

Labour Law- II

OBJECTIVES

In this course, students are to be acquainted with legal frame-work relating to social security and welfare. It is necessary to know the concept of social security, its importance and also Constitutional basis for the same. The importance of ensuring health, safety and welfare of the workmen and social assistance and social insurance schemes under various legislations are to be emphasised. The main theme underlying the programme is to critically examine provisions of the Employees Compensation Act, 1923, the Payment of Wages Act, 1936, the Factories Act, 1948, the Employees' State Insurance Act, 1948, the Minimum Wages Act, 1948, the Employees' Provident Fund (Family Pension Fund and Deposit Linked Insurance Fund) Act, 1952, the Maternity Benefit Act, 1961, the Unorganised Sector Workers' Social Security Act, 2008. These legislations are to be studied with a view to acquaint the students regarding various rights and benefits available to the workmen thereunder. Legislations are to be analysed by examining historical background, objectives underlying these legislations, judicial interpretations and effectiveness of these legislations in the changed economic policies.

UNIT-I

Concept and Importance of Social Security - Influence of I.L.O. - Constitutional Mandate. The Employees' Compensation Act, 1923 - Definitions - employee, employer, dependent, partial disablement, total disablement, etc. - Employer's liability for compensation - Conditions and Exceptions - Procedure for claiming compensation. Computation of Compensation. Commissioner- Jurisdiction, Powers, etc.

UNIT- II

The Employees' State Insurance Act, 1948 - Definitions - Employment injury, contribution, dependent, employee, principal employer, etc. - Employees' State Insurance Funds - contribution, Benefits available - Administrative Mechanism - E.S.I Corporation, Standing Committee, Medical Benefits Council - Composition, Powers, Duties - Adjudication of Disputes - E.S.I Courts. Comparative analysis of the E.S.I. Act, 1948 with the Employees' Compensation Act, 1923.

UNIT-III

The Employees' Provident Fund (Family Pension Fund and Deposit Linked Insurance Fund) Act, 1952 - Definitions - contribution, employee, employer, factory, fund, etc. - Provident Fund Scheme, Family Pension Scheme, Employees' Deposit Linked Insurance Scheme - Scope, Contributions - Benefits Available - Authorities under the Act - Powers.

The Maternity Benefit Act, 1961- Object and Scope of the Act, Definitions - appropriate government, employer, establishment, factory, maternity benefit, etc. - Benefits available under the Act - Inspectors.

Globalisation, privatisation and Open Economy - Effects of Globalisation on Industry and Labour - Constitutional Mandate of Welfare State and effectiveness of Social Security and Social welfare legislations in India under new economic policy- Emergence of laws relating SEZ, etc. Scope, object and implications of The Economic Special Zones Act, 2005.

Unit III - Wages, Bonus and Gratuity

Context - Necessity of regular and periodic payment of wages without unreasonable deductions. The Payment of Wages Act, 1936 - Definitions - employed person, factory, industrial and other establishment, wages, etc. - Deductions - Authorities - Inspectors and Payment of Wages Authority.

Context - a right to share in profits even after payment of wages according contract of employment? Is it breach of contract or an implied term of the contract? - concepts of bonus and right to share in profits - The payment of Bonus Act, 1965 - definitions - provisions relating to payment of bonus - judicial interpretations and constitutionality of the provision relating to Govt's power to exempt

Context - reward for long drawn loyal service -- employers' liability or good gesture? Historical developments. The Payment of Gratuity Act, 1972 - definitions - judicial restrictive interpretation of the definition of employee. - payment of gratuity - determination of the amount of gratuity - authorities.

Unit IV - Child Labour

Child labour - practice and reasons for child labour - competing views on necessity and feasibility of abolition of child labour - Human rights perspective and constitutional provisions for the protection of child - the Child Labour (Prohibition and Regulation) Act, 1986 - definitions - provisions relating to prohibition of child labour in certain establishments and processes - regulation of conditions of work - penalties - judicial interpretations. Amendments made through The Child Labour (Prohibition and Regulation) Amendment Act, 2016 and Criticisms.

Unit V - Provisions applicable to shops and establishments

Necessity of protection of unorganised labour in shops and establishments by regulating their working conditions - a bird's eye view of legislations on shops and establishments in different states and the necessity of common legislation - the Karnataka Shops and Commercial Establishments Act, 1961 - application of the Act, Hours of work, annual leave with wages - wages and compensation - employment of children and women - authorities and penalties.

New labour law Code's - Policy of Ease of doing business with India and Labour Implications - the idea behind Decent Work Agenda from ILO.

Books Prescribed:

- S.C. Srivastava - Industrial Relations and Labour Laws
- Dr. V.G. Goswami - Labour Industrial Laws
- S.N.Mishra - Labour and Industrial Laws.
- S.C.Srivastava, Treatise on Social Security.
- Bonded Labour System Abolition Act, 1976,
- Equal Remuneration Act, 1976
- Inter-State Migration of Workers Act, 1979.
- The Protection of Women Against Sexual Harassment Act, 2013
- The Karnataka Shops and Commercial Establishments Act, 1961
- The Child Labour (Prohibition and Regulation) Act, 1986
- The Payment of Gratuity Act, 1972
- The Payment of Bonus Act, 1965
- The Industrial Disputes Act, 1947
- The Payment of Wages Act, 1936
- The Karnataka Shops and Commercial Establishments Act, 1961
- The Unorganised Workers' Social Security Act, 2008
- The Economic Special Zones Act, 2005

Reference Books:

- O.P. Malhotra - Law of Industrial Disputes.
- G. Ramanujam - Indian Labour Movements.
- P.L. Malik - Industrial Law.
- Mamoria and Mamoria - Dynamics of Industrial Relations.
- First National Labour Commission Report, 1969.
- Second National Labour Commission Report, 2002.
- International Labour Conventions and Recommendations.