

## **Lesson 25: Payment of Bonus Act, 1965**

### **1. Applicability**

- Every factory as defined under Factories Act, 1948.
- Establishment in which 20 or more persons are employed on any day during an accounting year.

### **2. Act not to apply to certain classes of Employees (Section 32)**

- Employees employed by any insurer carrying on general insurance business and the employees employed by the Life Insurance Corporation of India;
- Seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;
- Employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 and employed by registered or listed employers;
- Employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;
- Employees employed by:
  - The Indian Red Cross Society or any other institution of a like nature (including its branches);
  - Universities and other educational institutions;
  - Institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit.
- Employees employed by the Reserve Bank of India;
- Employees employed by-
  - Industrial Finance Corporation of India;
  - Any Financial Corporation established under section 3, or any Joint Financial Corporation established under section 3A, of the State Financial Corporations Act, 1951;
  - Deposit Insurance Corporation;
  - National Bank for Agriculture and Rural Development;
  - Unit Trust of India;
  - Industrial Development Bank of India;
  - Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989;
  - National Housing Bank;
  - Employees employed by inland water transport establishments operating on routes passing through any other country;

- Any other financial institution (other than a banking company) being an establishment in public sector which the Central Government may by notification in the Official Gazette, specify having regard to:
  - its capital structure;
  - its objectives and the nature of its activities;
  - the nature and extent of financial assistance or any concession given to it by the Government;
  - any other relevant factor.

### **3. Application of Act to establishment in certain cases (Section 20)**

If in any accounting year, an establishment in public sector sells any goods produced or manufactured by it or render any services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty percent of the gross income of the establishment in public sector for that year, then the provisions of this Act shall apply in relation to such establishment in public sector as they apply in relation to a establishment in private sector.

### **4. Entitlement to Bonus**

- Employees/workers who have worked for more than 30 days in a month and drawing salary/remuneration of Rs. 21,000/- per month.
- Salary or Wage means all remuneration (other than remuneration in respect of overtime work) capable of being expressed in terms of Money and Dearness Allowance (all cash payments by whatever name called paid to an employee on account of a rise in the cost of living).

### **5. Computation of Gross Profit under Section 4**

Gross profits derived by an employer from an establishment in respect of any accounting year shall-

- in the case of a banking company be calculated in the manner specified in the First Schedule;
- in any other case be calculated in the manner specified in the Second Schedule.

### **6. Eligibility for bonus and Disqualification for Bonus**

#### **Eligibility:**

Every employee shall be entitled to be paid by his employer in an accounting year, bonus in accordance with the provisions of this Act provided he has worked in the establishment for not less than thirty working days in that year.

#### **Disqualification for Bonus:**

An employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for—

- (a) fraud; or
- (b) riotous or violent behaviour while on the premises of the establishment; or
- (c) theft, misappropriation or sabotage of any property of the establishment.

### **7. Payment of Minimum Bonus (Section 10)**

Every Employer shall be bound to pay to every employee in respect of the accounting year a minimum bonus which shall be 8.33 per cent. of the salary of wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

However, where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employees as if for the words “one hundred rupees”, the words “sixty rupees” were substituted.

### **8. Payment of Maximum Bonus (Section 11)**

Where in respect of any accounting year, the allocable surplus exceeds the amount of minimum bonus payable to the employees, the employer shall in lieu of such minimum bonus be bound to pay to every employee in respect of that accounting year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty percent of such salary or wage.

**Note:** In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of Section 15 shall be taken into account in accordance with the provisions of that section.

### **9. Calculation of Bonus (Section 12)**

Where the salary or wage of an employee exceeds seven thousand rupees or the minimum wage for the scheduled employment as fixed by the appropriate government, whichever is higher, the bonus payable to such employee under Section 10 or as the case may be under Section 11 shall be calculated as if his salary or wage were seven thousand rupees or the minimum wage for the scheduled employment as fixed by the appropriate government, whichever is higher.

### **10. Calculation of Working Days and Proportionate Reduction in Bonus**

<b>Computation of number of working days</b>	An employee shall be deemed to have worked in an establishment in any accounting year also on the days on which: <ul style="list-style-type: none"><li>▪ he has been on leave with salary or wage;</li><li>▪ he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment;</li><li>▪ the employee has been on maternity leave with salary or wage during the accounting year;</li><li>▪ he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946 or under the Industrial Disputes Act, 1947 or under any other law applicable to the establishment;</li></ul>
<b>Proportionate</b>	Where an employee has not worked for all the working days in an accounting year, the minimum bonus of one hundred rupees or as the case may be of

<b>Reduction in Bonus</b>	sixty rupees, if such bonus is higher than 8.33% of his salary or wage for the days he has worked in that accounting year shall be proportionately reduced.
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### **11. Set On and Set off of Allocable Surplus (Section 15)**

- Where for any accounting year, the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under Section 11 then the excess shall subject to a limit of 20% of the total salary or wage of the employees employed in the establishment in that accounting year be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus.
- Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under Section 10 and there is no amount of sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus then such minimum amount or the deficiency as the case may be shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year.
- Where in any accounting year any amount has been carried forward and set on or set off under this section, then in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.

### **12. Special Provisions with respect to Bonus Linked with Production or Productivity (Section 31A)**

Where an agreement or a settlement has been entered into by the employees with their employer before the commencement of the Payment of Bonus (Amendment) Act, 1976 or where the employees enter into any agreement or settlement with their employer after such commencement for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits payable under this Act, then such employees shall be entitled to receive bonus due to them under such agreement or settlement, as the case may be.

However, any such agreement or settlement whereby the employees relinquish their right to receive the minimum bonus under Section 10 shall be null and void in so far as it purports to deprive them of such right.

However, such employees shall not be entitled to be paid such bonus in excess of twenty per cent. of the salary or wage earned by them during the relevant accounting year

### **13. Power to Exemption (Section 36)**

**14. Statutory Registers and Records**

- Form A-Showing the computation of the allocable surplus.
- Form B-Showing the set-on and set-off of the allocable surplus.
- Form C -Showing the amount of bonus due to each of the employees and the amount actually disbursed.
- Form D- Annual Return.

**15. Compliance List**

S. No.	Description of Forms	Authority Responsible for Submission
1	<b>Form A:</b> Register showing the computation of allocable surplus.	To be maintained by the employer.
2	<b>Form B:</b> Register showing the set on & set off of the allocable surplus.	To be maintained by the employer.
3	<b>Form C:</b> Register showing the details of amount of bonus due to each of the employees, the deductions under Section 17 & 18 and the amount actually disbursed	To be maintained by the employer.
4	<b>Form D:</b> Annual Return stating the amount of bonus paid to employees for the accounting year ending on 31st March.	Within 30 days after the expiry of time limit specified for payment of bonus by Inspector  <i>Note: Time limit for the said purpose is within a period of eight months from the close of accounting year.</i>

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