

INTRODUCTION

6.1 The social security schemes in India cover only a small segment of the organized work-force, which may be defined as workers who are having a direct regular employer–employee relationship within an organization. The social security legislation in India derives their strength and spirit from the Directive Principles of the State Policy as contained in the Constitution of India. These provide for mandatory social security benefits either solely at the cost of the employers or on the basis of joint contribution of the employers and the employees. While protective entitlements accrue to the employees, the responsibilities for compliance largely rest with the employers.

SOCIAL SECURITY LAWS

6.2 The principal social security laws enacted in India are the following:

- ◆ The Employees' State Insurance Act, 1948
- ◆ The Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (Separate provident fund legislations exist for workers employed in Coal mines and tea plantations in the state of Assam and for seamen).
- ◆ The Workmen's Compensation Act, 1923
- ◆ The Maternity Benefit Act, 1961
- ◆ The Payment of Gratuity Act, 1972

ADMINISTRATION OF SOCIAL SECURITY ACTS

6.3 The provisions of the Workmen's Compensation Act, 1923 are being administered exclusively by the State Governments. Cash benefits under the Employees' State Insurance Act, 1948 are administered by the Central Government through the Employees' State

Insurance Corporation (ESIC), whereas the State Governments and Union Territory Administrations are administering medical care under the Employees' State Insurance Act, 1948. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is administered by the Government of India through the Employees' Provident Fund Organisation (EPFO). In mines and circus industry, the provisions of the Maternity Benefit Act, 1961 are being administered by the Central Government through the Chief Labour Commissioner (Central) and by the State Governments in factories, plantations and other establishments. The Payment of Gratuity Act, 1972 is administered by the Central Government in establishments under its control, establishments having branches in more than one State, major ports, mines, oil-fields and railway companies and by the State Governments and Union Territory Administrations in all other cases. This Act applies to factories and other establishments.

WORKMEN'S COMPENSATION ACT, 1923

6.4 The main objective of the Act is to impose an obligation upon the employers to pay compensation to workers for accidents arising out of and in the course of employment.

6.5 The Act applies to any person who is employed otherwise than in a clerical capacity, in railway, factories, mines, plantations, vehicles propelled by steam or other mechanical power or by electricity or in connection with loading and unloading work, construction, maintenance and repairs of roads and bridges, electricity generation, cinemas, catching or trading of wild elephants, circus, and other hazardous occupations and other employments specified in

seasonal factories using power and employing 10 or more employees. The Act is being implemented area-wise, in a phased manner. The ESI Scheme is operated in 782 centres situated in 27 States/ Union Territories. As on 31.03.2008, 1.21 crores insured persons and about 4.68 crores beneficiaries are covered under the Scheme. The number of factories and establishments covered by the end of the year had gone up to about 3,52,508.

Administration

6.12 The ESI Scheme is administered by a statutory body called the Employees' State Insurance Corporation (ESIC), which has members representing Employers, Employees, Central and State Governments, Medical Profession and the Parliament. The Union Minister for Labour & Employment is the Chairman. A Standing Committee constituted from among the members of the Corporation acts as the executive body for administration of the Scheme and is chaired by the Secretary to the Government of India, Ministry of Labour & Employment. There are 24 Regional Boards and 328 Local Committees in existence at present and One Regional Board for Jharkhand State is being constituted. The Director General is the Chief Executive Officer of the Corporation and is also an ex-office member of the Corporation as well as its Standing Committee. The Hqrs. of the ESI Corporation is located at Delhi and has 51 field offices such as 23 Regional Office, 26 Sub-Regional and 2 Divisional Office throughout the country. Besides, there are 607 Branch Offices and 209 Pay Offices for administration of cash benefits to I.P. For inspection and coverage of new factories/Establishment, 346 Inspection Offices also set up across the Country.

Funding and operation of the Scheme

6.13 The Scheme is mainly financed by contributions from the employers and employees. The rates of the employers' and the employees' share of contribution are 4.75% and 1.75%

respectively. The State Governments' share of the expenditure on the provision of medical care is to the extent of 12.5% (1/8th within the per capita ceiling). The Corporation has prescribed a ceiling on the shareable expenditure on medical care. From 1st April, 2007, the ceiling on expenditure on construction of ESI Hospitals and other buildings including their maintenance is borne exclusively by the Corporation. All capital expenditure on construction of ESI Hospitals and other buildings including their maintenance is borne exclusively by the Corporation.

Investment

6.14 All contributions received under the ESI Act and all other moneys belonging to the fund which are not immediately required for defraying day to day expenses are invested in the manner prescribed statutorily. As on 31.03.09, the total investment of fund was Rs. 19,583.17 crore. Out of this, an amount of Rs. 7,105.25 crore was invested in the Special Deposit Account with Central Government and the balance amount of Rs. 12,477.92 crore was invested in fixed deposits with nationalized banks, financial institutions etc.

ARREARS OF ESI DUES

6.15 A sum of Rs. 1220.83 crores was in arrears as on 31.03.2008 on account of default by the employers of covered factories/ establishments. Out of this, an amount of Rs. 831.73 crores was not recoverable, for the present due to various reasons, such as factories having gone into liquidation recovery having been disputed in Courts etc. The balance, amounting to Rs. 389.10 crores, represents recoverable arrears. The Corporation has been taking necessary recovery action through Recovery Machinery, Legal and penal actions, under various provisions of the Employees' State Insurance Act, 1948 and under the Indian Penal Code is being taken. During the year 2007-2008, the Corporation realized Rs. 154.48 crores from the defaulters through its own recovery machinery. Further, an amount of Rs. 140.16 crores was recovered from April 2008 to March, 2009.

the same to the Fund. During the year 2007-08, arrears amounting to Rs.1,003.99 crore were realised.

Employees Deposit-Linked Insurance Scheme, 1976

6.20 Employees Deposit-Linked Insurance Scheme, 1976 is applicable to all factories/ establishments with effect from 1st August, 1976. All the employees, who are members of the Employees' Provident Fund, are required to become members of this Scheme. Employers are required to pay contributions to the Insurance Fund at the rate of 0.5 per cent of pay i.e basic wages, dearness allowance including cash value of food concession and retaining allowance, if any. During the year 2007-08, a sum of Rs. 308.44 crore comprising of employers' contribution was deposited. During the year 2007-08, 21,146 claims were settled and an amount of Rs. 48.33 crore was disbursed. At the end of 2007-08, the EPFO had cumulative investments of Rs. 6,278.22 crore under this Scheme.

EMPLOYEES' PENSION SCHEME, 1995

6.21 The Employees' Pension Scheme, 1995 has been introduced w.e.f. 16-11-1995. With the introduction of the Pension Scheme, the erstwhile Employees' Family Pension Scheme, 1971, has ceased to operate. However, the pensioners who were drawing benefits under the erstwhile Employees' Family Pension Scheme, 1971 will continue to draw Family Pension under the Employees' Pension Scheme, 1995.

Pension Criteria

6.22 Members on attaining the age of 58 years and having rendered minimum ten years' contributory service (including the membership period with ceased Employees' Family Pension Scheme, 1971) shall qualify for superannuation pension. Those members who serve less than ten years' service shall be eligible for scheme certificate or withdrawal benefit, as the case

may be.

Benefits under the Scheme

6.23 The Employees' Pension Scheme, 1995 provides the following benefits to the members and their families:

- ◆ **Monthly member pension**
- ◆ **Permanent total disablement pension**
- ◆ **Widow/widower pension**
- ◆ **Children pension**
- ◆ **Orphan pension**
- ◆ **Disabled children/orphan pension**
- ◆ **Nominee pension**
- ◆ **Pension to dependent father/mother**

6.24 The category-wise break up of pension claims (all benefits) settled by the Employees' Provident Fund Organisation during the year 2007-08 is indicated in the following Table:

Category of Claims	Number of Claims Settled
Monthly Pension Benefits	3,53,783
Life Assurance Benefit	17,41,466
Retirement-cum-withdrawal benefit	
Refunds	
TOTAL	20,95,249

Contribution to Pension Fund

6.25 The Scheme is financed by transferring 8.33% of the Provident Fund contributions from employers' share and by contribution @ 1.16% of basic wages of employees by the Central Government. All accumulations in the ceased Employees' Family Pension Fund constitute the corpus of the Pension Fund. During the year 2007-08, Rs.9,012.46 crore were received as Pension

Entitlement

6.31 Every employee, other than apprentice irrespective of his wages is entitled to receive gratuity after he has rendered continuous service for five years or more. Gratuity is payable at the time of termination of his service either (i) on superannuation or (ii) on retirement or resignation or (iii) on death or disablement due to accident or disease. Termination of services includes retrenchment. However, the condition of five years' continuous service is not necessary if services are terminated due to death or disablement. In case of death of the employee, the gratuity payable to him is to be paid to his nominee, and if no nomination has been made, then to his heirs.

Calculation of Benefits

6.32 For every completed year of service or part thereof in excess of six months, the employer pays gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn. As per section 4(3) of the Act, the amount of the gratuity payable to an employee shall not exceed Rs.3,50,000/-.

Administration

6.33 The Act is enforced both by the Central and State Governments. Section 3 authorizes the appropriate government to appoint any officer as a controlling authority for the administration of the Act. Mines, major ports, oilfields, railway companies and established owned or controlled by the Central Government and establishment having branches in more than one State are controlled by the Central Government. The remaining factories and/ establishments are looked after by the State Governments.

6.34 The Central/State Governments appoint the Controlling Authorities and Inspectors for different areas, to ensure that the provisions of the Act are complied with. The Central/State Governments also frame rules for administration

of the Act. In Maharashtra, the labour courts in different localities are notified as Controlling Authority for the administration of the Act.

6.35 In pursuance to a judgment of Hon'ble Supreme Court, the Payment of Gratuity (Amendment) Bill, 2008 to amend the definition of 'employee' under section 2 (e) of the act in order to cover the teachers in educational institutions retrospectively i.e. with effect from 3rd April, 1997, i.e. the date of notifying the educational institutions under the Act, is under process. Also, in order to enhance the ceiling on amount of gratuity from Rs.3.50 lakh to Rs.10 lakh, amendment in the Payment of Gratuity Act, 1972 is to be made for which Government has initiated the process.

6.36 In pursuance to a judgement of Hon'ble Supreme Court, a Bill has been prepared to extend benefit of the Act to teachers by amending definition of 'employee'.

PARTICIPATION IN INTERNATIONAL EVENTS ON SOCIAL SECURITY

6.36 The officers of the Ministry of Labour & Employment /Employees' State Insurance Corporation / Employees' Provident Fund Organisation participated in the following Seminars / Conferences / Discussions conducted by International Social Security Association (ISSA) and other international events on Social Security:-

- ♦ Shri S. K. Verma, Director, Ministry of Labour & Employment and Shri A. K. Singh, FA & CAO, Employees' Provident Fund Organisation participated in the 'Asian Pension Investment Summit-2008' at Hong Kong during 21-23 April, 2008.
- ♦ Shri S. K. Srivastava, Joint Secretary, Ministry of Labour & Employment and Shri A. Viswanathan, Central Provident Fund Commissioner participated in the discussions on Social Security Agreement with Czech Government during 12-16 May, 2008 in Prague.