



The Minimum Wages Act, 1948

Minimum Wages Act ?

- Act of Parliament concerning Indian Labour Law
- Sets the minimum wages that must be paid to skilled and unskilled labours
- 'Living wage'(good health, dignity, comfort, education and provide for any contingency)
- Fair wage(not just maintains a level of employment, but seeks to increase it keeping in perspective the industry's capacity to pay)
- November 1948, the Central Advisory Council appointed a Tripartite Committee of Fair Wage(came up with the concept of Minimum Wages)

A minimum wage is such a wage that it not only guarantees bare subsistence and preserves efficiency but also provides for education, medical requirements and some level of comfort.

Minimum Wage Common across India?

NO & WHY ?

- India introduced the Minimum Wages Act in 1948, giving both the Central government and State government jurisdiction in fixing wages
- Wage Boards are set up to review the industry's capacity to pay and fix minimum wages
- Under the law, wage rates in scheduled employments differ across states, sectors, skills, regions and occupations owing to difference in costs of living, regional industries' capacity to pay, consumption patterns, etc.

Evolution...

1920: Mr. K.G.R. Choudhary recommended setting up boards for determining minimum wages for each industry.

1928: ILC implemented system to fix wages for different trades. However, the practice was not put into legislation in India.

1943: Standing Labour Committee, a Labour Investigation Committee was appointed on the recommendation of Indian Labour Conference (ILC), 1943 to look into conditions of labour in terms of their wages, housing, social conditions, and employment.

1945: The first bill on minimum wages was drafted in ILC.

1946: A bill on minimum wages was introduced in Central Legislative assembly on the recommendations of 8th Standing Labour Committee

1947: Post-independence representatives of labour, employers, and government attended a government-organised conference.

1948: The Minimum Wages Act was eventually passed and was effective from 15 March.

Notable Enhancements

1957

15th Labour conference added some norms in the fixation of minimum wages

1987

Parliamentary sub-committee concluded that MW fail to ensure a livelihood. Recommended additional factors.

1988

Labour Minister's Conference recommend the necessity of an allowance that safeguards wages against inflation.

1991

(NCRL) recommended the government to introduce a national minimum wage floor level for uniformity.

1992

Hon'ble Supreme court's judgment MW should also account for Children's education, medical expenses, recreation in festivals/ceremonies and provision for old age and marriage.

1994

9th Centre of Indian Trade Unions conference along with insisting a minimum wage floor of Rs. 78.50, raised few demands

1996

Government fixed the national minimum wage floor at INR 35/day as per the recommendations of NCRL

Notable Enhancements

2007

The Indian National Trade Union Congress appeals for a "national decent minimum wage" for all industries that would be based on workers' needs

2009

The Central government de-linked MGNREA's wage rates from minimum wages through notification.

2012

The Labour Department decides to make revisions in minimum wage rates mandatory within 3 years

2015

From 1 July 2015 the National Floor Level of Minimum Wage was raised to Rs 160 per day

On 1 September 2015 labourers in unorganised sector extended their support to one-day nationwide general strike called by central trade unions (CTUs). Later than Shri Bandaru Dattatreya, the Minister of State for Labour and Employment, elaborated on the initiatives and continuing efforts of the Government to address the issues and concerns of the Trade Unions for the welfare of workers. If the norms are implemented then the minimum wage would be not less than Rs 273 per day which is currently Rs 160 per day

2015

APPLICABILITY OF THE ACT

- Applicable to Whole India
- Central Government Act of 1948 and Rules made there under will be applicable and the directions given in the Act should be followed.
- As per the Central Government Act, the State Governments have been empowered to add schedules or to give directions.

DEFINITIONS

- CHILD
 - Age less than 14
- ADOLESCENT
 - Age more than 14 less than 18
- ADULT
 - Age more than 18

DEFINITIONS

- EMPLOYEE

(1) Employed for Hire or Reward

(2) To do skilled or unskilled work

(3) Manual or Clerical

(4) Job Worker

(5) Any person declared by the appropriate Government as Employee but, does not include any member of armed forces

DEFINITIONS

- **EMPLOYER**

Who employs persons directly or indirectly through other person.

- **DEEMED EMPLOYER IN THE CASE OF GOVERNMENT AUTHORITY**

The person appointed by the Government to Supervise and Control the Employees.

In case no person was appointed then the Head of the Department will be the Deemed Employer

- **DEEMED EMPLOYER IN THE CASE OF LOCAL AUTHORITY**

The person appointed by the Local Authority to Supervise and Control the Employees.

In case no person was appointed then the Chief Executive Officer of the Local Authority will be the Deemed Employer

- **DEEMED EMPLOYER IN OTHER CASES**

Any person responsible to the owner for the supervision and control of the Employees or for the Payment of Wages

DEFINITIONS

■ SCHEDULED EMPLOYMENT

- Any employment specified in Part – I and Part – II of the Schedule provided in Minimum Wages Act.
- Part – I specifies certain types of Industries
- Part – II deals with persons working in Agriculture, Horticulture and Live Stock or Poultry.

PART – I

- Employment in any woollen carpet making or shawl weaving establishment.
- Employment in any rice mill, flour mill or dhal mill.
- Employment in any tobacco (including bidi making) manufactory.
- Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.
- Employment in any oil mill.
- Employment under any local authority.
- Employment on the construction or maintenance of roads or in building operations.
- Employment in stone breaking or stone crushing.
- Employment in any lac manufactory.
- Employment in any mica works.

PART – I

- Employment in public motor transport.
- Employment in tanneries and leather manufactory.
- Employment in gypsum mines
- Employment in barytes mines
- Employment in bauxite mines.
- Employment in Manganese mines.
- Employment in the maintenance of buildings and employment in the construction and maintenance of railways.
- Employment in China clay mines
- Employment in kyanite mines
- Employment in Copper mines

PART – I

- Employment in Clay Mines covered under the Mines Act, 1952.
- Employment in Mangnesite Mines covered under the Mines Act, 1952.
- Employment in white clay mines
- Employment in stone mines
- Employment in Steatite Mines (including the mines producing Soapstone and Talc).
- Employment in Ochre Mines.
- Employment in Asbestos Mines.
- Employment in Fire clay Mines.
- Employment in Chromite Mines.

PART – I

- Employment in Quartzite Mines.
- Employment in Quartz Mines.
- Employment in Silica Mines.
- Employment in Graphite Mines.

PART – II

- Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees, or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

DEFINITIONS

- **WAGES**

- Expressed or Implied Monetary Payment in terms of Contract of Employment and includes House Rent Allowance.

- **WAGES DO NOT INCLUDE**

- House Accommodation, Supply of necessities like Light, Water and Provision of Medical Attendance and Other Amenity or Service specifically excluded by the Appropriate Government.
- Contribution made to Pension Fund or Provident Fund or under any scheme of Social Insurance
- Travelling Allowance or the value of any Travelling Concession
- Special Allowances provided based on the nature of Employment
- Gratuity Payable

DEFINITIONS

■ APPROPRIATE GOVERNMENT

- The Central Government will be the appropriate Government in the case of scheduled employment provided by Central Government, Railway Administration, Oil-fields, Major Ports or any Corporation established by Central Government.
- The State Government will be the appropriate Government in relation to any other scheduled employment other than mentioned above.

■ COMPETENT AUTHORITY

- The Authority appointed by the appropriate Government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments.

FIXING OF MINIMUM RATE OF WAGES BY APPROPRIATE GOVERNMENT

- **MINIMUM TIME RATE**
 - The Minimum Wages paid for Time Work.

- **MINIMUM PIECE RATE**
 - The Minimum Wages paid for Piece Work.

- **GUARANTEED TIME RATE**
 - Those employed under the scheme of Piece Work but, Guaranteed Wages will be paid on the basis of Time.

- **OVERTIME RATE**
 - Time Rate of Piece Rate will apply where the Employee has worked overtime over and above his normal working hours.

FIXING OF MINIMUM RATE OF WAGES BY APPROPRIATE GOVERNMENT

- **MINIMUM RATE OF WAGES WILL BE FIXED FOR**
 - Employments provided in Schedule – I & II
 - Different Types of Employments provided in Schedule – I & II
 - Adults, Adolescents, Children and Apprentices.
 - Different Localities

- **WAGE PERIODS FIXED UNDER MINIMUM RATE OF WAGES**
 - By the Hour
 - By the Day
 - By the Month
 - By such other larger wage period as may be prescribed

FIXING OF MINIMUM RATE OF WAGES BY APPROPRIATE GOVERNMENT

■ FIXING OF MINIMUM WAGES

- The Minimum Wages has to be paid irrespective of the extent of Profit or Financial Condition of the Establishment.
- The Minimum Wages has to be paid irrespective of availability of workmen willing to work on lower wages
- The Committees appointed will recommend the Minimum Wages to be paid which is recommendatory. The final decision has to be made by the appropriate Government.
- In case the Employers have not adhered to Minimum Wages then, the Employee can move to Labour Courts before proceeding to High Courts
- Minimum Wages has been fixed for the bare subsistence of life and also to preserve the efficiency of the worker which will provide education, medical requirements and amenities of himself and his family.
- The appropriate Government is empowered to fix the Minimum Wages irrespective of the strength (even below one thousand employees)
- The Minimum Wages will be fixed based on the Nature of Work and Quantum of Work.

COMPONENTS OF MINIMUM WAGES

- Method 1 – Basic Rate of Wages + Special Allowance called as Cost of Living Allowance
- Method 2 – Basic Rate of Wages without any Cost of Living Allowance
- Method 3 – Consolidated Pay without splitting into Basis Rate of Wages, Cost of Living Allowance or Cash Value of Concession.
- Value of Supply of Essential Commodities
The Value will be computed by the Competent Authority Periodically as per the directions given by the Appropriate Government.

PROCEDURE FOR FIXING AND REVISING MINIMUM WAGES

- Committees and Sub-Committees appointed by the Appropriate Authority will hold enquiries, collect information and will submit the proposal for Revision of Minimum Wages to the Appropriate Authority.
- The Appropriate Authority after perusing the proposal will publish its decision by notification in the official gazette and the specific date from which the revised wages has to be paid. The specific date should not be less than two months from the date of notification.

DEFINITIONS

- **ADVISORY BOARD**

An Advisory Board will be appointed by the Appropriate Government for coordinating the work of Committees and Sub-Committees and also the Advisory Board will provide its valuable suggestions and recommendations to the Appropriate Government.

- **CENTRAL ADVISORY BOARD**

The Central Advisory Board Consisting of the persons nominated by the Central Government representing employers and employees in the scheduled employments who shall be equal in number. The Central Government will nominate independent persons not less than $1/3^{\text{rd}}$ of the total number of members. The independent person will be The Chairman of the Board.

- **COMMITTEES**

The Committees or Sub-Committees shall consist of the persons nominated by the Central Government representing employers and employees in the scheduled employments who shall be equal in number. The Central Government will nominate independent persons not less than $1/3^{\text{rd}}$ of the total number of members. The independent person will be The Chairman of the Committee.

PAYMENT OF WAGES

- Minimum Wages payable under this Act, shall be paid in Cash.
- Where it is customary that, Minimum Wages has to be paid partly in cash and partly in kind or wholly in kind, in those circumstances the Appropriate Government by issuing a notification in the official gazette will authorize for Payment of Wages in kind.
- The Appropriate Government will decide the value for the concessional, essential commodities provided to the employees by issuing a notification in the official gazette.
- The Minimum Wages has to be paid without any deductions other than Statutory Deductions.

NORMAL WORKING HOURS

- For an Adult Worker, Working in Factories the number of Working Hours should not exceed 48 Hours in a week.
- One Day should be given as a holiday as Weekly Holiday. The Day can be any day but it should be adhered for every week. The same should be displayed in the notice board of the Factory.
- The Daily Hours should not exceed more than 9 Hours with 1 Hour Rest Interval.
- Where a person has worked on a Holiday either a Compensatory Holiday may be provided or An Overtime Wages will be paid.

EXCEPTIONS TO NORMAL WORKING HOURS

- The Normal Working Hours need not be adhered in the following cases:
 - (1) Where the persons were employed to meet emergency or urgent work.
 - (2) Whose Employment is dependent on Natural Factors
 - (3) Employees those who have not completed their duty in time for technical reasons.
 - (4) Where the Nature of Duties has to be necessarily carried out beyond Normal Working Hours.

OVERTIME WAGES

- Where a person has worked more than the Normal Working Hours for any day, the excess hours worked will be treated as Overtime
- Where the Fixed Normal Working Hours for any day is in excess of 8 Hours we have to go by the method of weekly worked hours. If the person has worked for more than 48 hours in a week then, the excess hours worked will be treated as Overtime.

WAGES FOR A PERSON WHO HAS WORKED LESS THAN NORMAL WORKING HOURS

- Where an Employee worked on any day less than the Normal Working Hours due to the fact that, Employer could not provide the activities of the job then, the Employee is entitled to receive full salary.
- Where an Employee worked on any day less than the Normal Working Hours due to the fact that, Employee has not worked due to his unwillingness then, the employee is not entitled to receive full salary.

WAGES FOR TWO OR MORE CLASSES OF WORK

- Where an Employee does two types of works which has different Minimum Wages then, the Employer shall pay to such Employee based on working hours allocated to each type of job. Where working hours cannot be allocated on a minute basis a reasonable method can be adopted.

MINIMUM TIME RATE WAGES FOR PIECE WORK

- Where the Payment is Fixed on a piece-rate basis by the Employer and which does not find place in the Act for piece rate then, the Employer should pay him Wages at not less than the Minimum Time Rate.

RECORDS TO BE MAINTAINED

- Employer should maintain a Register of Employees containing the details such as the name, address, father's name, age, sex, the work performed, the wages paid to them.
- Every Employer should display the above particulars in the premises where the Employee works.
- The other Registers to be maintained are:
 - (1) Register of Fines.
 - (2) Register of Deductions for Damage / Loss caused to the employer, by the neglect / default of the employed persons.
 - (3) Overtime Register for Workers
 - (4) Muster-Roll

The Registers shall be preserved for a period of 3 years after the date of last entry made therein.

INSPECTION

- The Appropriate Government through notification in the official gazette appoint inspectors and also define the local limits for such inspectors.
- The inspectors have right to enter the premises of employers at all reasonable hours and have right to verify all the records as required to be maintained by law.
- The inspectors have right to examine any person they find in the premises.
- Inspectors have right to enquire about the work given to workers and have right to get information from the employers about the payment of wages, etc.,
- The Inspectors have right to cease or take copies of registers maintained by the Employer in case, the Inspectors feel that the Employee has committed any mistake.
- The Inspector shall be deemed to be a Public Servant.

CLAIMS

- The Appropriate Government by notification in the official gazette appoint any commissioner for workmen compensation or labour commissioner for any region or any officer of the State Government not below the rank of Labour Commissioner or Judicial Magistrate to be Authority to hear and decide for any specified area all claims arising out of payment of less than the Minimum rate of Wages to Employees employed in that area.

PROCEDURE FOR CLAIMS

- An Employee who has claim over the Employer through his legal practitioner or a official of a registered Trade Union or Employee himself may apply to the Authority for claims for getting a direction.
- The Appropriate Authority will hear the applicant and the Employer and after giving both the persons a reasonable opportunity to hear and after making such further inquiry will pass an order.
- In case the Appropriate Authority finds that the Employer is guilty then, the Appropriate Authority will direct the Employer for Payment of Compensation which may not exceed 10 times of the actual Compensation.

Cont..

PROCEDURE FOR CLAIMS

- In case the Appropriate Authority finds that the Employee is guilty then, no Compensation is payable.
- In case the Appropriate Authority finds that both Employer and Employee is not guilty then, Employee has to pay Rs.50/- to Employer.
- The direction given by the Appropriate Authority shall be final.
- The Compensation directed by the Appropriate Authority shall be recovered from the Employer as if the Authority is a Magistrate. The proceedings before the Authority will be treated on par with Civil Courts.

OFFENCE

- Any employer who had violated the provisions of the Act will be treated as he had made an offence and Rs.500 fine will be collected from the employer.
- The Appropriate Authority will pass orders for any claims made by Employee against Employer.
- No Court shall take any case directly.
- No Court shall take up a Case of Appeal against the order of the Appropriate Authority not more than 30 days from the date of order.
- In the case of a Company, the person incharge at the time of offence happened will be responsible to discharge the liability under this Act.
- In the case of a Partnership Firm, the Managing Partner at the time of Offence happened will be responsible to discharge the liability under this Act.

EXEMPTIONS AND EXCEPTIONS

- The Appropriate Government depending on the situation may direct that this Act shall not be applicable in relation to Wages payable to disabled Employees.
- The Appropriate Government for any special reasons by notification in the official gazette direct that the Act shall not be applicable to any specific locality or specified group of Employees.
- The Act will not be applicable to the Wages payable by an Employer to a member of his family who is living with him and dependent on him. Family includes his / her spouse, child, parent, brother or sister.

POWER TO MAKE RULES

- The Central Government may give directions to the State Government for the execution of this Act.
- The Central Government is empowered to make rules from time to time through notification in the official gazette.
- The Central Government is empowered to make rules prescribing the terms of office of the members, the procedure to be followed in conduct of business, the method of voting, the manner of filling of casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.
- The Appropriate Government is having the powers of the Central Government to make rules for the purposes as mentioned above.

Case Law 1

- Rohan was employed in a scheduled employment and is drawing a gross salary of Rs.13500 per month. The various components in the salary are Basic (Rs.7000), Dearness Allowance (Rs. 3000) and House Rent Allowance (Rs. 3000). The notified minimum rate of wage for the same scheduled employment is Rs. 12000 per month.
- Question
 - ❖ Can Rohan claim that he is not paid salary as per notified minimum wage as the sum of his basic salary and dearness allowance is Rs.10000?
 - ❖ The definition of wage in the Minimum Wage Act is inclusive house rent allowance as well. Hence to determine whether Rohan is paid as per minimum wage, the house rent allowance also need to be accounted for
 - ❖ Airfreight Ltd vs State of Karnataka and Others, Supreme Court, 1999

Case Law 2

- Ravi was a contract workman working for a contractor XYZ Ltd who had undertaken a contract work of housekeeping work for the establishment ABC Ltd. There was a revision in the minimum wage for the employment in which Ravi was engaged, but XYZ Ltd failed to revise the wage rate for Ravi as per the revision. In the meantime the contract work is completed and XYZ Ltd is moved out of the establishment of premises of ABC Ltd.
- The workmen of the contract labour espoused by the union filed an industrial dispute against ABC Ltd under Sn 33 C(2) of ID Act in the Labour Court claiming the payment of wages which they were entitled to. Labour Court ordered in favour of workmen as it's the liability of the Principal Employer to ensure the payment of wages to its contract workmen as per Contract Labour Act. ABC Ltd filed a writ in the High Court mentioning that Labour Court does not have the jurisdiction to entertain the dispute and there is no relationship between ABC Ltd and contract labours.
- Question??
 - ❖ Can the contract labour rely on Sn 33 C(2) of ID Act for recovery of wages and can Labour Court admit such cases related to payment of wages when there is an appellate body existing under Payment of Wages Act?
 - ❖ High Court upheld the decision of the Labour Court. Sn 33 C (2) is an alternate remedy for the workmen for claiming wages. Also it is the responsibility of the Principal Employer, ABC in the instant case, to ensure the payment of wages to its contract labour as per Contract Labour Act
 - ❖ HP State Forest Corporation Vs Kusal Singh and Others, 2007, Himachal Pradesh High Court

Case Law 3

- Lokesh is an employee of ABC Ltd and his salary is Rs. 12000 per month. The various components in his salary are Basic (Rs. 9500), Conveyance Allowance (Rs. 1000) and House Rent Allowance (Rs. 1500). The notified minimum rate of wages for the employment in which Lokesh is engaged is Rs. 12000 which is a combination of a basic allowance of Rs. 10500 and a variable dearness allowance of Rs. 1500.
- Lokesh, espoused by a registered trade union in ABC Ltd, filed an industrial dispute against ABC Ltd claiming that the employees are paid basic salary which is less than the notified basic salary and they are not paid the variable dearness allowance at all by the company.
- Questions???
- ❖ Is Lokesh's claim for wages as per the minimum wage notification sustainable ?
- ❖ Is it mandatory for the company to structure its salary in such a way that there should be basic salary and variable dearness allowance as specified by the notification?
- ❖ It is not necessary to meet the minimum wages by considering only basic salary and dearness allowance. Employers can meet the minimum wage on gross salary as the same is to be treated as a whole sum of money which is paid out for a specific wage period not exceeding one month. When the total amount is over and above the notified rate of minimum wage, it is well understood that the cost of living allowance or any such allowance to meet the inflation is already accommodated in the total sum and hence it is not required to pay the variable dearness allowance as a separate component.
- ❖ Govnd Bhawan Karyalaya Vs State of UP and Others, 2010, Allahabad High Court

Advisory Boards - Sn 7 & 8

- Appointed by appropriate government
- To co-ordinate the work of committees and sub committees
- Central Advisory Board to advise the Central and State Governments in fixation and revision of minimum rates of wages and to co-ordinate the work of the Advisory Boards
- Each of the committee, sub-committee and the Advisory Board shall consist of:
 - ❖ Persons to be nominated by the appropriate Government
 - ❖ Representing the employers and employees in the scheduled employments who shall be equal in number
 - ❖ Independent persons not exceeding one-third of its total number of members: one of such independent persons shall be appointed the Chairman by the appropriate Government

Payment of minimum rate of wages - Sn 12

- The Minimum Wages has to be paid **without any deductions** other than Statutory Deductions for the scheduled employments.
- Payment of **wages less than minimum wages** on the ground of less performance or output is **illegal**
- The financial capacity of the industry or the establishment is immaterial, it is the mandatory obligation of the employer to pay minimum wages
- Right to Minimum Wage is a Legal Right
- Deepak Photos Vs State of Kerala, Kerala High Court, 2000