

THE MATERNITY BENEFIT ACT, 1961

➤ General:-

Prior to 1961 there were in force several Central & State Maternity Benefit Acts in the Country. But there was no uniformity in their provisions. It was therefore, desirable to have Uniform Maternity Benefit Act for all women workers in the country.

➤ Object:-

To provide for maternity benefit to woman workers in certain establishments and to regulate the employment of woman workers in such establishments for certain period before & after child birth.

➤ Applicability:- The Act applies to

Every establishment being a factory, mine, plantation or circus.

Every shop in which 10 or more persons are employed

Any other establishment to which the Act is applied by the State Government.

However, the Act does not apply to any factory or other establishment where a provision of E.S.I. Act is applicable.

➤ Who can claim Maternity Benefit:-

Any pregnant working woman entitled to Maternity benefit unless she has actually worked in an Establishment for a period of not less than 80 days in the 12 months immediately preceding the date of her expected delivery.

For the purpose of calculating days on which a woman has actually worked in the establishment the days for which she is laid-off or was on holidays declared under any law to be holidays with wages during the period of above 12 months.

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➤ **Which class of employees are covered:-**

It is applicable to all classes of women whether she is permanent, temporary, casual, daily rated, monthly rated etc.

➤ **Time for proceeding on Maternity Leave:-**

The maximum period of Maternity Leave shall be paid for 12 weeks of which not more than 6 weeks shall precede the date of her expected date of delivery.

➤ **Time for payment of Maternity Leave:-**

Leave shall be paid in two installments (1) the amount of Maternity benefit for the period preceding the date of her expected delivery date shall be paid in advance on production of proof that the woman is pregnant. (2) Subsequent period of amount shall be paid within 48 hours of production of proof that the woman has been delivered of a child.

➤ **Basis of payment of Leave:-**

A woman is entitled to payment of Maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say amount is to be calculated considering three calendar months immediately preceding the date from which she absents herself on account of Maternity, or the minimum rate of wages fixed or revised under the Minimum Wages Act, 1948 or Rs.10 whichever is higher.

➤ **Medical Bonus:-**

A woman is entitled to get medical bonus of Rs.2500/- to Rs.3500/- in addition to her Maternity Benefit. However, if employer is providing medical care free of charge than it is not compulsory to pay Medical Bonus. The said Bonus shall be paid at the time of payment of second installment of Maternity Benefit.

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➤ Restriction on employment of pregnant woman:-

1. The employer is prohibited from knowingly employing a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.
2. A woman is also required to remain absent during those days i.e. 6 weeks immediately after the date of delivery or miscarriage.
3. A pregnant woman can also request the employer not to give her any work which is of an arduous nature or which involves long hour of standing etc. The period of 6 weeks before the date of expected date of delivery.
4. Employer cannot terminate pregnant woman on account of her absent on the ground of her Maternity Leave.

➤ Payment of Maternity Benefit in case of death of a woman:-

1. A woman dies before receiving the benefit; the employer shall pay such benefit to the person nominated by the woman. In case of no nominee than to her legal representative is entitled to receive the benefit.
2. IF woman dies before delivering any child than Maternity benefit is payable up to the date of death.
3. If woman dies during the period of delivery and leaving behind child than Maternity Benefit is payable for the entire period but if child also dies than Maternity Benefit is payable up to and including the date of death of the child.

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➤ **Forfeiture of Claim:-**

If a woman who is on authorized Maternity Leave from her employer & works in any other establishment during those periods of authorized absence she shall forfeit her claim to the Maternity Benefit for such period.

➤ **Additional Leave with wages for illness:-**

A woman suffering from illness arising out of Pregnancy delivery, premature birth of child or miscarriage shall be entitled in addition to the period of absence allowed to her under the provision of the Act, to leave with wages at the rate of Maternity Benefit for a period of maximum one month.

➤ **Miscarriage:-**

In case of miscarriage a woman shall be entitled to leave with wages at the rate of Maternity Benefit for a period of 6 weeks immediately following the day of her miscarriage.

➤ **Tubectomy Operation:-**

In case of Tubectomy operation, a woman is entitled to get Leave with wages for a period of two weeks immediately following the day of her operation subject to proof of operation as may be prescribed.

➤ **Punishment:-**

1. If any employer fails to pay Maternity Benefit or discharge or dismiss any woman during the period of Maternity Leave he shall be punishable with imprisonment which shall not be less than 3 months but which may be extended to one year and with fine which shall not less than Rs.2,000/- but may be extended to Rs.5,000/-.

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- 1.1. The court may, however for sufficient reason to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.
2. For contravenes of the provisions of the Act, then imprisonment which may be extended to one year or fine which may be extended to Rs.5000/- or both.

➤ **Records to be maintained:-**

1. Abstract of the provisions of Maternity Benefit Act may be displayed every part of the establishment in which women are employed.
2. To maintain Muster Roll in prescribed form.
3. To submit Annual Return in Form No.11 to the competent Authority by the 15th day of January each year.

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