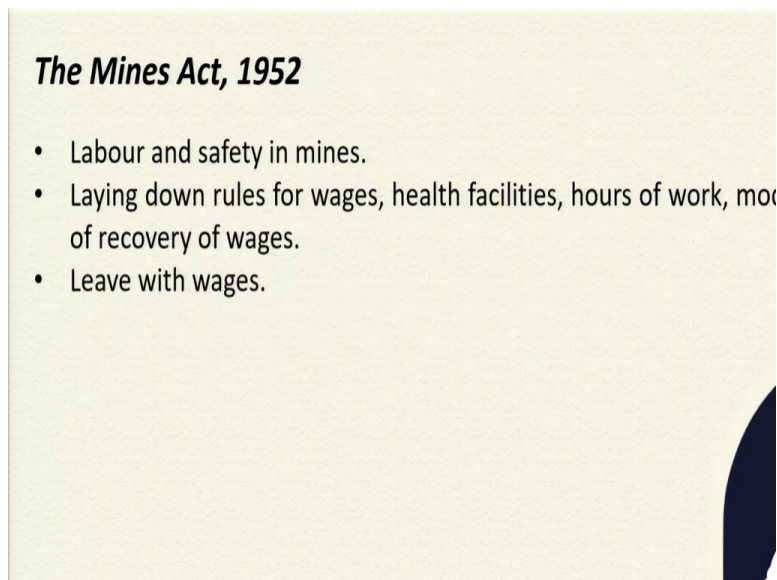
- Abolition of bonded labour system.
- Preventing economic and physical exploitation of the weak sections of the people.
- Article 23(1) of Indian constitution prohibits forced labour.
- Any liability to pay bonded debt shall be extinguished.

And the most important legislation passed is the bonded labour system abolition act of 1976. So, this particular Act in accordance with the ILO conventions, this act abolishes bonded labour

system in the country which prevailed because of mainly for economic reasons. So, physical exploitation of weaker sections of the people, and weaker sections of the society has been banned under this particular act.

So, the Indian constitution very specifically prohibits forced labour and bonded labour system is an extended form of bonded labour, bonded labour system is an extended form of this forced labour. And also any liability, there is no liability of to pay the bonded debt, so, that shall be extinguished with this particular act. But even though we have abolished the bonded labour system, as an evil, so, we can see that still, after 74 years of independence, also we can see or 73 years of independence, we can see that this is still continuing in certain industries.

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So, another act very important Act is the Mines Act of 1952. So, this is under the purview of the central government, which elaborately, the Mines Act elaborately provides for the welfare of workers who are working in mines. So, so many welfare provisions are provided under the Mines Act, because of the hardest or the most dangerous activities which they do or clear risk, which they undertake, there are elaborate provisions under this particular Act provided.

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CONCLUSIONS

The Indian Jurisprudence of Labour Law covers a very wide scope workman's compensation, industrial disputes, contract labour, Mat benefits, equal remuneration, payment of gratuity, payment of bonus, unions , bonded labour abolition and working in extreme conditions su Mines.

So, all these Acts which we have today dealt with these the old provisions, old legislations just to mention to start with. So, when we deal with the old four codes, the labour codes, we will deal elaborately with the provisions. So, if you look into India, post, especially the post-independence history, we can see that we have a number of legislations, especially today we dealt with the Social Security legislations.

And there are legislations in absolute times, which are made which are enacted in favour of employees. And also the abolition of certain practices like bonded labour system and also the prohibition of child labour also, which we saw that we have enacted. So, in post-independent India, we have made very strict rules and provisions and even certain provisions are considered to be very, very harsh to the employees from the employees' point of view, they say that it increases the red-tapism and also the license rights system. And that was abolished, that was abolished by the repealing of all these provisions and the enactment of new laws.

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The Industrial Disputes Act 1947
The Contract Labour (Regulation & Abolition) Act, 1970
Maternity Benefit Act, 1961
Equal Remuneration Act, 1976
The Payment of Gratuity Act, 1972
Employees State Insurance Act, 1948
The Payment of Bonus Act, 1965
The Trade Unions Act, 1926
The Bonded Labour System (Abolition) Act, 1976
The Mines Act, 1952

So, we can see these, these are our old laws, today, we are going, we have just discussed the highlights what was that legislations and what it provided in the earlier regime. And so, this was what we discussed in today's class. And in the coming classes, we will discuss, in the next class we will discuss the various labour commissions and so, thank you.