

LABOUR LAWS AND THEIR APPLICATION IN INDIA

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ABSTRACT

*This article examines the fundamental legal rights and protections provided to employees in India, focusing mainly on key legislative frameworks such as **the Companies Act 2013, the Employees Compensation Act 1923, the Payment of Gratuity Act 1972 (amended 2018), the Employees' Provident Funds and Miscellaneous Provisions Act 1952, the Maternity Benefit (Amendment) Act 2017, and the Rights of Persons with Disabilities Act 2016**. It analyses and examines the importance of employees understanding their rights in their workplace, including their right to fair wages, adequate breaks, a safe work environment including both physical safety measures as well as a work environment free of discrimination, and specific rights regarding gratuity, provident funds, maternity leave, and sensitivity towards and protections for people with disabilities. By outlining these legal provisions, this article attempts to promote employee awareness, ensure compliance with regulatory requirements and promote a dignified and equal workplace.*

Keywords: Fundamental legal rights, Legislative frameworks, Right to fair wages, Adequate breaks, Safe work environment, Work environment, Maternity leave, Protections for people with disabilities, Employee awareness, Dignified and equal workplace, The Companies Act 2013, The Employees Compensation Act 1923, The Payment of Gratuity Act 1972 (amended 2018), The Employees' Provident Funds and Miscellaneous Provisions Act 1952, The Maternity Benefit (Amendment) Act 2017, The Rights of Persons with Disabilities Act 2016

INTRODUCTION

The relationship between an employer and an employee is crucial and critical to the performance of the organisation in the world of business. Employers hire employees to complete specific duties and tasks that help the organisation achieve its objectives, whereas employees look for opportunities that match their professional goals. It is important to note that both these bodies require almost equal presence and aid from each other. However, this relationship is frequently riddled with difficulties, including questions of rights and duties.

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Understanding the need for labour law precedes protection, and protecting employee rights is critical to creating a fair and productive work environment. This article briefly encapsulates the important legislative frameworks that guarantee employee rights in India, emphasising the necessity of awareness and compliance.

THE COMPANIES ACT 2013

The **Companies Act of 2013**¹ defines several important things for employees to grasp, including fair compensation, proper breaks and holidays, and a safe, non-discriminatory workplace. **Article 16(2)** of the **Indian Constitution**² states that no citizen shall be discriminated against in government employment. This principle applies to private organisations, requiring fair treatment and equal opportunity for all employees. The Act highlights employers' responsibility to provide a courteous and inclusive workplace free of prejudice.

This act also provides employees with specific rights in provisions such as **Section 195**³, which **prohibits insider trading** based on **undisclosed price-sensitive information**. This prevents employees from being harmed by insider trading techniques and fosters a fair market environment.

Companies must comply with the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**⁴, even though it is not explicitly stated in the Companies Act. This includes establishing an **Internal Accusations Committee** to address and resolve sexual harassment accusations while providing a safe and courteous work environment.

Section 134⁵ requires directors to make a statement in the board's report expressing their responsibility for **ensuring compliance with all applicable laws**, including labour laws that protect employee rights.

¹ THE COMPANIES ACT, 2013

² Constitution of India 1950, Article 16

³ THE COMPANIES ACT 2013 section 195

⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

⁵ THE COMPANIES ACT 2013 section 134

The Companies Act supports good governance and indirectly protects and shields employees from unfair acts. Employees, for example, must be made aware of the company's financial health and practices through transparent financial reporting and disclosure standards.

The **Whistle-blower Protection Act (Section 177)**⁶ establishes a mechanism for directors and employees to disclose legitimate concerns. This system, often known as a *whistleblower policy*, protects employees who reveal unethical practices within the organisation.

And lastly, **Section 202**⁷ governs compensation for directors and managers in the case of termination, ensuring equitable compensation under specific situations.

EMPLOYEES COMPENSATION ACT 1923

The **Employees Compensation Act of 1923**⁸ establishes a comprehensive framework for compensating employees who incur injuries or fatalities. This Act applies to workers in factories, mines, construction sites, and other hazardous activities listed in **Schedule II**. The State Government may broaden the Act's coverage to include additional groups of workers in dangerous professions. However, the Act *excludes members of the Armed Forces and employees covered by the Employees' State Insurance Act of 1948*⁹. The Act requires that employees be compensated for work-related injuries, fostering workplace safety and accountability.

The provisions that support this are **(Section 4(1) (a))**¹⁰ which deals with Compensation for Death. In the event of an employee's death due to a workplace injury, the employer must pay compensation to the employee's dependents. The amount is determined by the employee's age and monthly wages.

Section 4(1) (b)¹¹ - If an employee is permanently disabled, their monthly salaries determine the compensation amount. **Section 4(1) (c)**¹² - Compensation depends on the proportion of loss of earning capability stipulated in the Act. **Section 4(2)**¹³ - Employees with temporary

⁶ THE COMPANIES ACT 2013 section 177

⁷ THE COMPANIES ACT 2013 section 202

⁸ THE EMPLOYEE'S COMPENSATION ACT, 1923

⁹ EMPLOYEES' STATE INSURANCE ACT, 1948

¹⁰ THE EMPLOYEE'S COMPENSATION ACT 1923 section 4(1)(a)

¹¹ THE EMPLOYEE'S COMPENSATION ACT 1923 section 4(1)(b)

¹² THE EMPLOYEE'S COMPENSATION ACT 1923 section 4(1)(c)

¹³ THE EMPLOYEE'S COMPENSATION ACT 1923 section 4(2)

disabilities receive a half-monthly payment based on their monthly salaries until they can return to work.

These provisions help employees with disabilities navigate their right to compensation in their workplace. The employer is also accountable for the employee's medical expenses due to the damage. It pays out cash compensation to employees or their families in case of an injury or death, ensuring financial security and stability during tough times. The Act assures employees a legal right to seek compensation, ensuring fairness and justice for harmed workers. Employer accountability involves ensuring safe working conditions and implementing preventive steps to reduce accidents and occupational diseases. The Act promotes workplace safety by putting financial liability on companies, encouraging them to adopt safer practices and standards.

PAYMENT OF GRATUITY ACT 1972 (AMENDED 2018)

The **Payment of Gratuity Act of 1972**¹⁴, as revised in 2018, requires companies to pay gratuities to employees who have worked continuously for at least five years. Gratuity is a financial benefit provided to employees upon retirement or separation from the organisation to help them with their post-employment needs. The Act covers superannuation, physical disability, and other reasons that require a person to leave the workforce. By requiring gratuity, the Act emphasises the employer's responsibility to ensure the financial security of long-term employees. The Act applies to (*Section 1*) factories, mines, oilfields, plantations, ports, railway companies, shops, and other establishments with ten or more employees.

Financial stability helps employees maintain themselves and their families after retirement or leaving their employment.

Recognising employees for their long-term service motivates them to stay with the organisation and contribute to its success. **Support in Adverse Conditions** provides financial assistance to family members in case of an employee's death, preventing financial hardship. It improves employee loyalty and retention by offering a real benefit for long-term service. **Legal and Financial Protection** ensures employees get their dues promptly and protects gratuity amounts from legal attachments. The **2018 amendment** increased the maximum gratuity level, ensuring employees receive a higher benefit based on economic conditions and cost of living.

¹⁴ Payment of Gratuity Act, 1972

Overall, the Payment of Gratuity Act of 1972, as amended, greatly improves employees' financial well-being and morale, fosters a pleasant employer-employee relationship, and promotes long-term service.

EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT 1952¹⁵

The Employees' Provident Funds and Miscellaneous Provisions Act of 1952 established a required contributory provident fund, pension, and insurance program for employees. These programs are administered by the Employees' Provident Fund Organization (EPFO), part of the Ministry of Labour and Employment. The Act applies to businesses that employ twenty or more people and cinema theatres with five or more employees. By requiring contributions from companies and employees, the Act offers financial security and help during retirement, illness, and other unforeseen circumstances. This structure provides employees with a reliable safety net, contributing to their well-being.

The Act requires creating a provident fund plan in which employees and employers contribute to the fund. The employee normally contributes 12% of basic earnings, dearness allowance, and keeping allowance, with the company matching that contribution. Employees' Pension Scheme (**Section 6A**)¹⁶: Established in 1995, this scheme offers pension benefits upon retirement, superannuation, or permanent disability. The employer contributes 8.33% to the pension program, with the government contributing an extra 1.16%. The Employees' Deposit-Linked Insurance Scheme (**Section 6C**)¹⁷ offers insurance coverage to employees through their provident fund accounts. If the employee dies, their nominees receive a lump sum payment. Employers contribute 0.5% of their basic salary, dearness allowance, and retention allowance to this system. **Section 6**¹⁸ requires employers and employees to make monthly contributions to the provident fund, pension plan, and insurance scheme. The rates and amounts are set in the Act and its related schemes.

Administration and Governance (**sections 5A¹⁹ and 5B²⁰**): The Act creates *the Central Board of Trustees, the Employees' Provident Fund*, and the *Employees' Provident Fund*

¹⁵ THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

¹⁶ THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT 1952 section 6A

¹⁷ THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT 1952 section 6C

¹⁸ THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT 1952 section 6

¹⁹ THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT 1952 section 5A

²⁰ THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT 1952 section 5B

Organization (EPFO) to administer and manage the provident fund, pension, and insurance systems.

The Inspection and Compliance Act (**Section 13**) enables inspectors to verify records, investigate establishments, and enforce contributions.

The Act establishes a process for resolving disputes regarding the Act's applicability and the amount payable from employers.

The Employees' Provident Funds and Miscellaneous Provisions Act of 1952 considerably improves employees' financial well-being and security, fostering a stable and motivated workforce and contributing to the nation's general economic health.

WORKPLACE SAFETY AND HARASSMENT PREVENTION

Providing workplace safety and combating harassment are key parts of employee rights. The ***Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013*** defines sexual harassment and provides redressal options. The Act requires the establishment of **Internal Complaints Committees (ICCs)** in businesses with ten or more employees and **Local Complaints Committees (LCCs)** at the district level.

Every company that employs ten or more people must set up an internal complaints committee in each branch or office. **Section 4** -The ICC shall consist of one external member from an organisation or group dedicated to the cause of women, two or more staff members with social work or law expertise, and a senior female employee serving as the presiding officer. **Section 6** -Local Complaints Committee (LCC) Constitution to handle complaints in businesses where the ICC is not created or if the complaint is against the employer, the government must establish a Local Complaints Committee at the district level.

These committees are empowered to handle complaints, conduct investigations, and make recommendations. The Act seeks to create a safe and dignified workplace by recognising the fundamental right to work without fear of harassment. All women are covered by the Act, regardless of age or employment situation, including those working part-time, full-time, or temporary jobs. It covers workplaces such as government agencies, for-profit and non-profit sectors, non-governmental organisations, and even locations staff members visit while on the job. It covers both organised and unorganised sectors. (**Sections 13 and 15**): Following the investigation, the committee may suggest sanctions against the respondent, such as a formal

apology, a warning, a reprimand, the denial of a promotion or salary increase, termination, or counselling. It may be suggested that the resentful lady receive compensation, depending on several criteria, including her pain, emotional anguish, medical costs, and lost job opportunities.

(Section 16): The Act requires that the complainant's name, that of the respondent, of the witnesses, and of the injured woman be kept private. **(Section 19):** Employers must inform employees about the Act, maintain a safe workplace, post notifications about the legal ramifications of sexual harassment, host workshops and training sessions, and support the filing of criminal charges by the *Indian Penal Code*.

MATERNITY BENEFIT (AMENDMENT) ACT 2017²¹

The Maternity Benefit (Amendment) Act of 2017 increases maternity leave from twelve to twenty-six weeks for mothers with up to two surviving children. Women with more than two children are eligible for twelve weeks of leave. The amendment seeks to provide maternal care for new-borns, acknowledging its relevance to the child's development. However, the Act's benefits do not apply to women in the informal sector, such as agricultural labourers, part-time workers, and home workers, who comprise a sizable component of the female workforce. This omission emphasises the necessity for more comprehensive legislative measures to protect the rights of all working women, regardless of their industry.

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Section 5²² The Act increases the length of a woman's paid maternity leave from 12 to 26 weeks. This benefit applies to the first two children; the leave period lasts 12 weeks after the third kid. Thanks to this prolonged vacation, mothers will have enough time to recuperate and tend to their new-borns. **Sections 5(4)²³ and 5(5)²⁴** deal with adoption and surrogacy leave.

From the day the kid is given to them, women who lawfully adopt a child under three months old and commissioning moms (those who use surrogates) are entitled to twelve weeks of paid maternity leave. To provide non-biological moms the time they need to bond with and take care of their new kid, this provision helps them. Encouraging physical and mental health, work-life harmony, promoting female involvement in the workforce, identifying various family structures, providing access to benefits and awareness, and promoting financial stability.

²¹ THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017

²² Maternity Benefit (Amendment) Act 2017 section 5

²³ Maternity Benefit (Amendment) Act 2017 section 5 (4)

²⁴ Maternity Benefit (Amendment) Act 2017 section 5 (5)

RIGHTS OF PERSONS WITH DISABILITIES ACT 2016

The Rights of Persons with Disabilities Act of 2016²⁵ seeks to safeguard and advance the rights of people with disabilities. It replaces the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act of 1995²⁶, broadening the definition of disability to encompass nineteen conditions such as autism spectrum disorder, limited vision, cerebral palsy, and multiple sclerosis. The Act requires non-discrimination in employment and equal opportunity for people with disabilities. It also aligns with the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)**, which India has signed. This agreement demonstrates India's commitment to building an inclusive society where people with disabilities can thrive.

The Act (**Section 3**)²⁷ stipulates that people with disabilities must have equal protection, equality, and non-discrimination under the law. It guarantees PWDs the right to live with dignity and forbids discrimination based on disability. Accessibility (**Sections 40–46**)²⁸ The Act mandates that all public spaces, places of employment, and information and communication networks be handicap accessible. Assuring physical accessibility, accessible transportation, and access to ICTs are all included in this.

Employers must ensure no discrimination against people with disabilities in any aspect of their jobs, including hiring, advancement, and working conditions. According to the Act (**Section 20**)²⁹, employers must make reasonable accommodations for workers with disabilities. Children with disabilities must receive an inclusive education under the Act. (**Section 16**)³⁰ It guarantees that until they are eighteen, they will have free education in a suitable setting. Additionally, it encourages the growth of vocational training facilities and special education programs. The Act strongly emphasises job possibilities and skill development for people with disabilities. It encourages the creation of self-employment programs and vocational training facilities for people with disabilities. (**Section 19**)³¹

²⁵ The Rights of Persons with Disabilities Act of 2016

²⁶ Persons with Disabilities Act of 1995

²⁷ Rights of Persons with Disabilities Act 2016 Section 3

²⁸ Rights of Persons with Disabilities Act 2016 Section (40-46)

²⁹ Rights of Persons with Disabilities Act 2016 Section 20

³⁰ Rights of Persons with Disabilities Act 2016 Section 16

³¹ Rights of Persons with Disabilities Act 2016 Section 19

Section 34³² of the Act mandates that jobs in government establishments be reserved for people with baseline disabilities at a rate of no less than 4%. This guarantees PWDs employment opportunity and representation in the public sector.

Social Security, Health, Rehabilitation, and Recreation (**Sections 24-31**)³³: The Act provides individuals with disabilities with access to social security, healthcare, rehabilitation programs, and recreational opportunities. It requires the relevant governments to take the required actions for their welfare and social protection.

Protection from Abuse and Violence: Under Act **Section 7**³⁴, people with disabilities are shielded from all types of abuse, violence, and exploitation. It requires that victims of such incidents get the support and legal assistance they need.

CONCLUSION

Understanding employee rights is critical for employers and employees to create a fair and effective work environment. The legislative frameworks outlined in this article offer critical safeguards and advantages, ensuring that employees are treated with dignity and respect. Employees can protect themselves from exploitation and discrimination by understanding their rights, while employers can assure compliance with legislative standards, encouraging a harmonious workplace. Awareness and implementation of these rights are critical for employees' general development and confidence, contributing to their professional growth and organisational success.

To summarise, with its dual potential as a saviour and a destroyer, the corporate world requires a thorough awareness of employee rights to negotiate its intricacies. The statutory measures in India, ranging from the Companies Act 2013 to the Rights of Persons with Disabilities Act 2016, provide a strong framework for preserving these rights. However, ongoing efforts are essential to close gaps and expand protections to all industries, ensuring that employees work in a safe, equitable, and supportive workplace.

³² Rights of Persons with Disabilities Act 2016 Section 34

³³ Rights of Persons with Disabilities Act 2016 Section (24-31)

³⁴ Rights of Persons with Disabilities Act 2016 Section 7