Paper III: Business and Industrial Law

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THE PAYMENT OF WAGES ACT, 1936
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Object and scope of the Act
The main objects of the payment of wages Act are:
  • To make sure, regular and timely payment of wages to the employees,
  • To check unlawful deductions being made from wages and illogical fines being imposed on the employed persons.

The scope of the Act extends to the whole of India.

Application of the Act
The act applies to the payment of wages to persons employed in any factory, to persons employed (otherwise than a factory) upon any railway by railway administration, or to persons employed in an industrial or other establishment specified under Section 2 of the Act.
The State Government may, after giving three months’ notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of this Act or any of them to the payment of wages to any class of persons employed in any establishment or class of establishments specified by the Central Government or a State Government under section 2(ii) (h) provided that in relation to any such establishment owned by the Central Government no such notification shall be issued except with the concurrence of that government.

The Act shall be applicable if the wages for the wage period to an employed person do not exceed Rs. 6000 or such higher sum which the central government may stipulate.

**Important Definitions**

**Section 2 : Employed person**

Employed person includes the legal representative of a deceased employed person.

**Section 2(i)**

**Employer**

Employer includes the legal representative of a deceased employer. The liability of the employer’s legal representative for the payment of wages due to the employed persons is limited to the extent of the value of the property inherited by him. Section 2(ia)

**Factory**

Factory means a factory as defined in section 2(m) of the Factories Act, 1948 and includes any place to which the provisions of that Act have been applied.

**Industrial and other establishments**

Industrial or other establishment means any—

(a) tramway service, or motor transport service engaged in carrying passengers or goods or both by road for hire or reward;
(b) air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;
(c) dock, wharf or jetty;
(d) inland vessel, mechanically propelled;
(e) mine, quarry or oil-field;
(f) plantation;
(g) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;
(h) establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation, or to the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on.
(i) any other establishment or class of establishments which the Central Government or a State Government may, having regard to the nature thereof, the need for
protection of persons employed therein and other relevant circumstances, specify, by notification in the Official Gazette.

Wages

Wages means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(a) any remuneration payable under any award or settlement between the parties or order of a court;
(b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
(c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
(d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
(e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force,

Wages does not include—

(1) any **bonus** (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
(2) the value of any **house-accommodation**, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
(3) any **contribution** paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
(4) any **travelling allowance** or the value of any travelling concession;
(5) any sum paid to the employed person to defray **special expenses** entailed on him by the nature of his employment; or
(6) any **gratuity** payable on the termination of employment in cases other than those specified in sub-clause (d).

Section 3 : Responsibility for payment of wages

Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act.

The following persons shall also be responsible for the payment of wages:

(a) in factories, if a person has been named as the manager of the factory of the Factories Act, 1948.
(b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments; and
(c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned.

Section 4 : Fixation of wage-periods
It is required under that:

(1) Every person responsible for the payment of wages under section 3 shall fix periods in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month. Payment of wages can be made on daily, weekly, fortnightly or monthly basis.

Section 5 : Time of payment of wages
Specifies that the wages of every person employed upon or in:

(a) any railway, factory or industrial or other establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,

(b) any other railway, factory or industrial or other establishment, shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable.

Provided that in the case of persons employed on a dock, wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be, shall be paid before the expiry of the seventh day from the day of such completion.

Section 5(2) where the employment of any person is terminated by or on behalf of the employer, the wages, earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated. Where the employment of any person in an establishment is terminated due to the closure of the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his employment is so terminated.

Section 5(3) The State Government may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) or to persons employed as daily-rated workers in the Public Works Department of the Central Government or the State Government from the operation of this section in respect of wages of any such persons or class of such persons. But in the case of persons employed as daily-rated workers as above stated, no such order shall be made except in consultation with the Central Government.

Section 5(4) All payments of wages shall be made on a working day.
Section 6: Wages to be paid in current coin or currency notes

All wages shall be paid in current coin or currency notes or in both.

The employer may, after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.

Section 7: Deductions which may be made from wages

The wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act. Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely:

(i) the withholding of increment or promotion (including the stoppage of increment at an efficiency bar);
(ii) the reduction to a lower post or time scale or to a lower stage in a time scale; or
(iii) suspension;

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf by the State Government by notification in the Official Gazette.

Section 7(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act and any other deduction is unauthorized. The Authorised deductions may be of the following kinds only, namely:

(a) fines;
(b) deductions for absence from duty;
(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
(d) deductions for house-accommodation supplied by the employer or by government or any housing board set up under any law for the time being in force (whether the government or the board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette.
(e) deductions for such amenities and services supplied by the employer as the State Government or any officer specified by it in this behalf may, by general or special order, authorise. The word “services” here does not include the supply of tools and raw materials required for the purposes of employment;
(f) deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;
(ff) deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the State Government, and the interest due in respect thereof;

(ff) deductions for recovery of loans granted for house-building or other purposes approved by the State Government and the interest due in respect thereof;

(g) deductions of income-tax payable by the employed person;

(h) deductions required to be made by order of a court or other authority competent to make such order;

(i) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income Tax Act, 1922, or any provident fund approved in this behalf by the State Government, during the continuance of such approval;

(j) deductions for payments to co-operative societies approved by the State Government or any officer specified by it in this behalf or to a scheme of insurance maintained by the Indian Post Office,

(k) deductions, made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation Act of India established under the Life Insurance Corporation Act, 1956, or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such government.

(kk) deductions, made with the written authorisation of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Union Act, 1926, for the welfare of the employed persons or the members of their families, or both, and approved by the State Government or any officer specified by it in this behalf, during the continuance of such approval;

(kkk) deductions, made with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under the Trade Union Act, 1926.

(l) deductions, for payment of insurance premia on Fidelity Guarantee Bonds;

(m) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;

(n) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration whether in respect of fares, freight, demurrage, wharfage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;
(o) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;

(p) deductions, made with the written authorisation of the employed person, for contribution to the Prime Minister’s National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette, specify;

(q) deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees.

The list of deductions given by section 7(2) is exhaustive. If an employer makes any deduction, the burden to prove that the deduction does fall under the several clauses of Section 7(2), lies upon the employer.

Section 7(3) Notwithstanding anything contained in this Act, the total amount of deductions which may be made under sub-section (2) in any wage-period from the wages of any employed person shall not exceed-

(i) in cases where such deductions are wholly or partly made for payments to co-operative societies under section 7(2)(j), seventy-five per cent of such wages, and

(ii) in any other case, fifty per cent of such wages.

Provided that where the total deductions authorised under sub-section (2) exceed seventy five per cent or, as the case may be, fifty per cent of the wages, the excess may be recovered in such manner as may be prescribed.

Section 7(4) Nothing contained in this section shall be construed as precluding the employer from recovering from the wages of the employed person or otherwise any amount payable by such person under any law for the time being in force other than the Indian Railways Act, 1890.

Section 8 : Fines

(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the State Government or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to three per cent of the wages payable to him in respect of that wage-period.
(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

When the persons employed upon or in any railway, factory or industrial or other establishment are part of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

Section 9 : Deductions for absence from duty

(1) Deductions may be made under section 7(2)(b) only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made in a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work. Provided that, subject to any rules made in this behalf by the State Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

Section 10 : Deductions for damage or loss

(1) A deduction under clause (c) or clause (o) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.
A deduction shall not be made under clause (c) or clause (m) or clause (n) or clause (o) of sub-section (2) of section 7 until the employed person has been given an opportunity of showing cause against the deduction or otherwise than in accordance with such procedure as may be prescribed for the making of such deduction.

All such deduction and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

Section 11: Deductions for services rendered

A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the house-accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of deduction under the said clause (e), shall be subject to such conditions as the State Government may impose.

Section 12: Deductions for recovery of advances

Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

(aa) recovery of an advance of money given after employment began shall be subject to such conditions as the State Government may impose;

(b) recovery of advances of wages not already earned shall be subject to any rules made by the State Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

Section 12-A: Deductions for recovery of loans

Deductions for recovery of loans granted under clause (fff) of sub-section (2) of section 7 shall be subject to any rules made by the State Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.

Section 13: Deductions for payments to co-operative societies and insurance schemes

Deductions under clause (j) [and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the State Government may impose.

Section 13-A: Maintenance of registers and records

(1) Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every register and record required to be maintained under this section shall, for the purposes of this Act, be preserved for a period of three years after the date of the last entry made therein.
Bonus is defined as something given in addition what is ordinarily received by or due to the recipient. The main object of the payment ofBonus Act is to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith.

**Application of the Act**

This Act may be called the Payment of Bonus Act, 1965. It extends to the whole of India. Save as otherwise provided in this Act, it shall apply to—

(a) every factory; and

(b) every other establishment in which twenty or more persons are employed on any day during an accounting year.

Provided that the appropriate Government may, after giving not less than two months’ notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act with effect from; such accounting year as may be specified in the notification, to any establishment or class of establishment including an establishment being a factory within the meaning of section 2(m)(ii) of the Factories Act, 1948 employing such number of persons less than twenty as may be specified in the notification; so, however, that the number of persons so specified shall in no case be less than ten.
Save as otherwise provided in this Act, the provisions of this Act shall, in relation to a factory or other establishment to which this Act applies, have effect in respect of the accounting year commencing on any day in the year 1964 and in respect of every subsequent accounting year.

Provided that in relation to the State of Jammu and Kashmir, the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year shall be construed as reference to the accounting year commencing on any day in the 1968 and every subsequent accounting year.

Provided further that when the provisions of this Act have been made applicable to any establishment or class of establishments by the issue of a notification under the proviso to sub-section (3), the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year or, as the case may be, the reference to the accounting year commencing on any day in the year 1968 and every subsequent accounting year, shall, in relation to such establishment or class of establishments, be construed as a reference to the accounting year specified in such notification and every subsequent accounting year.

An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of person employed therein falls below twenty or, as the case may be, the number specified in the notification issued under the proviso to sub-section (3).

Definitions

(1) **Accounting year** [(Section 2(1)]

Accounting year means

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced.

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;

(iii) in any other case —

(a) the year commencing on the 1st day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced.

Provided that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit.

(2) **Allocable surplus** [(Section 2(4)]

Allocable surplus means—
(a) in relation to an employer, being a company (other than a banking company) which has not made the arrangements prescribed under the Income-tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of section 194 of that Act, sixty-seven per cent of the available surplus in an accounting year;

(b) in any other case, sixty percent of such available surplus;

(3) **Appropriate Government** [(Section 2(5))]  
Appropriate Government means—

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situated.

(4) **Available surplus** [(Section 2(6))]  
Available Surplus means the available surplus computed under section 5.

(5) **Award** [(Section 2(7))]  
“Award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947 or by any other authority constituted under any corresponding law relating to investigation and settlement of industrial disputes in force in a State and includes an arbitration award made under section 10A of that Act or under that law.

(6) **Company** [(Section 2(9))]  
“Company” means any company as defined is section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act.

(7) **Corporation** [(Section 2(11))]  
“Corporation” means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society.

(8) **Employee** [(Section 2(13))]  
“Employee” means any person (other than an apprentice) employed on a salary or wage not exceeding [three thousand and five hundred rupees] per month in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.

(9) **Employer** [(Section 2(14))]  
“Employer includes—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of
the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent.

(10) Establishment in the Private Sector [(Section 2(15)]

“Establishment in private sector” means any establishment other than an establishment in public sector.

(11) Establishment in the public Sector [(Section 2(16)]

“Establishment in public sector” means an establishment owned, controlled or managed by—

(a) a Government company as defined in section 617 of the Companies Act, 1956;
(b) a corporation in which not less than forty per cent of its capital is held (whether singly or taken together) by—
   (i) the Government; or
   (ii) the Reserve Bank of India; or
   (iii) a corporation owned by the Government or the Reserve Bank of India.

(12) Salary or Wage [(Section 2(21)]

“Salary or Wage” means all remuneration (other than remuneration in respect of overtime work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), but does not include-

(i) any other allowance which the employee is for the time being entitled to;
(ii) the value of any house accommodation or supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;
(iii) any traveling concession;
(iv) any bonus (including incentive, production and attendance bonus);
(v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;
(vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any ex-gratia payment made to him;
(vii) any commission payable to the employee.

Where an employee is given in lieu of the whole or part of the salary or wage payable to him, free food allowance or free food by his employer, such food allowance or the value
of such food shall, for the purpose of this clause, be deemed to from part of the salary or wage of such employee.

(13) Establishments [(Section 3)]

Where an establishment consists of different department or undertakings or has branches, whether situated in the same place or in different places, all; such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Act.

Provided that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus, under this Act for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

Calculation of the Amount of Bonus

Section 4 : Computation of gross profits.

The gross profits derived by an employer from an establishment in respect of the accounting year shall—

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule;

(b) in any other case, be calculated in the manner specified in the Second Schedule.

Section 5 : Computation of available surplus.

The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6;

Provided that the available surplus in respect of the accounting year commencing on any day 1968 and in respect of every subsequent accounting year shall be the aggregate of—

(a) the gross profits for that accounting year after deducting therefrom the sums referred to in section 6; and

(b) an amount equal to the difference between—

(i) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for the immediately preceding accounting year; and

(ii) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Act for that year.
Section 6 : Sums deductible from gross profits.
The following sums shall be deducted from the gross profits as prior charges, namely:—

(a) any amount by way of depreciation admissible in accordance with the provisions of
sub-section (1) of section 32 of the Income-tax Act, or in accordance with the
provisions of the agricultural income-tax law, as the case may be.

Provided that where an employer has been paying bonus to his employees under a
settlement or an award or agreement made before the 29th May, 1965, and subsisting on
that date after deducting from the gross profits notional normal depreciation, then, the
amount of depreciation to be deducted under this clause shall, at the option of such employer
(such option to be exercised once and within one year from the date) continue to be such
notional normal depreciation;

(b) any amount by way of development rebate or investment allowance or development
allowance which the employer is entitled to deduct from his income under the income-
tax Act;

(c) subject to the provisions of section 7, any direct tax which the employer is liable to
pay for the accounting year in respect of his income, profits and gains during that
year;

(d) such further sums as are specified in respect of the employer in the Third Schedule.

Section 7 : Calculation of direct tax payable by the employer.
Any direct tax payable by the employer for any accounting year shall, subject to the
following provisions, be calculated at the rates applicable to the income of the employer for
that year, namely:—

(a) in calculating such tax no account shall be taken of —

(i) any loss incurred by the employer in respect of any previous accounting year
and carried forward under any law for the time being in force relating to direct
taxes;

(ii) any arrears of depreciation which the employer is entitled to add to the amount
of the allowance for depreciation for any following accounting year or years
under sub-section (2) of section 32 of the Income-tax Act;

(iii) any exemption conferred on the employer under section 84 of the Income-tax
Act or of any deduction to which he is entitled under sub-section (1) of section,101
of that Act, as in force immediately before the commencement of the Finance
Act, 1965;

(b) where the employer is a religious or a charitable institution to which the provisions
of section 32 do not apply and the whole or any part of its income is exempt from
tax under the Income-tax Act, then, with respect to the income so exempted, such
institution shall be treated as if it were a company in which the public are substantially
interested within the meaning of that Act;

(c) where the employer is individual or a Hindu Undivided Family, the tax payable by
such employer under the Income-tax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;

d) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income in allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate;

(e) no account shall be taken of any rebate other than development rebate or investment allowance or development allowance or credit or relief or deduction (not herein before mentioned in this section) in the payment of any direct tax allowed under any law for the time being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

Section 8: Eligibility for bonus.

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.

Section 9: 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.

Section 10: Payment of minimum bonus

Subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent of the salary or 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:

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

Section 11: Payment of maximum bonus.

(1) Where in respect of any accounting year referred to in section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year subject to a maximum of twenty per cent, of such salary or wage.
(2) 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.

Section 12 : Calculation of bonus with respect to certain employees.

Where the salary or wage of an employee exceeds [two thousand and five hundred rupees] per month, 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 [two thousand and five hundred rupees] per month.

Section 13 : Proportionate reduction in bonus in certain cases.

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 sixty rupees, if such bonus is higher than 8.33 per cent, of his salary or wage for the days he has worked in that accounting year, shall be proportionately reduced.

Section 14 : Computation of number of working days.

For the purposes of section 13, an employee shall be deemed to have worked in an establishment in any accounting year also on the days on which—

(a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment;

(b) he has been on leave with salary or wage;

(c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(d) the employee has been on maternity leave with salary or wage, during the accounting year.

Section 15 : Set on and set off of allocable surplus.

(1) 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 twenty per cent. 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 utilized for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

THE FOURTH SCHEDULE

(See section 15 and 16)

In the Schedule, the total amount of bonus equal to 8.33 per cent of the annual salary or wage payable to all the employees is assumed to be Rs. 1,04,167. Accordingly, the maximum bonus to which all the employees are entitled to the paid (twenty per cent of the annual salary or wage of all the employees) would be Rs. 2,50,000.
<table>
<thead>
<tr>
<th>Year</th>
<th>Amount equal to sixty per cent, or sixty seven per cent, as the case may be, or available surplus allocable as bonus</th>
<th>Amount payable as bonus</th>
<th>Set on or set off of the year carried forward</th>
<th>Total set on or set off Carried forward</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1,04,167</td>
<td>1,04,167**</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2.</td>
<td>6.35,000</td>
<td>2,50,000*</td>
<td>Set on 2,50,000*</td>
<td>2,50,000*</td>
</tr>
<tr>
<td>3.</td>
<td>2,20,000</td>
<td>2,50,000*</td>
<td>Nil</td>
<td>2,20,000*</td>
</tr>
<tr>
<td>4.</td>
<td>3,75,000</td>
<td>2,50,000*</td>
<td>Set on 1,25,000*</td>
<td>1,25,000*</td>
</tr>
<tr>
<td>5.</td>
<td>1,40,000</td>
<td>2,50,000*</td>
<td>Nil</td>
<td>1,10,000*</td>
</tr>
<tr>
<td>6.</td>
<td>3,10,000</td>
<td>2,50,000*</td>
<td>Set on 60,000</td>
<td>Nil+</td>
</tr>
<tr>
<td>7.</td>
<td>1,00,000</td>
<td>2,50,000*</td>
<td>Nil</td>
<td>35,000</td>
</tr>
<tr>
<td>8.</td>
<td>Nil (due to loss)</td>
<td>1,04,167**</td>
<td>Set off 69,167</td>
<td>69,167</td>
</tr>
<tr>
<td>9.</td>
<td>10,000</td>
<td>1,04,167**</td>
<td>Set off 94,167</td>
<td>94,167</td>
</tr>
<tr>
<td>10.</td>
<td>2,15,000</td>
<td>1,04,167**</td>
<td>Nil</td>
<td>Set off 52,501</td>
</tr>
</tbody>
</table>

Notes— * Maximum, + The balance of Rs. 1,10,000 set on from year-2 lapses, ** Minimum
(2) 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 utilized 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 in the manner illustrated in the Fourth Schedule.

(3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

(4) 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.

Section 17: Adjustment of customary or interim bonus against bonus payable under the Act.

Whether in any accounting year —

(a) an employer has paid any puja bonus or other customary bonus to an employee; or

(b) an employer has paid a part of the bonus payable under this Act to an employee before the date on which such bonus becomes payable.

then, the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Act in respect of that accounting year and the employee shall be entitled to receive only the balance.

Section 18: Deduction of certain amounts from bonus payable under the Act.

Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

Section 19: Time-limit for payment of bonus.

All amounts payable to an employee by way of bonus under this Act shall be paid in cash by his employer —

(a) where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute;

(b) in any other case, within a period of eight months from the close of the accounting year:

Provided that the appropriate Government or such authority as the appropriate Government may specify in this behalf may, upon an application made to it by the employer...
and for sufficient reasons, by order, extended the said period of eight months to such further period or periods as it thinks fit; so, however, that the total period so extended shall not in any case exceed two years.

Section 20 : Application of Act to establishments in public sector in certain cases.

If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both less than twenty per cent of the gross income of the establishment in public sector for that year, then, the provision of this Act shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.

Section 21 : Recovery of bonus due from an employer.

Where any money is due to an employee by way of bonus from his employer under a settlement or an award or agreement, the employee himself or any other person authorised by him in writing in this behalf, or in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government or such authority as the appropriate Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrears of land revenue.

Provided that every such application shall be made within one year from the date on which the money became due to the employee from the employer.

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

Explanation—In this section “employee” includes a person who is entitled to the payment of bonus under this Act but who is no longer in employment.

Section 32 : Act not to apply to certain classes of employees.

The Act shall not apply to —

(i) employees employed by any insurer carrying on general insurance business and the employees employed by the Life Insurance Corporation of India;

(ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;

(iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 and employed by registered or listed employers;

(iv) 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;

(v) employees employed by —

(a) the Indian Red Cross Society or any other institution of a like nature (including its branches);
(b) universities and other educational institutions;
(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;
(vi) employees employed through contractor on building operations;
(viii) employees employed by the Reserve Bank of India;
(ix) employees employed by —
   (a) the Industrial Finance Corporation of India;
   (b) any Financial Corporation established under section 3, or any Joint Financial Corporation established under section 3A, of the State Financial Corporations Act, 1951;
   (c) the Deposit Insurance Corporation;
   (d) the National Bank for Agriculture and Rural Development;
   (e) the Unit Trust of India;
   (f) the Industrial Development Bank of India;
   (g) the Small Industries Development Bank of India;
   (h) the National Housing Bank;
   (i) 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 —
      (i) its capital structure;
      (ii) its objectives and the nature of its activities;
      (iii) the nature and extent of financial assistance or any concession given to it by the Government; and
      (iv) any other relevant factor;
(xii) employees employed by inland water transport establishment operating on routes passing through any other country.
Gratuity is the lump sum payment to an employee made by an employer as the retrial reward for his past service when his employment is terminated. Gratuity compensates the affected employee and enables him to meet the situation of reduced earnings after retirement. It also provides the financial aid to the surviving members of the family of deceased employee. The Act provides for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.

Application of the Act

The Payment of Gratuity Act, 1972 extends to the whole of India. It shall, however, not extend to the state of Jammu and Kashmir in so far as it relates to plantations or ports.

According to Section 1(3) the Act shall apply to—

(a) every factory, mine, oilfield, plantation, port and railway company;
(b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
(c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.
A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.

Definitions

1. Appropriate Government

Appropriate Government means—

(i) in relation to an establishment-
   (a) belonging to, or under the control of, the Central Government,
   (b) having branches in more than one State,
   (c) of a factory belonging to, or under the control of, the Central Government;
   (d) of a major port, mine, oil field or railway company, the Central Government;
   (ii) in any other case, the State Government;

2. Employee

Employee means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.

3. Employer

Employer means, in relation to any establishment, factory, mine, oilfield, plantation, port, Railway Company or shop—

(i) belonging to, or under the control of, the Central Government or a State Government a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or Department concerned,
(ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,
(iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any person, whether called a manager, managing director or by any other name, such person.

4. Factory

Factory has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948.

5. Family

Family in relation to an employee, shall be deemed to consist of—
(i) in the case of a male employee, himself, his wife, his children, whether married or
unmarried, his dependent parents and the dependent parents of his wife and the
widow and children of his predeceased son, if any,

(ii) in the case of a female employee, herself, her husband, her children, whether married
or unmarried, her dependent parents and the dependent parents of her husband
and the widow and children of her predeceased son, if any.

Where the personal law of an employee permits the adoption by him of a child, any
child lawfully adopted by him shall be deemed to be included in his family, where a child of
an employee has been adopted by another person and such adoption is, under the personal
law of the person making such adoption, lawful, such child shall be deemed to be excluded
from the family of the employee;

6. Retirement

Retirement means termination of the service of an employee otherwise than on
superannuation.

7. Superannuation

Superannuation, in relation to an employee, means the attainment by the employee of
such age as is fixed in the contract or conditions of service as the age on the attainment of
which the employer shall vacate the employment.

8. Wages

Wages means all emoluments which are earned by an employee while on duty or on
leave in accordance with the terms and conditions of his employment and which are paid
or are payable to him in cash and includes dearness allowance but does not include any
bonus, commission, house rent allowance, overtime wages and any other allowance.

Section 2(b) : Completed year of Service — means Continuous services for one year.

Section 2A : Continuous service. — For the purposes of this Act,—

(1) an employee shall be said to be in continuous service for a period if he has, for that
period, been in uninterrupted service, including service which may be interrupted
on account of sickness, accident, leave, absence from duty without leave (not being
absence in respect of which an order treating the absence as break in service has
been passed in accordance with the standing orders, rules or regulations governing
the employees of the establishment), lay-off, strike or a lock-out or cessation of
work not due to any fault of the employee, whether such uninterrupted or interrupted
service was rendered before or after the commencement of this Act;

(2) where an employee (not being an employee employed in a seasonal establishment)
is not in continuous service within the meaning of clause (1), for any period of one
year or six months, he shall be deemed to be in continuous service under the
employer—

(a) for the said period of one year, if employee during the period of twelve calendar
months preceding the date with reference to which calculation is to be made,
has actually worked under the employer for not less than—
(i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) appropriate Government two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than-

(i) ninety-five days, in the case of an employees employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case.

For the purpose of clause (2) the number of days on which an employee has actually worked under an employer shall include the days on which:-

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 or under the Industrial Disputes Act, 1947 or under any other law applicable to the establishment;

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave dose not exceed twelve weeks.

(3) Where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of an year or six, months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. Of the number of days on which the establishment was in operation during such period.

Section 3 : Controlling authority.

The Appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different authorities may be appointed for different areas.

Section 4 : Payment of gratuity.

(1) Gratuity shall be payable to an employee on the termination of his employment of his employment after he has rendered continuous service for not than five years,-

(a) on his superannuation, or

(b) on his retirement of resignation, or

(c) on his death or disablement due to accident or disease:

The completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:
For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

The amount of Gratuity is payable to the employee himself. In the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.

(2) Every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days’ wages based on the rate of wages last drawn by the employee concerned.

In the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account. Further in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days’ wages for each season. In the case of a monthly rated employee, the fifteen days’ wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

(3) The amount of gratuity payable to an employee shall not exceed three lakhs and fifty thousand rupees.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

Section 4(6) : Forfeiture of Gratuity.

(a) The gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of damage or loss so caused;

(b) The gratuity payable to an employee may be wholly or partially forfeited—

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.
Section 4A: Compulsory Insurance.

Every employer, other than an employer or an establishment belonging to, or under the
control of, the Central Government or a State Government, shall obtain an insurance in the
manner prescribed, for his liability for payment towards the gratuity under this Act, from the
Life Insurance Corporation of India established under the Life Insurance Corporation of
India Act, 1956 or any other prescribed insurer.

Section 5: Power to exempt.

The appropriate Government may, by notification, and subject to such conditions as
may be specified in the notification, exempt any establishment, factory, mine, oilfield,
plantation, port, railway company or shop to which this Act applies from the operation of
the provisions of this Act if, in the opinion of the appropriate Government, the employees in
such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in
receipt of gratuity or pensionary benefits not less favorable than the benefits conferred
under this Act.

Section 6: Nomination.

(1) Each employee, who has completed one year of service, shall make, within such
time, in such form and in such manner, as may be prescribed, nomination for the
purpose of the second proviso to sub-section (1) of section 4.

Section 7: Duty to Pay Gratuity (Determination of the amount of gratuity)

(1) A person who is eligible for payment of gratuity under this Act or any person
authorised, in writing to act on his behalf shall send a written application to the
employer, within such time and in such form, as may be prescribed, for payment of
such gratuity.

(2) As soon as gratuity becomes payable, the employer shall, determine the amount of
gratuity and give notice in writing to the person to whom the gratuity is payable and
also to the controlling authority specifying the amount of gratuity so determined.

(3) The employer shall arrange to pay the amount of gratuity within thirty days from the
date it becomes payable to the person to whom the gratuity is payable.

(4) If the amount of gratuity payable is not paid by the employer within the period of 30
days, the employer shall pay, from the date on which the gratuity becomes payable
to the date on which it is paid, simple interest at such rate, not exceeding the rate
notified by the Central Government from time to time for repayment of long-term
deposits.

However no such interest shall be payable if the delay in the payment is due to the fault
of the employee and the employer has obtained permission in writing from the controlling
authority for the delayed payment on this ground.

(5) If there is any dispute to the amount of gratuity payable to an employee under this
Act or as to the admissibility of any claim of, or in relation to, an employee for
payment of gratuity, or as to the person entitled to receive the gratuity, the employer
shall deposit with the controlling authority such amount as he admits to be payable
by him as gratuity.
Where there is a dispute the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute. The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.

The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

As soon as may be after a deposit is made the controlling authority shall pay the amount of the deposit—

(i) to the applicant where he is the employee; or

(ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

Section 8 : Recovery of gratuity.

If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector who shall recover the same, together with compound interest thereon at such rate as the Central Government may, by notification, specify, from the date of expiry of the prescribed time as arrears of land revenue and pay the same to the person entitled thereto.

Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate.

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act.

Section 9 : Penalties.

(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

(2) An employer who contravenes, or make default in complying with, any of the provisions of this Act or any rule or order made thereunder shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both.
Section 13 : Protection of gratuity.

No gratuity payable under this Act to an employee shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

Section 14 : Act to override other enactments, etc.

The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.