

New Labour Codes of India
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Lecture 40
Maternity Benefit

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Dear students, today we are going to discuss about the concept of the maternity benefit. So, what is maternity benefit? Who is eligible to get maternity benefits? What is the term duration of maternity benefit? And what benefits come within the purview of the Maternity Benefit Act? And also, what are the duties of the employer, and also what benefits are available to a women employee during the time of working, and who is eligible to get this particular benefit is also we will discuss. And this is today's discussion subject.

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CONCEPTS COVERED

- Concept of Maternity Benefit

KEYWORDS

- Maternity benefit
- Medical bonus
- Leave for miscarriage
- Inspector-cum-Facilitator
- Pregnancy
- Nursing Breaks
- Continuance of payment

So, as we have discussed many times that the maternity benefit is a benefit which is very clearly given to the working woman for benefit certain benefits of the working woman. And is not only the maternity benefit include a series of benefits, for example, certain benefits in case of miscarriage, in case of a related illness, and the post-delivery, there will be certain benefits like nursing benefits. So, the medical bonus, and to what extent continuance of this particular benefit, all these are dealt with by the maternity benefit provisions in the Maternity Benefit Act of 1961, and in the new code of 2020.

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❑ The Maternity Benefit - concept

- Indian scenario, the need to have a maternity benefit legislation was recognized by N.M Joshi as back as 1929, when he introduced the Maternity Benefit Bill (No. 31 of 1924) in the Central Legislature.
- Before this, Women's Association India had already led a quest demanding maternity rights in the Jamshedpur steel industry in 1920.

❑ The Maternity Benefit - concept

- Post that, the Central Government showed efforts by introducing the **Mines Maternity Benefit Act 1941**.
- **Employees' State Insurance Act 1948**, and **Plantations Labour Act 1951**, which finally paved way for the **Maternity Benefit Act of 1961**.

So, elaborately we will see these particular provisions, when we look into this particular benefit, it is not new to India. So, it is not introduced in a fine moment in post-independent India. So, we can see the British time itself, this provision this particular benefit is given to the working woman. So, it is very clearly documented that the labour leader at that point of time, and also the member of the Legislative Assembly at that point of time. Mr N M Joshi has introduced a Maternity Benefit Bill in 1924. And you can see that the bill was passed, and, introduced at that point of time in the Central Legislature in 1929.

So, the concept is not new and much before that, much before the maternity benefit has been implemented in some of the industries like the famous present Tata steel industry, which is based in Jamshedpur. So, way back in 1920, so, there was, this demand for implementing

material benefits in these big companies, or big industries like the steel industry in the 1920s. So, this concept is not very new to India. So, before the independence also this demand was raised in many parts of India.

So, we can see that in pre-independent India, some of the Acts were passed to give maternity benefits to the women workers like the Mines Maternity Benefit Act of 1941. So, it is a British time Act, which is introduced to give benefits to women workers in a specific sector like mines. And then you can see the Employee's State Insurance Act came into existence in 1948. So, all insurance woman workers are eligible to get the maternity benefit under or within the Employee State Insurance Act. So, we already saw what are the benefits available in the Employee's State Insurance Act.

So, all insured woman employees were eligible for the maternity benefit those what are getting this insurance benefit under the ESI Act. And then, a 1951 Plantation Labour Act also introduced maternity benefits. Then, all these Acts passed and later on maybe after 10 years, only the Maternity Benefit Act of 1961 passed by the Central, the Parliament of India which is applicable to the whole of India. So, you can see that from the 1930s or 1920s to 1960s the 40 years, there was no uniform legislation to provide maternity benefits to women workers in the country. So, by passing this Maternity Benefit Act of 1961, it is applied uniformly throughout the country and the women workers in the country.

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□ The Maternity Benefit - concept

- The fundamental purpose of providing maternity benefits is to preserve the **self-respect for motherliness**, protect the health of women, complete safety of the child etc.
- The objective of maternity benefits is to protect the dignity of **"Motherhood"** by providing complete & health care to the woman & her child when she is not able to perform her duty due to her health condition.

❑ The Maternity Benefit - concept

- International Convention of the Elimination of All Forms of Discrimination against Women (CEDAW),
- The International Convention on Economic, Social and Cultural Rights (ICESCR),
- Universal Declaration of Human Rights (UDHR) etc.
- International labour organization (ILO) contribution and several expert bodies like the WHO have recommended that 24 weeks of maternity leave is required to protect maternity and child health.

So, if you look at the concept, the concept of the maternity benefit, so, definitely we have drawn this particular concept from the western countries, which clearly argued for there is self-respect for motherliness, or to protect the health of women during a delicate period of time, that is the pregnancy period of time, or post pregnancy, post-delivery period of time. And it is not only inevitable for the safety of the child as well as the mother. So, the objective of this particular benefit is to protect the dignity of motherhood. It is not only providing healthcare to the woman, but also to the child.

When she is not able to perform her duties because of a particular health condition for a particular period of time. So, this concept is very clear to protect the concept of motherhood. And also we can see that there are a number of international conventions, which talk about protecting women during the pregnancy period and post-pregnancy period or the maternity benefit assets. So, the International Convention for the Elimination of All Forms of Discrimination Against Women and popularly known as CEDAW, and I think previous classes also have mentioned CEDAW. CEDAW also talks about the maternity benefit.

Then the International Convention on Economic, and Social, and Cultural Rights, ICESCR. Universal Declaration of Human Rights, then International Labour Organization specifically worked on and contributed to the demand for providing the maternity benefit to women workers. So, if you look into the ILO recommendation, it is 24 weeks of maternity leave, which is to protect maternity. So, the maternity period for the worker and the child's health, so 24 weeks. So, we will see that, what is the period which we are giving to the mothers in India.

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❑ The Maternity Benefit Act, 1961 – Repealed



The Maternity Benefits Act, 1961

❑ Objective

- To **reduce the disparities** and to **provide maternity protection to the woman employed** in all establishments, including mines, factories and plantations, except those women who benefited under ESI Act, 1948
- To protect the **dignity of motherhood** and the **dignity of a new person's birth** by **providing for the full and healthy maintenance of the woman and her child** at this important time **when she is not working**.

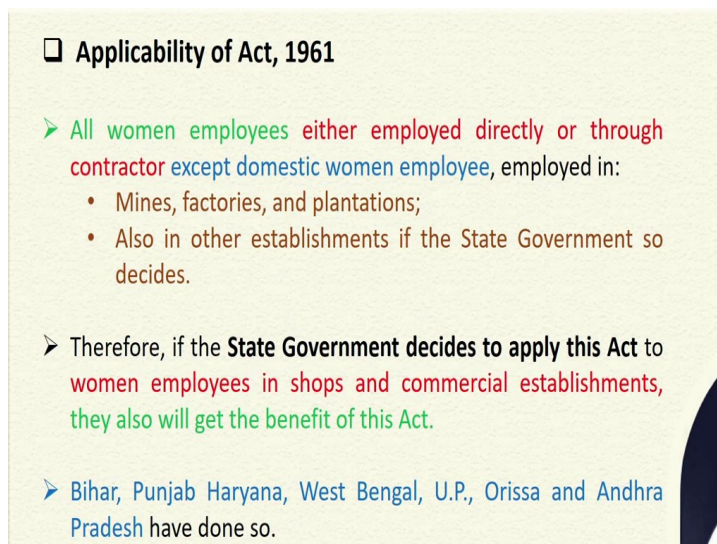
So, we will see this in 2 parts. One, the old repealed the Maternity Benefit Act of 1961. And then we will see the new provisions in the 2020 new labour code which will see what are those provisions of maternity benefits and what are changes are made in the new Act. So, the 1961 Act very clearly says that to reduce the disparities, and to provide maternity protection to the woman employed in all establishments, all establishments in inverted commas, including mines, factories, and plantations, except those who benefited under ESI Act of 1948. So, it is very clear.

So, if you are getting a benefit under another Act, you cannot avail double benefit under both Acts. So, other than these people, those who are getting ESI benefits, anybody can claim maternity benefits in any organization, any establishment, including the mines and factories and plantations. So, it is 1961 Act very clearly says. This is to protect the dignity of

motherhood, and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child, at this important time when she is not working.

So, one side is motherhood, and the other side clearly which talks about the health conditions of the mother and the child. And the mothers, working mothers should be provided they leave with wages so that they can survive, they can regain their health, and the lost health of the worker, and also protect the child as well.

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❑ **Applicability of Act, 1961**

- All women employees either employed directly or through contractor except domestic women employee, employed in:
 - Mines, factories, and plantations;
 - Also in other establishments if the State Government so decides.
- Therefore, if the **State Government decides to apply this Act to women employees in shops and commercial establishments, they also will get the benefit of this Act.**
- Bihar, Punjab Haryana, West Bengal, U.P., Orissa and Andhra Pradesh have done so.

So, it is clearly said that it is applicable to all women employees, either employed directly or through the contractor. And you can see that except for domestic women employees, employed in mines, factories, or plantations because we saw that there are specific provisions in this particular legislation earlier. Now, in the new code, the new code covers all these areas, whether it is factories, or it is mines, or plantations, which are covered under the new code. But it was separately provided in the earlier codes, earlier legislations, and basic legislations. And most of the State Governments are decided to apply this to the shops and establishments.

And we know that most states have the Shops and Establishments Act. For example, there are a series of countries like Bihar, Punjab, Haryana, West Bengal, U.P., Orissa, Andhra Pradesh and Kerala. We can find a series of State Governments, those who implemented this provision much before the Central Act. and also, after the post, Central Act also applied to shops and establishments which is not mentioned in this Act of 1961.

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❑ Eligibility

- Unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 26 months (After 2017 Amendment) immediately preceding to the date of her expected delivery – u/s. 5 of Act, 1961
- Woman will be paid maternity benefit at the rate of her average daily wage in the three months preceding her maternity leave.
- However, the woman needs to have worked for the employer for at least 80 days in the 26 months preceding the date of her expected delivery.

❑ Eligibility

- If the woman has more than two surviving children, the maternity benefit is for 12 weeks only.
- The law was also amended to extend maternity benefits to commissioning and adoptive mothers who are now entitled to 12 weeks of leave from the date the mother receives the child.
- She will get payment for the six weeks after child-birth within 48 hours of giving proof that she has had a child
- She will be entitled to two nursing breaks of fifteen minutes each in the course of her daily work till her child is fifteen months old
- Her employer cannot discharge her or change her conditions of

And here also provisions the 2017 Amendment made, the amendment clearly made it is applicable to the unmarried mother also. And we can see that the maternity benefit is the rate of wages is the average daily wages immediately preceding 3 months to have maternity leave. So, she proceeds to the maternity leave, 3 months preceding wages. So, the average wages are to be taken just 3 months before the maternity leave is taken. And also, you can see that the minimum criteria, the minimum condition for getting the maternity benefit is she should work a minimum of at least 80 days in 26 months preceding the rate of expected delivery. So, she must work at least 80 days in a 26-month preceding period.

So, that means more than 2 years, minimum of 80 days she should work, then she is eligible to get the maternity benefit. And also, you can see that the people who are the 2 surviving children. So, it is very interesting to see that in the government services, it is saying that for more than 2 children there is no maternity benefit. For now, they have introduced some

relaxation, and also they are saying that 12 weeks only. So, presently we can see the new code it is the maternity benefit period is 26 weeks, but if the if you already have 2 children, then the week, the maternity benefit period is reduced to 12 weeks only.

So, these 12 weeks leave from the date, and in the case of the commissioning, adoptive mothers. So, all these are we can we know that all these concepts are adopted from western countries. So, this particular period of 12 weeks' leave is given to an adoptive mother. So, it is not 26 weeks, it is 12 weeks. And also 24 hours, she will get these 6 weeks, the after the childbirth or within 48 hours of so, producing the proof that she has delivered the child. And also, he can see that the condition says that during the period of the maternity benefit, the employer cannot discharge her, or dismiss her from the service. So, there is no question arises during the period of maternity leave, suspension, dismissal, discharge, or termination of the service. It is prohibited under the Maternity Benefit Act.

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❑ ***Municipal Corporation of Delhi v. Female Workers (Muster Roll), 2000 LLR 449***

➤ **Observation** – *“There is nothing contained in the Act which entitles only regular women employees to the benefit of maternity leave and not to th who are engaged on a casual basis or on muster roll on daily wage basis”*

❑ Cash Benefit

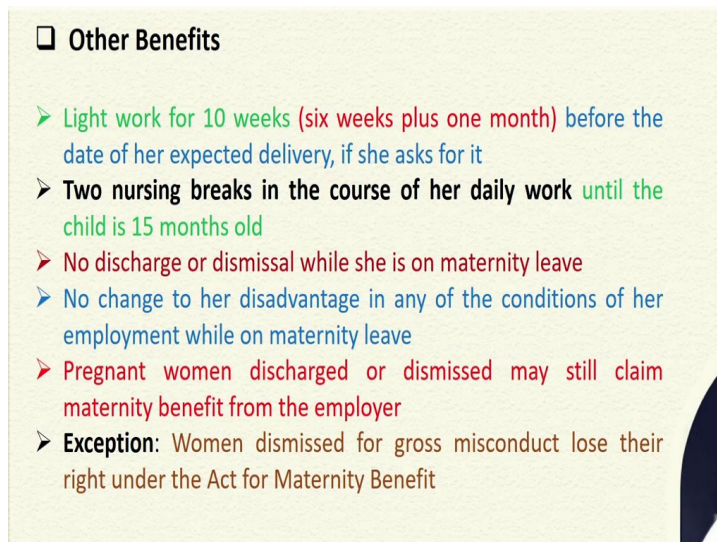
- Leave with average pay for 6 weeks before the delivery
- Leave with average pay for 6 weeks after the delivery
- A medical bonus of Rs. 2500/- if the employer does not provide free medical care to the woman
- An additional leave with pay up to 1 month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage or premature birth
- In case of miscarriage, 6 weeks leave with average pay from the date of miscarriage

In the case of the Municipal corporation of Delhi versus the Female workers (muster roll) in 2000. The Supreme Court said very clearly what is the objective of this particular Act. So, the court said that there is nothing contained in the Act, which entitles only regular women employees to the benefit of mandatory leave, and not to those who are engaged on a casual basis, or on a muster roll on a daily wage basis. So, the Supreme Court clearly said that there is no separation, or no discrimination between permanent workers, and daily wage workers for benefiting or availing the benefit of maternity benefit. So, I think it is a welcome development that most of the employees are eligible to get, they are eligible to get this particular benefit. That is the benefit specifically applicable to casual workers.

So, most of our perception is that this is only applicable to permanent employees. So, through this judgment, the Supreme Court made it clear that the maternity benefit is applicable to even casual workers, or muster roll. So, that controversy has ended. And temporary casual workers or temporary workers are also now eligible to get maternity benefits. And is earlier under the 1961 Act, it was 12 weeks, so, 6 weeks before delivery and 6 weeks after delivery, and a medical bonus of Rs.2500. And that was the earlier rate.

And also we can see that an additional period of leave, 1 month can be claimed that any kind of illness related to pregnancy, delivery, miscarriage, or premature birth. So, it is very clear at that point of time, it was 12 weeks plus 1 month. So, 4 more weeks. So, it was say up to 16 weeks, 12+4. And now, this has grown up and we will see the provisions. At the same time, in the case of miscarriage, it is not only the maternity benefit that is applicable in the case of delivery but also there are 6 weeks' leave with pay from the date of miscarriage. So, 6 weeks' leave is permissible in case of miscarriage.

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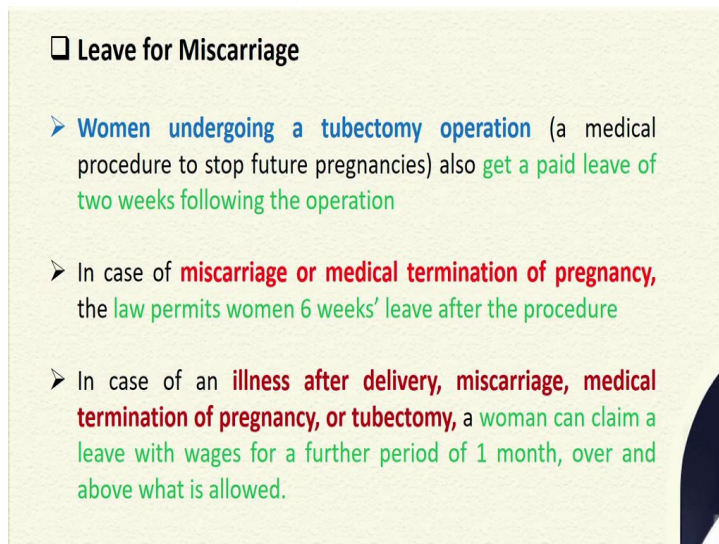
❑ **Other Benefits**

- Light work for 10 weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it
- Two nursing breaks in the course of her daily work until the child is 15 months old
- No discharge or dismissal while she is on maternity leave
- No change to her disadvantage in any of the conditions of her employment while on maternity leave
- Pregnant women discharged or dismissed may still claim maternity benefit from the employer
- **Exception:** Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit

And also you can see that light work, other benefits switching loads, light work for 10 weeks. So, 6 weeks plus one month before the date of expected delivery. So, an employee can ask for so we also earlier also we said that no hard work should be given to the pregnant woman 6 weeks before the date of her expected delivery. And once after the delivery, there are 2 nursing breaks in the course of her daily work, until the child reaches 15 months old. 2 times nursing breaks. And again, no discharge, or dismissal during the maternity leave.

And also, no disadvantages or no changes in working conditions are to be made to a mother who is taking maternity leave. And, again, the pregnant women discharged, or dismissed may still claim maternity benefits from the employer on what is all the reasons. The only exception is that if the woman is dismissed for gross misconduct, then only the maternity benefit can be forfeited. Otherwise, the maternity benefit cannot be forfeited at all.

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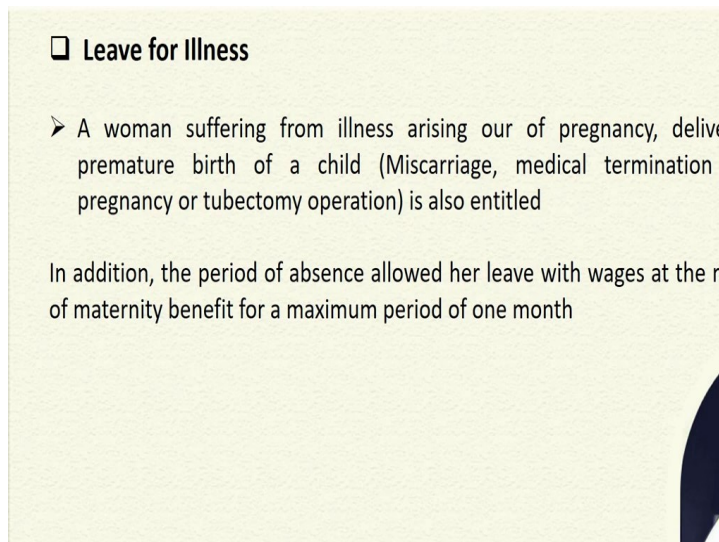


Leave for Miscarriage

- **Women undergoing a tubectomy operation** (a medical procedure to stop future pregnancies) also **get a paid leave of two weeks following the operation**
- In case of **miscarriage or medical termination of pregnancy**, the **law permits women 6 weeks' leave after the procedure**
- In case of an **illness after delivery, miscarriage, medical termination of pregnancy, or tubectomy**, a **woman can claim a leave with wages for a further period of 1 month, over and above what is allowed.**

And also in case of the women undergoing tubectomy operations also get paid leave for 2 weeks following the operation. So, in case of miscarriage, or medical termination of pregnancy, and also the Maternity Benefit Act permits 6 weeks' leave after that particular procedure. We already said that an extended period of 1 month's leave can be extended to 1 more month in case of illness after delivery, miscarriage, medical termination of pregnancy, or tubectomy operation once it is conducted. So, any illness relating to this 1 month's additional leave can be taken by the working woman.

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Leave for Illness

- A woman suffering from illness arising out of pregnancy, delivery, premature birth of a child (Miscarriage, medical termination of pregnancy or tubectomy operation) is also entitled

In addition, the period of absence allowed her leave with wages at the rate of maternity benefit for a maximum period of one month

❑ Prohibition of Dismissal

- Discharge or dismissal of a woman employed during or on account of such absence or to give notice or discharge or dismissal on such a day that the notice will expire during such absence or to vary her disadvantage
- Not barred in case of dismissal for gross misconduct

So again, so we said that leave of illness. So, which is relating to the pregnancy, or delivery of premature birth, miscarriages, or MTP, an additional absence, or leave with wages at the rate of the same maternity benefit for a maximum period of 1 month. So, in this case, it is also with regard to illness relating to pregnancy, miscarriage, or medical termination of pregnancy. So, here during prohibition, there is a complete prohibition of dismissal from the service during maternity leave. So, that means no notice can be served during the maternity, leave period and no such work can be taken at her disadvantage. And also the only exception, which is provided is dismissal for gross misconduct.

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❑ Other Benefits

- The law also allows employers to permit women employees to work from home in addition to the maternity benefit period if the nature of work allows that
- The law was further amended in 2017 to make it mandatory for establishments with more than 50 workers to establish creches
- Mothers are entitled to visit the creches up to four times a day and to two nursing breaks per day in addition to any other breaks that are available as a matter of course, until the child attains the age of 15 months

❑ Adoptive Child

- The Act of 1961, provides for **adoption leave of 12 weeks** for a woman **who adopts a child under the age of three months**.
- A **commissioning mother is also entitled to a 12-week leave** from the date the child is handed over to her.
- A **commissioning mother** is defined as **“biological mother who uses her egg to create an embryo implanted in any other woman”** (the woman who gives birth to the child is called host or surrogate mother).

So, we can see that the 2017 Amendment make it mandatory for all establishment with more than 50 workers to establish a creche. And creches to be established. So, the mothers are also entitled to visit this creche up to 4 times a day, and 2 nursing breaks per day in addition to any other breaks. So, the lunch break is separate. So, other than this, there can 4 times they can visit the child, and 2 nursing breaks to be given, and until the child attends 15 months of age. So, again, it is not only the mothers but also the adoptive mothers, adoptive mothers are also eligible to get 12 weeks' leave under the child reaches or for a woman who adopts a child under the age of 3 months.

So, this is not applicable to everybody, but only to women who adopt a child below 3 months' age. So, these 12 weeks' leave is applicable to a limited category of people who adopts children. So, those who adopt a child. At the same time, the commissioning mother is also entitled to 12 weeks' leave, from the date the child is handed over to her. So, the commissioning mother is clearly defined. So defined as a biological mother, who uses her act to create an embryo implanted in any other woman. So, with the advent of new reproductive technologies, and this is possible in that case, the commissioning mother is also eligible for 12-week leave, maternity leave.

So, you can see that the mother who delivers the child is the surrogate mother and the mother who is going to raise the child is the commissioning mother, or who donates the egg is the commissioning mother. So, the commissioning mother is eligible to get 12 weeks' leave in that case.

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❑ Civil Servants

- The Act further requires an employer to inform a woman worker of her rights under the Act at the time of her appointment.
- The information must be given in writing and in electronic form (email).
- Female civil servants are entitled to maternity leave for a period of 180 days for their first two live-born children

❑ Penalty

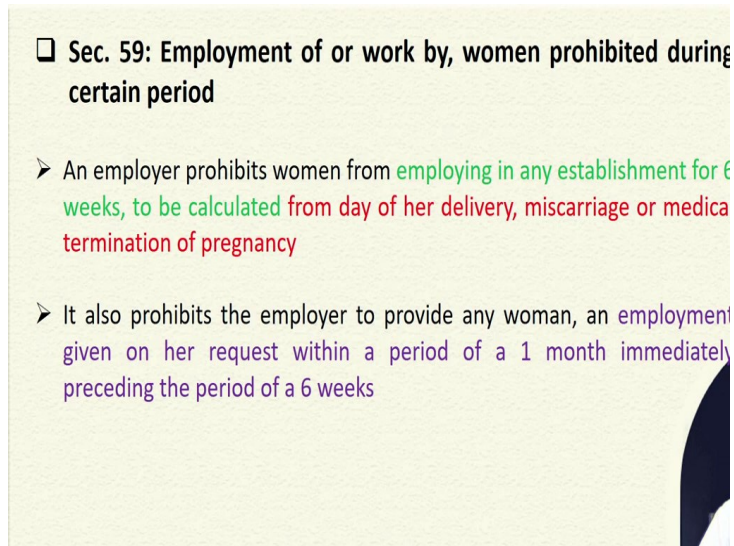
- Failure to display abstract of the Act
- Imprisonment may extend to one year or fine.

And civil servants have more restrictions. First of all, the Act requires the employer to inform the woman workers about their rights, and at the time of appointment itself, they have to inform the woman the worker about her rights with regard to the maternity benefit, and also the information should be given to the workers in different means, whether it is in writing, or electronic form, or through email. And female civil servants are entitled to the benefit or maternity leave for a period of 180 days, for their first 2 live-born children. So, what is happened to the third children, or fourth children? So, if it is there, so, the Central Government is not very keen to grant leaves in case of a third child or fourth child.

So, 2 children so it is mentioned 180 days leave and also there is a penalty. There is a penalty for displaying the abstract of the act. So, in a conspicuous place, it must be the employer has

to paste the benefits that the woman workers can see, or know about their rights, about the Maternity Benefit Act, or provisions of the Maternity Benefit Act. And even, so, it says the Act says that even if imprisonment extended to 1 year or a fine, 1 year of imprisonment or fine that is exactly the punishment which is prescribed or the penalty which is prescribed for not displaying the particular act or not complying with the Act.

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❑ **Sec. 59: Employment of or work by, women prohibited during certain period**

- An employer prohibits women from employing in any establishment for 6 weeks, to be calculated from day of her delivery, miscarriage or medical termination of pregnancy
- It also prohibits the employer to provide any woman, an employment given on her request within a period of a 1 month immediately preceding the period of a 6 weeks

So, quickly, we will see the provisions in the new code on social security. What are the maternity benefit provisions under the new code on social security? Almost we can see that most of the provisions are taken to this new code as well. So, the provision, who is eligible for maternity benefits, is very clearly written that persons who are in every establishment, so is every establishment those who are working for a minimum number of days are eligible to get maternity benefits.

And in an employer prohibits women from employing in any establishment for 6 weeks to be calculated from the day of delivery, miscarriage, or termination of pregnancy. So, no employer should work. Anybody, those who are undergoing childbirth. And it also prohibits new provisions prohibiting the employer to provide any woman employment given on her request within a period of 1 month, immediately preceding the period of 6 weeks. So, again, that is why we said very clearly said that it is neither the choice of the worker nor the choice of the employer. So, it is a statutory benefit. So, no employer should give employment, even though the worker asked for employment within a particular period of time.

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❑ Sec. 60: Right to payment of maternity benefit

- **Payment of maternity benefit** = @ of average daily wage for period of her actual absence from the period preceding the day of her delivery, if she has actually worked in an establishment of the employer from whom she claims maternity benefit
- Woman shall be **entitled to maternity benefit for a period of not less than 80 days in 12 months**, immediately preceding of her expected date of delivery, subject to **maximum 26 weeks of which not more than 8 weeks shall precede the expected date of delivery**
- **Maternity benefit shall also payable to the woman who adopts**

And the payment of maternity benefit is the average daily wages of the period for calculating her absence, the actual absence from the period preceding the day of her delivery. And it is, the woman shall be entitled to maternity benefits for a period not exceeding 80 days. So at least, the woman must work 80 days in a period of 12 months, preceding 12 months. And also, the maximum period of maternity benefit has been increased from 12 weeks to 26 weeks. And this 26 weeks, not more than 8 weeks shall be preceding the expected date of delivery. So now the 12 weeks has increased to 26 weeks of maternity benefit. And as we already said that the Maternity Benefit Act are applicable to woman who adopts a child below the age of 3 months as well. So, the same provisions can be imported to the new code as well.

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❑ **Sec. 62: Notice of claim for maternity benefit and payment thereof**

- It confers **responsibility on woman employed in any establishment to give notice in writing for claim maternity benefit**, if she is eligible according to this SS Code, 2020 as well as of its payment thereof.
- It further provides that if **any woman fails to comply with such provision**, then also **she is entitled to claim maternity benefit or any other amount under this Code 2020**.

When we look into the continuance of maternity benefits, so, provision (section 61) says that every woman is entitled to the payment of maternity benefits and continues to qualify to claim such payment. Nevertheless, such women are employed in a factory or any other establishment in which the provisions of ESI have been applicable. So, you can say that now it is the choice of the workmen whether to get benefits under the ESI or to get benefits under the maternity benefit. So, they can decide and they can avail only benefits under one route, either through the ESI route or through the Maternity Benefit Act, not both.

So, here the notice of claim should be given by every employee. So that means it is the responsibility of every woman worker employed in any establishment to give notice in writing for claiming maternity benefits. So, according to the new provisions, and also says that any woman fails to comply with such provisions. Then also, she is entitled to the claim of maternity benefit, or any other amount under 2020. So, a delay in giving notice is not a reason, this is not a reason for denying maternity benefits. So, maybe due to various reasons, there may be a delay in giving a particular notice to the employer about the delivery and claiming maternity benefits. So, that is not entitling or precluding the women worker from claiming maternity benefits.

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❑ **Sec. 63: Payment of maternity benefit in case of death of a woman**

- If any employee (woman) **claimed maternity benefit and died subsequently before receiving the amount of such benefit**, the employer shall pay such benefit or amount to the person, nominated by such woman in her notice given u/s. 62
- If **no such nominee provided by the deceased woman**, then the amount shall be payable to her legal representatives.

❑ **Sec. 64: Payment of Medical bonus**

- Every woman who is entitled to maternity benefit, is also **entitled to receive medical bonus of Rs. 3500/- or any other amount as notified by the Central government from her employer**
- Such medical bonus shall be applicable where **no – pre natal confinement and post – natal care is provided by the employer free of charge**

And also, if an employee or a woman employee is claiming maternity benefits, and died subsequently before receiving the particular amount in that case the employer is liable to pay the maternity benefits to the nominated person, or the legal heir. So, the amount shall be payable to the legal representatives. So, even though the woman dies, the legal heirs will be eligible to get the maternity benefit.

And also, you can see that we saw that in the earlier Act, the medical bonus is Rs.2500. Now, the medical bonus is increased to Rs.3500 in the new code, so, the employer is now liable to pay 3500 rupees as a medical bonus. And okay in this case this is applicable, and there is no pre-natal confinement and post-natal care is provided by the employer free of charge. So, for example, in the case of plantations, in the case of factories, big factories and

establishments, they have their own hospitals. So, in that case, the medical bonus is to be paid if they are not provided with those facilities, but if they provided the facilities, then they do not have to pay this 3,500 rupees medical bonus.

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❑ Sec. 65: Leave for miscarriage, etc

- If the woman suffers with miscarriage or medical termination of pregnancy or tubectomy operation or illness arising out of pregnancy or delivery or mature birth of child on production of such proof, shall also be entitled leave with wages at the rate of maternity benefit

❑ Sec. 68: Dismissal for absence during pregnancy

- This provision renders unlawful, *inter alia*, the dismissal of a woman who absents herself from work in accordance with the provisions of this Code, except where the dismissal is for any gross misconduct
- It further provides that any woman who is deprived of maternity benefit or medical bonus or both or discharged or dismissed, may prefer an appeal to the competent authority
- The decision of the competent authority on such appeal, shall be final

And miscarriage, the provisions for the treatment of miscarriage as well. And also, they are entitled to the maternity benefit according to the rules for miscarriage, which is transported to the new Act as well, and during pregnancy time. So, we said that no employee can be dismissed other than the employee who is undergoing, or conducting gross misconduct are found to be gross misconduct. Otherwise, there is no dismissal of the employee during pregnancy time, maternity benefit time, or bonus. So, in that case, employees can approach

the competent authority with an appeal. So, the decision of the competent authority will be final. And such administrative authorities and tribunals the State Governments have to notify.

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❑ **Sec. 72: Power of Inspector-cum-Facilitator to direct payments to be made**

- Any woman whose claim of maternity benefit or any other amount has been improperly withheld or her employer has discharged or dismissed her during or on account of her absence from work, can make a complaint to the Inspector-cum-Facilitator
- The Inspector-cum-Facilitator, on receipt of the complaint, make an inquiry and pass an order as he deems fit to the prevailing circumstances of the case.
- Being aggrieved with such order, the complainant (woman) can prefer an appeal to the appropriate authority, as prescribed by

And it is very important to note what are the powers of the inspector cum facilitator to direct payments. So, the inspector cum facilitator under the new code can direct the employer to pay the maternity benefit at such rates as prescribed by this particular Act. And if any such complaint is received by the inspector cum facilitator on maternity benefits, have to make such inquiry and pass such orders as deems fit to be providing circumstances of the particular case. And being aggrieved by any such order the complainant woman can prefer an appeal to the appropriate authority. So, any decision with regard to this maternity benefit of the employer, or the inspector cum facilitator can be appealed by the woman worker.

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CONCLUSIONS

- ❑ The provision of maternity benefit under the new Social Security Code 2020 has reduces multiple disparities and provide maternity protection to the woman employed in all establishment as well as engaged in unorganized sector

REFERENCES

- The Maternity Benefit Act, 1961
- The Code on Social Security, 2020

So, in short, in conclusion, I would say that the concept which is started in the 19th century. So definitely the implementation started in the 19th century or immediately after the First World War has spread to almost all the industries of India. And with the advent of the 1961 Act, it is extended to other areas, and the new code irrespective of the sectors is implemented uniformly in the country, and there are substantial provisions, or disparities are removed. And there are substantial provisions of eligibility, disbursement and other related provisions incorporated in the new code and which is going to benefit the lacs of women employees in the country. Thank You.