

Labour Law II

SHORT QUESTIONS

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2. Concept of Gratuity
3. Bonded Labour
4. Concept of Wages
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LONG QUESTIONS (Unique – No Repetition)

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2. Explain theories of wages.
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6. Define wages and explain permissible deductions.
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17. Explain determination, eligibility, and disqualification of gratuity under the Payment of Gratuity Act, 1972.

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20. Discuss welfare provisions under the Act.

Labour Welfare & Protection

21. Discuss legal provisions for protection of weaker sections of labour.
22. Explain protection of workers under labour laws.
23. Explain role of Fundamental Rights and DPSP in labour law.
24. Discuss key social security provisions under Indian labour laws.

Unorganized & Special Categories

25. Explain provisions relating to unorganized sector workers.
26. Explain salient features of the Unorganised Workers' Social Security Act, 2008.
27. Explain problems of the unorganized sector in India.
28. Explain social security measures for employment.

Contract & Migrant Labour

29. Explain contractualisation of labour.
30. Explain restrictions under the Contract Labour (Regulation and Abolition) Act, 1970.
31. Explain features of the Inter-State Migrant Workmen Act, 1979.

Special Labour Laws

32. Explain provisions of the Bonded Labour System (Abolition) Act, 1976 with case laws.
33. Explain maternity benefits under the Maternity Benefit Act, 1961.
34. Explain provisions relating to workplace sexual harassment under the 2013 Act.

Factory Definition

35. Define factory and explain provisions under the Factories Act, 1948.

Concept-Based

1. Doctrine of Added Peril

This means when a worker does something extra that is not part of their normal job and that extra action causes an accident or injury. Normally, an employer is responsible for injuries that happen during work. But if the worker takes a voluntary risk or does a foolish act beyond their duty, the employer may not be liable. Example: A driver who is told to only drive but instead tries to repair a moving machine and gets hurt – that is added peril.

2. Concept of Gratuity

Gratuity is a lump sum amount an employer gives to an employee as a thank you for long service. It is paid when the employee retires, resigns after 5+ years, or dies. The amount depends on last drawn salary and years worked. It is a type of social security. For example, if you work for 10 years, you get $10 \times (\text{last salary} \div 2)$.

Gratuity = $15 \times \text{Last Drawn Salary} \times \text{Years of Service} / 26$

It is governed by the **Payment of Gratuity Act, 1972**.

3. Bonded Labour

Bonded labour means a person is forced to work to pay off a debt, **but the debt never ends because the employer cheats (low wages, high interest). The worker cannot leave. It is a form of slavery and is illegal in India under the Bonded Labour System (Abolition) Act, 1976.** Example: A poor family takes a loan of ₹5,000, but then must work for years without proper pay to "repay" it.

4. Concept of Wages

Wages are the money an employer pays a worker in exchange for work. It includes basic pay, dearness allowance, and other regular payments. But it does not include bonus, overtime, or travel allowance. Different labour laws define wages slightly differently. For minimum wage purposes, wages mean total cash paid for work done. Simply put: wages = salary for your daily or monthly work.

5. Child Labour in India

Child labour means forcing children below 14 years to work in factories, mines, or hazardous jobs. It is banned by the Child Labour (Prohibition and Regulation) Act, 1986. Children can help family in farming or harmless work after school. But they cannot work in dangerous places. India also made stricter rules in 2016. The goal is to send every child to school, not to work.

6. Labour Remuneration

Remuneration is the full package an employee gets for work. It includes wages (basic pay), allowances (house rent, travel), bonuses, commissions, and also non-cash benefits like free food or housing. So wages are only cash, but remuneration is total earnings + benefits. Example: ₹20,000 salary + ₹5,000 bonus + free meals = remuneration of ₹25,000 plus meals.

7. Social Security

Social security means the government or employer protects workers when they cannot work – due to old age, sickness, accident, pregnancy, or job loss. It includes pensions, health insurance, maternity benefits, and death benefits. In India, laws like ESI, EPF, and Maternity Benefit Act provide social security. Example: A worker gets free treatment in ESI hospital if injured on job.

8. Labour Welfare

Labour welfare means facilities provided to workers to make their life better – both inside and outside the workplace. Examples: canteens, rest rooms, crèches for children, housing, medical checkups, sports, education for kids. It is not just wages; it is about quality of life. The Factories Act and state laws require many welfare facilities. Happy workers work better.

9. Contract Labour

Contract labour means workers hired through a contractor, not directly by the main employer. The contractor is legally responsible for paying them. The main company only uses their services. Example: A factory needs cleaning – they hire a cleaning contractor

who brings 10 workers. Those workers are contract labour. In India, the Contract Labour (Regulation and Abolition) Act, 1970 regulates them.

10. Types / Kinds of Wages

Wages can be of many types:

- Minimum wage – lowest legal wage.
- Fair wage – between minimum and living wage, based on industry capacity.
- Living wage – enough for a decent life (food, house, education, health).
- Time wage – paid by hour/day.
- Piece wage – paid per item made.
- Nominal wage – money received.
- Real wage – what that money can actually buy (purchasing power).

11. Equal Pay for Equal Work

This means if two people do the same work, they should get the same salary, regardless of gender. The Equal Remuneration Act, 1976 says no discrimination between men and women in pay or recruitment. Example: A male clerk and a female clerk doing same typing work must get same monthly pay. It is a fundamental right under Article 39(d) of the Constitution.

12. Concept of Bonus

Bonus is extra money given to workers when the company makes profit. It is not a gift – it is a legal right under the Payment of Bonus Act, 1965. All employees earning up to ₹21,000 per month get a minimum bonus of 8.33% of salary (even if company has loss). Maximum bonus is 20%. Example: If you earn ₹10,000/month, you must get at least ₹833 as bonus every year.

13. Overtime

Overtime means working extra hours beyond normal working hours (e.g., 8 hours per day). The employer must pay double the normal wage rate for overtime. Under the

Factories Act, a worker cannot work more than 48 hours per week. If asked to work more, each extra hour is paid at twice the ordinary rate. Example: Normal wage ₹100/hour → overtime wage ₹200/hour.

14. Kinds of Disability

Disability means loss of ability to work due to injury. Under labour laws (ESI and Workmen's Compensation), there are two kinds:

- Temporary disability – worker cannot work for some time but will recover.
- Permanent disability – loss never recovers. Permanent is further divided into:
 - *Total* (cannot do any work – e.g., lost both eyes)
 - *Partial* (lost one finger – can still do some work).Compensation amount depends on kind of disability.

15. Arising out of Employment

This phrase is used in work injury compensation. For an injury to be covered, it must have "arisen out of employment" – meaning the injury happened because of the work or work conditions. Example: A factory worker slips on a wet floor and breaks leg – yes, arises out of employment. But if a worker gets hurt while fighting with a co-worker over personal issue – no, it does not arise out of employment. It must be connected to work.

Acts / Schemes / Institutions

16. Employees' Provident Fund Scheme

This is a savings scheme for salaried employees. Both employee and employer contribute 12% of employee's basic salary + dearness allowance. The money is deposited in EPF account. When the employee retires or resigns, they get the total amount with interest. It helps workers save for old age. It is managed by EPFO (Employees' Provident Fund Organisation) under the EPF Act, 1952.

17. Employees' Pension Scheme, 1995

This scheme gives a monthly pension after retirement. Out of the employer's 12% EPF contribution, 8.33% goes to this pension scheme (for employees earning up to ₹15,000/month). When the employee completes 10+ years of service, they get pension every month after age 58. Family also gets pension after death. It is part of EPFO. Example: A worker retires after 20 years – gets fixed monthly pension.

18. Employees' State Insurance (ESI) Benefits

ESI provides medical and cash benefits to workers earning up to ₹21,000/month. Benefits include:

- Free medical treatment for self and family.
 - Sickness benefit (paid leave when ill – 70% of wage).
 - Maternity benefit (full wage for 26 weeks).
 - Disability benefit for work injury.
 - Dependent benefit (if worker dies, family gets monthly payment).
- Employer contributes 3.25%, employee 0.75% of wages.

19. ESI Court

ESI Court is a special court (also called Employees' Insurance Court) that hears disputes under the ESI Act. If a worker or employer disagrees with ESI Corporation's decision – like claim rejected, contribution dispute – they can appeal to this court. It is like a judge who decides labour insurance cases. Its decision can be challenged only in High Court.

20. International Labour Organization (ILO)

ILO is a UN agency founded in 1919. It makes international labour standards – conventions and recommendations – to protect workers worldwide. Its main goals: no child labour, no forced labour, freedom to form unions, equal pay. India is a founding member. ILO helps countries improve labour laws. Example: ILO Convention 182 bans worst forms of child labour.

21. Equal Remuneration Act, 1976

This Indian law gives effect to "equal pay for equal work" for men and women. It prohibits discrimination in wage payment. It also says no discrimination in recruitment of women (except where women cannot do the job due to safety). Employers must maintain registers of wages. If violated, employer can be fined or imprisoned. It applies to all industries.

22. Maternity Benefit Act, 1961

This law protects pregnant women workers. It gives:

- 26 weeks of paid maternity leave (8 weeks before, 18 weeks after delivery).
 - For 2+ children, 12 weeks.
 - Medical bonus of ₹3,500.
 - Crèche facility if 50+ workers.
 - No dismissal during pregnancy.
- The employer must pay full wages during leave. It applies to all establishments with 10+ workers.

23. Special Economic Zones (SEZs)

SEZs are areas where companies get special benefits – tax breaks, easy rules – to promote exports. Labour laws are more flexible in SEZs (e.g., easier to hire/fire). But basic protections like minimum wage, ESI, EPF still apply. Some critics say SEZs reduce worker rights. Example: A factory in an SEZ may allow 12-hour shifts with overtime, while outside SEZ only 8 hours.

Issues / Problems

24. Problems of Construction Workers

Construction workers face many issues:

- No job security – daily wage, temporary.
- No safety – falls, electric shocks common.
- No housing – live on site in unsafe shanties.

- No health benefits – injuries common but no ESI.
- Child labour often seen.
- No paid leave or pension.
- Migrant workers – no ID, no bank account, cheated by contractors.
The Building and Other Construction Workers Act exists but is poorly implemented.

25. Problems of Bonded Labour

Bonded labourers suffer:

- Forced to work for generations to repay small debts.
- No freedom – beaten, locked up.
- Wages are less than debt interest, so debt never ends.
- Mostly in brick kilns, stone quarries, agriculture, silk industry.
- They are poor and illiterate – cannot complain.
- Police often ignore or side with employer.
Even after law banning it, bonded labour still exists due to poverty and corruption.

26. Problems of Unorganized Sector Workers

Unorganized sector includes street vendors, domestic helpers, rickshaw pullers, farm labour – about 90% of Indian workers. Their problems:

- No written contract – can be fired anytime.
- No minimum wage – paid very little.
- No ESI, EPF, bonus, gratuity, maternity leave.
- No safety rules.
- No union power.
- No old age pension.
- Often exploited by middlemen.
The Unorganized Workers Social Security Act, 2008 exists but benefits reach very few.

Theoretical Topics

27. Theories of Wages

Theories try to explain how wages are decided:

- Subsistence Theory – wages are just enough for worker to survive (like food and shelter).
 - Wage Fund Theory – a fixed fund exists for wages; if more workers, each gets less.
 - Surplus Value Theory (Marx) – workers produce more value than they are paid; the extra is stolen by capitalists.
 - Marginal Productivity Theory – wage equals the extra value the last worker adds.
 - Bargaining Theory – wages are decided by strength of union vs employer.
- These are just ideas – real wages depend on many factors.

28. Theories of Minimum Wages

Minimum wage theories justify why the government should set a wage floor:

- Subsistence theory – minimum wage must cover basic needs (food, clothes, house).
 - Fair wage theory – it should be between minimum and living wage.
 - Bargaining theory – weak workers need legal protection because they cannot bargain.
 - Poverty alleviation theory – minimum wage lifts workers out of poverty.
 - Efficiency theory – higher wage makes workers healthy and productive.
- India uses Committee on Fair Wages (1949) approach: minimum wage = need-based, plus children's education, etc.

Case Law

29. Air India Statutory Corporation v. United Labour Union (1997)

Facts: Contract workers in Air India claimed they should be treated as regular employees because they did the same work as permanent staff.

Supreme Court held: Contract labour doing perennial (regular) work of the same nature as permanent workers must be absorbed as regular employees. The principal employer cannot use a contractor to avoid giving benefits like EPF, ESI, gratuity.

Simple meaning: If a company needs workers for a permanent job, they cannot keep them as "contract labour" forever just to save money. Those workers have the right to become direct employees. This case strengthened protection for contract workers.

(Later overruled in some parts but still important)

Question 1: Define wages and explain various kinds/types of wages.

Definition of Wages (Simple Meaning)

Wages means the money an employer pays to a worker in exchange for work done. It includes basic pay, allowances, and sometimes benefits in kind (like food or housing).

Legal definition (as per Indian laws):

Wages includes all remuneration (salary, allowances, etc.) paid to a worker but usually excludes bonus, pension, PF, and travel reimbursement.

Various Kinds / Types of Wages

Type of Wage	Simple Meaning	Example
1. Time Wages	Paid based on time worked (hour, day, week, month)	₹500 per day or ₹15,000 per month
2. Piece Wages	Paid based on number of units produced	₹20 per garment stitched

3. Minimum Wages	Lowest legal wage fixed by government to prevent exploitation	₹350 per day for unskilled labor
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4. Fair Wages	Above minimum wage; based on industry capacity and skill	₹500 per day for skilled worker
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5. Living Wage	Enough to cover food, housing, health, education, and savings	₹1,000 per day (rarely enforced)
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6. Nominal Wages	Money received without adjusting for inflation	₹20,000 per month
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7. Real Wages	Purchasing power of money (what you can actually buy)	₹20,000 but inflation is 10%, so real wage is less
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8. Overtime Wages	Extra pay for working beyond normal hours (usually double)	Normal rate ₹100/hour → overtime ₹200/hour
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Question 2: Explain theories of wages.

Simple meaning: Theories of wages are different ideas that try to explain how wages are decided.

Theory	Proposer	Simple Explanation
1. Subsistence Theory (Iron Law of Wages)	David Ricardo	Wages always stay at the minimum level just enough for survival (food + shelter). If wages rise, more children are born → more workers → wages fall again.
2. Wage Fund Theory	Adam Smith, J.S. Mill	A fixed "fund" of money is set aside for wages. If more workers are hired, each gets less.
3. Surplus Value Theory	Karl Marx	Workers create more value than their wages. The extra

(surplus) is taken by employer as profit. This is exploitation.

4. Residual Claimant Theory Francis Walker After paying rent, interest, and profit, whatever money remains is given as wages.

5. Marginal Productivity Theory J.B. Clark Wage equals the additional value produced by the last worker hired. Higher productivity = higher wage.

6. Bargaining Theory John Davidson Wages depend on the bargaining power of workers (unions) vs. employers. Stronger union → higher wage.

7. Behavioral Theories Mayo, Herzberg Wages are not just about money. Fairness, recognition,

and motivation also affect what workers accept.

Question 3: Explain concept of minimum wages.

Simple Meaning

Minimum wage is the lowest legal wage that an employer must pay to a worker. It cannot go below this amount.

Purpose / Objectives of Minimum Wage

- To prevent exploitation of workers
- To ensure a basic standard of living (food, clothes, shelter, health)
- To reduce poverty and inequality
- To provide a floor for bargaining (worker can say “pay at least minimum”)

Important Features

Feature

Explanation

Fixed by government

Central or State government decides the amount

Varies by area

Cities have higher minimum wage than villages

Varies by skill

Skilled worker gets more than unskilled

Varies by industry

Mining, agriculture, factories have different rates

Legally enforceable

Employer can be fined or jailed for paying less

Example

If government fixes minimum wage as ₹400 per day for unskilled construction workers, no construction worker in that area can be paid less than ₹400 per day.

Question 4: Explain fixation and revision of minimum wages under the Minimum Wages Act, 1948.

Fixation of Minimum Wages (How it is set)

Step-by-step process:

Step	What happens
Step 1	Government identifies employments listed in the Schedule (e.g., agriculture, construction, textile, mining)
Step 2	Government appoints a Committee or Advisory Board (members from employers, workers, independent experts)
Step 3	Committee studies cost of living, food prices, housing, etc.
Step 4	Committee recommends minimum wage amount
Step 5	Government issues a draft notification and invites objections/suggestions from public

Step 6

Government considers feedback and issues final notification – now minimum wage is law

Components of minimum wage (as per Supreme Court):

Component

Meaning

Basic wage

For food, clothing, shelter

Dearness Allowance (DA)

To adjust for inflation (linked to consumer price index)

Retention allowance

Extra to keep workers during off-season

Revision of Minimum Wages (How it is updated)

Rule	Explanation
Revision period	Minimum wages must be revised at least once every 5 years
Actual practice	Usually revised every 6 months or 1 year because of inflation
Process	Same as fixation – committee recommendation → draft → final notification
Dearness Allowance	Revised every quarter (3 months) based on price rise

Example

If minimum wage was ₹300/day in 2020, and prices go up, by 2025 it must be revised to a higher amount (e.g., ₹450/day).

Question 5: Define remuneration and explain provisions under the Equal Remuneration Act, 1976.

Definition of Remuneration

Simple meaning: Remuneration is a broader term than wages. It includes:

- Basic salary or wages
- Dearness Allowance (DA)
- House Rent Allowance (HRA)
- City Compensatory Allowance
- Bonuses, commissions, and any other monetary benefits
- Value of benefits in kind (free food, housing, etc.)

Difference: Wages = usually only cash. Remuneration = cash + all benefits.

Provisions under the Equal Remuneration Act, 1976

Simple meaning of the Act:

This Act says that men and women must get equal pay for equal work. No discrimination based on gender.

Important sections explained (point-wise):

Section	Provision in Simple Words
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Section 10	Penalty – If employer violates the Act, fine up to ₹5,000 or imprisonment up to 6 months or both.
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Section 11	Burden of proof – If worker says there is discrimination, the employer must prove there is no discrimination.
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What is “Same work or work of similar nature” (Section 2(h))?

Condition	Meaning
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Similar skill	Same level of ability required
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Similar effort	Same physical or mental effort
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Similar responsibility	Same level of accountability
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Similar working conditions

Same environment, hazards, etc.

Example

If a male and female both work as data entry operators with same hours and same work, they must get the same salary. If not, it is a violation of the Equal Remuneration Act.

Important Note

The Equal Remuneration Act, 1976 has been replaced by the Code on Wages, 2019 (Sections 3, 4, 5). But the main rules remain the same – equal pay for equal work for men and women.

Summary Table (Questions 1 to 5)

Question

One-line Answer

1. Types of wages	Time, piece, minimum, fair, living, nominal, real, overtime
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2. Theories of wages	Subsistence, wage fund, surplus value, residual, marginal, bargaining, behavioral
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3. Minimum wage concept	Lowest legal wage to prevent exploitation and ensure basic living
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4. Fixation & revision	Set by committee → draft → final; revised every 5 years (or sooner)
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5. Remuneration & Equal Remuneration Act	Remuneration = wages + benefits; Act says equal pay for men and women
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6. Define wages and explain permissible deductions under the Payment of Wages Act, 1936

Definition of Wages (under this Act):

Wages means all money paid to a worker for work done. It includes:

- Basic salary
- Dearness allowance (DA)
- Overtime pay
- Any other agreed payments

But it does NOT include:

- Bonus (unless promised in contract)
- Pension, PF, gratuity
- Travel or medical reimbursement

Permissible Deductions (Section 7 of the Act):

These are legal cuts that an employer can make from a worker's wages.

Employer can deduct only for these 10 reasons:

S.No.	Permissible Deduction	Meaning in simple words
1	Fines	For misconduct like coming late, disobeying orders
2	Absence from duty	If worker remains absent, pay for those days can be cut

3	Damage or loss of goods	If worker damages employer's property intentionally
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4	Housing accommodation	Rent for company-provided house or quarters
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5	Amenities & services	For facilities like water, electricity, canteen (if agreed)
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6	Advances or loans	Repayment of money taken as advance from employer
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7	Provident Fund / Insurance	Worker's share of PF or insurance premium
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8	Income tax	TDS as per government rules
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9	Court orders	Salary attachment for child support, debt recovery, etc.
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10	Trade union fees	If worker agrees in writing to pay union subscription
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Important conditions:

- Deductions must be recorded in a register.
 - Employer cannot deduct more than 60% of wages in a month (except court orders).
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7. Explain authorized deductions and their importance

Authorized deductions = Permissible deductions (same as above 10 reasons).

These are allowed by law.

Importance of authorized deductions:

Importance

Explanation

1. Legal protection for employer

Employer can safely deduct without being sued.

2. Transparency

Worker knows in advance which cuts are legal.

3. Prevents exploitation

Employer cannot invent new reasons to cut wages.

4. Financial planning for worker

Worker can expect fixed deductions every month.

5. Social security

PF, insurance deductions help worker after retirement.

8. Explain unauthorized deductions and penalties

Unauthorized deductions = Cuts from wages that are not listed in Section 7 of the Act.

Examples of unauthorized deductions:

- Deduction for normal wear and tear of tools/machines
- Deduction for training cost without agreement
- Deduction for uniform deposit (unless agreed)
- Deduction for charity without worker's consent
- Deduction for poor quality work (unless fine procedure followed)

Penalties for unauthorized deductions (Section 20 of the Act):

Offense	Penalty
Making unauthorized deduction	Fine up to ₹1,000 per worker
Falsifying wage records	Fine up to ₹3,000
Repeated violation	Imprisonment up to 6 months or fine or both

Worker's remedy:

- Worker can complain to the Authority appointed under the Act (Labour Commissioner or Magistrate).
- If complaint is valid, employer must refund the illegally deducted amount plus pay compensation.

9. Define deductions and explain kinds of deductions

Definition of Deductions:

Deduction means any amount subtracted from total wages payable to a worker.

Final wage = Total wage - Deductions.

Kinds of deductions:

(Under Payment of Wages Act, 1936 + general practice)

Kind	Meaning	Example
1. Compulsory deductions	Must be done by law	Income tax, PF, ESI
2. Voluntary deductions	Done with worker's written consent	Union fees, loan repayment, charity
3. Disciplinary deductions	Punishment for misconduct	Fine for late attendance

4. Service-related deductions	For facilities provided	House rent, electricity, canteen
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5. Court-ordered deductions	As per court judgment	Maintenance for wife/children
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6. Advance recovery	Repayment of loan or advance	Salary advance taken earlier
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7. Absenteeism deduction	For days worker did not work	No work = no pay for that day
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8. Damage deduction	For loss caused by worker	Breaking a machine part
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Important rule:

All deductions except compulsory ones must be authorized in writing by the worker or covered under Section 7 of the Act.

Social Security Laws

10. Explain objectives of the Employees' Compensation Act, 1923

Simple meaning:

This Act provides financial compensation to workers who get injured or die due to their job.

Objectives (point-wise):

- To provide quick relief
 - Worker gets compensation without long court cases.
- To apply no-fault liability
 - Employer must pay even if the worker made a small mistake.
- To cover occupational diseases
 - Diseases caused by the job (e.g., lung disease in mining) are included.
- To protect dependents
 - If worker dies, family receives money.
- To reduce exploitation
 - Employer cannot avoid responsibility for workplace injuries.

Applies to: Factories, mines, construction, railways, etc.

11. Explain objectives of the Employees' State Insurance Act, 1948 (ESI Act)

Simple meaning:

ESI is a health and accident insurance scheme for factory workers.

Objectives (point-wise):

- To provide medical care
 - Worker and family get free treatment in ESI hospitals.
- To provide sickness benefit
 - Cash paid when worker cannot work due to illness.
- To provide maternity benefit
 - Paid leave for women workers during pregnancy.
- To provide disability benefit
 - Money if worker becomes disabled due to job accident.
- To provide dependent benefit
 - Family gets pension if worker dies.
- To provide funeral expenses
 - One-time money for last rites.

Applies to: Factories with 10+ employees, salary up to ₹21,000 per month.

12. Explain benefits under the Employees' State Insurance Act, 1948

Simple meaning:

These are the services and cash payments a registered worker gets under ESI.

Benefits (point-wise table):

Benefit	Who gets it	Amount / Duration
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Medical Benefit	Worker + spouse + children	Free treatment in ESI hospitals
Sickness Benefit	Worker unable to work due to sickness	70% of average daily wages for up to 91 days
Extended Sickness Benefit	Long-term diseases (TB, cancer, etc.)	80% of wages for up to 2 years
Maternity Benefit	Pregnant woman worker	100% of wages for 26 weeks
Temporary Disability Benefit	Worker injured at work (temporary)	90% of wages till recovery
Permanent Disability Benefit	Worker permanently disabled	Lifetime pension (approx. 90% of wage)

Dependent Benefit	Family after worker's death	Monthly pension
Funeral Benefit	Person who performs last rites	Up to ₹15,000 one-time
Rehabilitation Benefit	Disabled worker	Artificial limbs, job training

13. Define employee under ESI Act and explain benefits

Definition of Employee (Section 2(9) of ESI Act, 1948):

An employee is any person who:

- Works in a factory or establishment covered under ESI
- Does any work (skilled, unskilled, manual, technical, clerical)
- Gets wages up to ₹21,000 per month
- Can be directly employed or through a contractor

Also includes: Supervisors earning up to ₹21,000 and contract workers.

Benefits available to employee (same as Q12):

- Medical benefit
- Sickness benefit

- Maternity benefit
- Disability benefit (temporary & permanent)
- Dependent benefit
- Funeral benefit
- Rehabilitation benefit

Contribution: Employer – 3.25% of wages, Employee – 0.75% of wages.

14. Explain constitution, powers, and functions of ESI Court

Simple meaning:

ESI Court is a special court that handles disputes under the ESI Act. It is also called Employees' Insurance Court.

Constitution (Sections 76 & 77):

- One person appointed as Judge
- Judge must be qualified as a District Judge or High Court Judge
- Government may appoint technical experts (assessors) to help the Judge

Powers of ESI Court:

Power

Explanation

Civil court powers

Can summon witnesses, ask for documents, take oath

Order recovery

Can order employer to pay dues

Decide disputes

Final decision on whether a person is an employee or not

Review own order

Can correct mistakes in its own judgment

Enforce attendance

Can issue warrant to bring a person to court

Functions of ESI Court:

- Decide disputes about coverage (whether factory is under ESI)
- Decide if a person is an employee
- Decide amount of contribution or benefit
- Decide claims for sickness, maternity, disability benefits
- Recover money from employer if unpaid

Appeal: Decision of ESI Court can be appealed to the High Court.

15. Explain law relating to retirement benefits

Simple meaning:

Retirement benefits are money or facilities given to a worker after he/she stops working.

Main laws and benefits:

Law	Retirement Benefit
Payment of Gratuity Act, 1972	Lump sum money after 5+ years of service
Employees' Provident Fund Act, 1952	Lump sum of PF at retirement
Employees' Pension Scheme, 1995	Monthly pension after retirement
Payment of Wages Act, 1936	All wages due must be paid at retirement
ESI Act, 1948	Medical benefit for retired disabled workers

Common retirement benefits:

- Provident Fund (PF) – Lump sum of both employer and employee share + interest

- Pension – Monthly payment for life
- Gratuity – One-time payment for long service
- Leave Encashment – Money for unused leave
- Superannuation benefit – Money from company pension fund

16. Explain law relating to pension under various laws

Simple meaning:

Pension is a regular monthly payment after retirement or disability.

Laws providing pension:

Law	Pension Type	Who gets it
Employees' Pension Scheme (EPS), 1995	Monthly pension after retirement	PF member with 10+ years of service
ESI Act, 1948	Permanent disability pension	Worker permanently disabled in job accident
ESI Act, 1948	Dependent pension	Family after worker's death

Coal Mines Pension Scheme, 1998	Monthly pension	Coal mine workers
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Seamen's Provident Fund Act, 1966	Pension	Ship workers
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Under EPS, 1995 (most common):

Feature	Detail
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Eligibility	Completed 10 years of service
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Retirement age	58 years
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Early pension	Reduced pension from 50 years
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Pension amount	Based on average salary and years of service
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Family pension

Spouse gets 50% after member's death

17. Explain determination, eligibility, and disqualification of gratuity under the Payment of Gratuity Act, 1972

Simple meaning:

Gratuity is a lump sum thank-you payment for long service.

Determination of gratuity amount (Formula):

Gratuity = (Last drawn basic salary + DA) × 15 × Years of service / 26

- 15 = 15 days salary
- 26 = working days in a month
- Maximum limit = ₹20 lakhs

Example:

Salary ₹25,000, Service 20 years
= $25,000 \times 15 \times 20 / 26 = ₹2,88,461$

Eligibility (who gets gratuity):

- Completed 5 continuous years of service
- Applicable on:
 - Retirement
 - Resignation
 - Death (no 5-year rule for death)
 - Disablement due to accident or disease

Disqualification (when gratuity is not paid or forfeited - Section 4(6)):

Condition	Consequence
Worker dismissed for riotous or violent behavior	Full gratuity forfeited
Worker dismissed for acts of moral turpitude (theft, fraud)	Gratuity forfeited fully or partially
Worker caused willful damage to employer's property	Partial forfeiture up to damage amount

Note: Gratuity cannot be attached by court for debt recovery (protected payment).

Factories Act, 1948

18. Discuss health, safety, and welfare measures under Factories Act, 1948

Simple meaning:

Factories Act requires every factory to keep workers healthy, safe, and comfortable.

Health measures (Sections 11-20):

Section	Provision
11	Cleanliness (daily sweeping, weekly washing)
12	Disposal of waste (separate bins, regular removal)
13	Ventilation and temperature (fresh air, fans/coolers)
14	Dust and fume control (exhaust fans, dust collectors)
15	Artificial humidification (proper humidity for textile mills)

16	Overcrowding (minimum space per worker - 14.2 cubic meters)
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17	Lighting (adequate natural or electric light)
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18	Drinking water (clean water within 6 meters)
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19	Latrines and urinals (separate for men/women, clean)
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20	Spittoons (no spitting on floor)
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Safety measures (Sections 21-40):

Section	Provision
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21	Fencing of machinery (all moving parts covered)
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22 Work on moving machinery prohibited

23 Women and young persons near moving machinery
restricted

24 Hoists and lifts must be safe

25 Pressure vessels (boilers, etc.) regularly tested

28 Floors, stairs, passages must be safe

29 No dangerous pits or openings

35 Fire protection (fire extinguishers, exits, alarms)

Welfare measures (Sections 42-50):

Section	Provision
42	Washing facilities (soap, clean water, separate for men/women)
43	Facilities for drying clothes
44	Sitting arrangements for workers who work standing
45	First aid boxes (one for 150 workers)
46	Canteen (if 250+ workers)
47	Shelters or rest rooms (if 150+ workers)
48	Creche (if 30+ women workers)

19. Explain provisions relating to safety and welfare under Factories Act, 1948

Simple meaning:

Safety provisions prevent accidents. Welfare provisions provide comfort and facilities.

Safety provisions (summary points):

- All machinery must have safety guards
- No cleaning of moving machinery while it runs
- Young persons and women not allowed near dangerous machinery
- Hoists, lifts, cranes must be tested regularly
- Pressure parts (boilers) must be inspected
- Floors, stairs, passages must be non-slippery and fenced
- Fire safety – extinguishers, alarms, emergency exits
- Safety officer required if 1000+ workers

Welfare provisions (summary points):

- Washing facilities – soap, clean water, separate for genders
- Sitting arrangements – for workers who stand to work
- First aid – one box for every 150 workers, trained person for 500+ workers
- Canteen – if 250+ workers, clean, cheap food
- Rest shelters – if 150+ workers, for taking breaks
- Creche – if 30+ women workers, for children under 6 years

- Welfare officer – if 500+ workers, to solve worker problems
-

20. Discuss welfare provisions under the Factories Act, 1948

Simple meaning:

Welfare provisions are facilities that make life easier for workers at the factory.

List of welfare provisions (Sections 42-50):

Section	Welfare Facility	Applicability
42	Washing facilities (soap, water, separate for men/women)	All factories
43	Facility to dry clothes	All factories
44	Sitting arrangements for standing workers	All factories

45	First aid box with essential medicines	All factories
45	First aid trained person	500+ workers
46	Canteen (clean, subsidized food)	250+ workers
47	Shelters / Rest rooms (with drinking water, chairs)	150+ workers
48	Creche for children under 6 years, with nurse	30+ women workers
49	Welfare officer (qualified person)	500+ workers
50	Ambulance room (with trained nurse)	500+ workers

Importance of welfare provisions:

- Improves worker health and morale
- Reduces absenteeism
- Helps women workers with child care
- Provides quick medical help during emergencies

Labour Welfare & Protection

21. Discuss legal provisions for protection of weaker sections of labour

Simple meaning:

Weaker sections include women, children, contract workers, migrant workers, SC/ST workers. Law gives them special protection.

Protection under various laws:

Weaker Section	Law	Protection Provided
Women	Factories Act, 1948	Cannot work at night (7 PM to 6 AM), creche facility, separate toilets

Women	Maternity Benefit Act, 1961	26 weeks paid leave, no dismissal during pregnancy
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Women	Equal Remuneration Act, 1976	Equal pay for equal work
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Children (below 14)	Factories Act, 1948	Cannot work in factories (total ban)
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Adolescents (15-18)	Factories Act, 1948	Can work only with fitness certificate, not on dangerous machines
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Contract workers	Contract Labour Act, 1970	Same wages as regular workers, canteen, rest rooms, creche
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Migrant workers	Inter-State Migrant Act, 1979	Registration, same wages, travel allowance, housing
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SC/ST workers	Equal Remuneration Act, 1976	No discrimination in pay or promotion
Disabled workers	Rights of Persons with Disabilities Act, 2016	4% reservation in government jobs, equal opportunity
Domestic workers	Proposed law (some states)	Minimum wage, weekly off, social security

22. Explain protection of workers under labour laws

Simple meaning:

Labour laws provide a safety shield to workers against exploitation.

Protection categories (point-wise):

1. Protection of wages:

- Minimum wage guaranteed (Minimum Wages Act, 1948)
- Timely payment (Payment of Wages Act, 1936) – no delay beyond 7-15 days
- No unauthorized deductions (only 10 legal reasons)

2. Protection of health:

- Clean drinking water, ventilation, lighting (Factories Act)
- Free medical treatment (ESI Act)

3. Protection of safety:

- Machinery guarding (Factories Act)
- Safety officer required in large factories

4. Protection of women workers:

- Equal pay (Equal Remuneration Act)
- Maternity leave with full pay (Maternity Benefit Act)
- Creche for children, no night shifts (Factories Act)

5. Protection of children & young persons:

- Complete ban on child labour under 14 (Factories Act + Child Labour Act)
- Restricted hours for 15-18 years

6. Protection against unfair dismissal:

- Notice or payment before dismissal (Industrial Disputes Act)
- Retrenchment compensation (15 days salary per year of service)

7. Social security protection:

- PF, Pension (EPF Act)
- Insurance (ESI Act)
- Gratuity after 5 years (Gratuity Act)

8. Protection of work environment:

- Welfare provisions – canteen, rest room, creche, first aid (Factories Act)
- Sitting for standing workers, washing facilities

9. Protection of weaker sections:

- Contract workers get same wages as regular workers
- Migrant workers get travel allowance and housing
- Disabled workers get reservation

10. Protection of right to form union:

- Workers can form trade unions (Trade Unions Act, 1926)
- Cannot be dismissed for union activities

Question 23: Explain role of Fundamental Rights and DPSP in labour law.

Introduction

The Constitution of India is the supreme law. Fundamental Rights (Part III) and Directive Principles of State Policy (Part IV) heavily influence labour laws. They provide the philosophy and legal basis for worker protection.

Fundamental Rights Related to Labour

Article	Right	Impact on Labour Law
Art. 14	Equality before law	Labour laws must apply equally; no arbitrary discrimination.
Art. 15	Prohibition of discrimination	Cannot discriminate on grounds of religion, race, caste, sex, place of birth.

Art. 16	Equality in public employment	Reservations for SC/ST/OBC.
Art. 19(1)(c)	Right to form associations	Foundation of Trade Unions Act.
Art. 21	Right to life and dignity	Interpreted to include right to livelihood, safe working conditions, health, and against bonded labour.
Art. 23	Prohibition of forced labour	Bonded Labour Abolition Act.
Art. 24	No child labour below 14	Child Labour Act, 1986.

Directive Principles of State Policy (DPSP) Related to Labour

DPSPs are not enforceable in court, but they guide the government to make laws.

Article	Directive	Labour Laws made
Art. 39(a)	Right to adequate means of livelihood	Minimum Wages Act, Equal Remuneration Act
Art. 39(d)	Equal pay for equal work	Equal Remuneration Act, 1976
Art. 39(e)	Protection against economic exploitation	Bonded Labour Abolition Act, Contract Labour Act
Art. 41	Right to work, education, public assistance	MGNREGA, Social security laws

Art. 42	Just and humane conditions of work	Factories Act, ESI Act
Art. 43	Living wage for workers	Minimum Wages Act
Art. 43A	Participation of workers in management	Industrial Relations Code (works committee)
Art. 47	Health of workers	ESI Act, Factories Act (health provisions)

How Courts Use DPSP?

Courts often read DPSP along with Fundamental Rights to expand protection. For example, in *Bandhua Mukti Morcha v. Union of India* (1984), the Supreme Court used Art. 21 (right to life) and Art. 23 (forced labour) to ban bonded labour, even though DPSP Art. 39(e) was also cited.

Conclusion

Fundamental Rights give immediate legal protection. DPSP guide the state to make progressive labour laws. Together, they form the constitutional foundation of Indian labour law.

Question 24: Discuss key social security provisions under Indian labour laws.

Introduction

Social security means protection given by society (through government and employers) against risks like sickness, old age, unemployment, injury, and death. Indian labour laws have both social insurance and social assistance provisions.

Key Social Security Provisions

1. Employees' State Insurance (ESI) Act, 1948

- Covers: Sickness, maternity, disablement, death, medical care.
- Beneficiaries: Factory workers (wage ≤ ₹21,000).
- Key benefit: Free medical treatment for worker and family.

2. Employees' Provident Fund (EPF) Act, 1952

- Covers: Old age, retirement, family on death.
- Components: PF (lump sum) + Pension (EPS) + Life insurance (EDLI).
- Key benefit: Lump sum savings with interest.

3. Payment of Gratuity Act, 1972

- Covers: Retirement, resignation, death.
- Key benefit: Lump sum payment after 5+ years service.

4. Maternity Benefit Act, 1961

- Covers: Pregnancy, childbirth, miscarriage.
- Key benefit: 26 weeks paid leave; crèche.

5. Employees' Compensation Act, 1923

- Covers: Work-related injury or death.
- Key benefit: Compensation to worker or family.

6. Industrial Disputes Act, 1947 (Section 25F)

- Covers: Layoff, retrenchment, closure.
- Key benefit: Compensation for job loss (15 days per year).

7. Unorganised Workers Social Security Act, 2008

- Covers: Street vendors, domestic workers, farm labour.
- Key benefit: Health, pension, death schemes.

8. Building and Other Construction Workers Act, 1996

- Covers: Construction workers.
- Key benefit: Welfare board; health, education, pension.

Comparison of Social Security Laws

Law	Risk covered	Type of benefit
ESI	Sickness, maternity, injury	Medical + cash
EPF	Old age	Lump sum + pension
Gratuity	Old age, death	Lump sum
Maternity	Pregnancy	Cash leave
Compensation	Work injury	Cash
ID Act	Job loss	Cash

Conclusion

India has a wide range of social security laws, but they mainly cover organised sector workers. Unorganised workers (90% of workforce) are largely excluded. The government is trying to bring them under schemes like PM-SYM and ESIC extension.

Question 25: Explain provisions relating to unorganized sector workers.

Introduction

The unorganised sector includes workers who work in small, unregistered enterprises or as self-employed – e.g., street vendors, domestic helpers, rickshaw pullers, construction workers, farm labour. They have no job security, no benefits, and no union power.

Key Provisions under Various Laws

1. Unorganised Workers Social Security Act, 2008

- Definition (S.2(m)): Unorganised worker means a home-based worker, self-employed worker, or wage worker in the unorganised sector.
- Key provisions:
 - Central government to formulate social security schemes for: life and disability insurance, health and maternity benefits, old age pension, death benefit.
 - State government to register workers and issue a smart card.
 - National Social Security Board (NSSB) to recommend schemes.

2. Building and Other Construction Workers Act, 1996

- Covers: Construction workers (unorganised).
- Key provisions:
 - Registration of every worker.
 - Construction Workers Welfare Board at state level.
 - Cess (1% of construction cost) collected for welfare fund.
 - Benefits: health, education for children, pension, housing, maternity, disability.

3. MGNREGA, 2005

- Provides 100 days of guaranteed wage employment in rural areas.
- At least one-third beneficiaries are women.
- Wage rate equal to state minimum wage.

4. Street Vendors (Protection of Livelihood) Act, 2014

- Protects street vendors from harassment.
- Town vending committees; designated vending zones.

5. Domestic Workers (Pending bill, but some states have rules)

- Some states (e.g., Maharashtra, Karnataka) have rules for minimum wage, written contract, and grievance redressal.

Problems Still Facing Unorganised Sector

Problem	Explanation
No written contract	No proof of employment
No minimum wage	Often paid less than legal wage
No ESI/PF	No medical or retirement benefits
No leave or holidays	Work 365 days a year
Exploitation by middlemen	Contractor takes a cut
No union	No collective bargaining

Conclusion

Although laws exist, implementation is weak. The unorganised sector remains largely unprotected. The new Social Security Code, 2020 aims to bring all workers under a unified framework.

Question 26: Explain salient features of the Unorganised Workers' Social Security Act, 2008.

Introduction

This Act was passed to provide social security to unorganised workers – who were previously not covered by ESI, EPF, or other laws. It is a framework law that enables the government to formulate schemes.

Salient Features

1. Definition of Unorganised Worker (S.2(m))

- Includes:
 - Home-based worker – works from home (e.g., bidi rolling, garment stitching).
 - Self-employed worker – own account worker (e.g., vegetable vendor, rickshaw puller).
 - Wage worker – in unorganised sector (e.g., construction worker, domestic help).
- Excludes armed forces and organised sector employees.

2. National Social Security Board (NSSB) (S.5)

- Constituted by Central Government.
- Members: representatives of trade unions, employers, NGOs, unorganised workers, and government.
- Functions:
 - Recommend social security schemes.
 - Monitor implementation.
 - Advise on funding.

3. State Social Security Board (S.6)

- Similar board at state level.
- Coordinates with NSSB.

4. Registration of Workers (S.10)

- Worker can apply to District Collector or notified officer.
- On registration, worker gets a smart card with unique ID.
- Card used to access benefits.

5. Social Security Schemes (S.3)

The central government must formulate schemes for:

- Life and disability insurance.
- Health and maternity benefits.
- Old age pension.
- Death benefit.
- Any other benefit as needed.

Examples of schemes under this Act:

- Indira Gandhi National Old Age Pension Scheme (IGNOAPS) – ₹200-500 per month for 60+ BPL.
- National Family Benefit Scheme – ₹20,000 on death of primary earner.
- Janani Suraksha Yojana – cash for institutional delivery.
- Aam Aadmi Bima Yojana – life insurance for rural landless.

6. Funding (S.4)

- Schemes funded by central government, state government, or both.
- Can also receive grants, donations.

7. Record Keeping (S.11)

- Employer in unorganised sector (if any) must keep records of wages and benefits.

8. Offences and Penalties (S.15-16)

- False registration: fine up to ₹1,000.
- Obstruction: fine up to ₹5,000.

Limitations of the Act

Limitation	Explanation
No right to claim	Benefits are not justiciable (cannot be enforced in court easily).
Low coverage	Only BPL families covered under most schemes.
Low amount	Pension ₹200-500 per month is too low.
Poor awareness	Many workers don't know about registration.
No health insurance for all	Only selected schemes.

Conclusion

The Act is a good first step, but it remains weak. The new Social Security Code, 2020 replaces this Act and attempts to provide universal social security for all workers, including unorganised.

Question 27: Explain problems of the unorganized sector in India.

Introduction

The unorganised sector employs about 90% of India's workforce (around 450 million people). It includes agriculture, construction, street vending, domestic work, beedi rolling, handloom, etc. These workers face severe problems.

Major Problems

1. Lack of Job Security

- No written contract.
- Can be fired any day without notice or compensation.
- Example: A domestic worker can be dismissed verbally without any reason.

2. No Minimum Wage

- Most unorganised workers are paid less than the legal minimum wage.
- Employers exploit their helplessness.
- Example: A farm labourer may get ₹200 per day while minimum wage is ₹400.

3. No Social Security

- No ESI – so no medical care.
- No PF – so no savings for old age.
- No gratuity – so no lump sum after years of work.
- No pension – old age means starvation.

4. No Paid Leave

- No sick leave, casual leave, or annual leave.
- "No work, no pay" – if they are sick, they lose wages.

5. No Safety at Work

- Construction workers fall from heights, get electrocuted – no compensation.
- Domestic workers get burns, injuries – no medical help.

6. Exploitation by Middlemen

- Contractors take a large cut.
- Example: A contractor gets ₹1000 per day for a worker but pays only ₹500.

7. Child Labour

- Poor families send children to work instead of school.
- Most child labour is in unorganised sector (e.g., brick kilns, small shops).

8. No Access to Credit or Bank

- No bank account, no ID proof.
- Forced to borrow from moneylenders at high interest (200-300% per year).

9. No Union or Collective Bargaining

- Workers are scattered, not organised.
- Cannot demand higher wages or better conditions.

10. Gender Discrimination

- Women workers get even lower wages than men.
- No maternity benefits.

Statistical Snapshot

Problem	% of unorganised workers affected (approx.)
Below minimum wage	70%
No written contract	95%
No social security	90%
No paid leave	98%

Government Efforts (but insufficient)

- Unorganised Workers Social Security Act, 2008
- MGNREGA (rural employment guarantee)
- PM-SYM pension scheme
- ESI coverage extended to unorganised (in some states)

Conclusion

The unorganised sector is the "dark side" of Indian labour. Despite being the backbone of the economy, these workers are invisible and unprotected. Comprehensive reforms and strict implementation are urgently needed.

Question 28: Explain social security measures for employment.

Introduction

Social security measures for employment refer to protections that workers get during employment (not just after retirement). These include health insurance, maternity benefits, compensation for injury, and job loss protection.

Social Security Measures for Employment

1. Medical and Health Protection

- ESI Act – free medical treatment for workers earning \leq ₹21,000.
- Central Government Health Scheme (CGHS) – for government employees.
- Ayushman Bharat – for poor families (health cover up to ₹5 lakh).

2. Maternity Benefit

- Maternity Benefit Act, 1961 – 26 weeks paid leave for women in organised sector.
- Janani Suraksha Yojana – cash for institutional delivery for BPL women.

3. Compensation for Work Injury

- Employees' Compensation Act, 1923 – compensation for injury or death at workplace.
- ESI Act – disablement benefit (90% of wages) for temporary/permanent disability.

4. Sickness Benefit

- ESI Act – sickness benefit (70% of wages) for up to 91 days per year.
- Some state laws provide sick leave (paid).

5. Job Loss Protection (Unemployment Benefit)

- Industrial Disputes Act – compensation for retrenchment (15 days per year of service).
- MGNREGA – 100 days guaranteed work for rural unemployed.
- Atal Beemit Vyakti Kalyan Yojana – under ESI, unemployment allowance for up to 2 years (50% of wage).

6. Death Benefit

- ESI Dependent Benefit – monthly pension to family.
- EPF – nominee gets PF amount + life insurance (EDLI) up to ₹7 lakh.

7. Housing and Other Benefits

- Some industries provide housing, transport, canteen, etc.
- Building Workers Act – welfare fund for housing.

How These Measures Help?

Risk	Measure	Who covers?
Sickness	ESI sickness benefit	Organised workers
Injury	ESI/Compensation Act	All workers (theoretically)
Pregnancy	Maternity Benefit Act	Women in organised sector
Job loss	ID Act compensation, MGNREGA	Organised + rural

Death

EPF/ESI

Organised

Gaps in Coverage

- Unorganised sector workers get almost no employment social security.
- Unemployment insurance (like in Western countries) is absent in India except for ESI's small scheme.

Conclusion

India has a patchwork of social security measures for employment, but most apply only to organised sector. The new labour codes aim to extend coverage to all workers, including gig and platform workers.

Question 29: Explain contractualisation of labour.

Introduction

Contractualisation of labour means hiring workers not directly by the company, but through a contractor. The contractor is the legal employer, while the main company is called the "principal employer". This practice has grown rapidly in India.

Meaning of Contract Labour

- Contract labour – workers employed by a contractor for supply to a principal employer.
- The contractor is responsible for payment, welfare, and compliance.
- The principal employer pays the contractor a lump sum.

Reasons for Contractualisation

Reason	Explanation
Cost saving	No need to pay PF, bonus, gratuity, leave, etc.
Flexibility	Can hire and fire easily.
Avoid union	Contract workers cannot join principal's union.
Reduce legal liability	Principal employer avoids many labour law duties.
Focus on core work	Non-core work (cleaning, security, packing) outsourced.

Problems Caused by Contractualisation

1. Lower wages – Contract workers get less than direct employees for same work.
2. No job security – Contract can be terminated anytime.
3. No social security – Many contractors evade PF, ESI.
4. No union – Cannot bargain collectively.
5. No career growth – No promotion, training, or permanent status.
6. Exploitation – Contractor deducts from wages, makes workers work long hours.

Legal Framework

Contract Labour (Regulation and Abolition) Act, 1970

- Regulates contract labour.
- Requires registration of principal employer and licensing of contractor.
- Provides welfare facilities (canteen, rest rooms, first aid).
- Government can prohibit contract labour in certain processes (Section 10).

Industrial Disputes Act, 1947

- If contract labour is doing the same work as permanent employees for years, courts may order absorption (as in Air India case).

New Labour Codes

- The Industrial Relations Code, 2020 allows fixed-term employment (which is like contract but with benefits).

Case Law: Air India Statutory Corp. v. United Labour Union (1997)

- Supreme Court held that contract labour doing perennial work should be absorbed as regular employees.
- However, this was later overruled in some aspects by Steel Authority of India v. National Union of Waterfront Workers (2001) – now absorption only if contract labour is abolished by government under Section 10 of CLRA Act.

Conclusion

Contractualisation is a reality in modern industry. While it gives flexibility to employers, it often exploits workers. The law tries to balance by providing some protections, but enforcement is weak.

Question 30: Explain restrictions under the Contract Labour (Regulation and Abolition) Act, 1970.

Introduction

The Contract Labour (Regulation and Abolition) Act, 1970 does not ban contract labour, but it imposes strict restrictions to prevent exploitation.

Key Restrictions

1. Restriction on Principal Employer (Sections 7 & 8)

- No principal employer can employ contract labour without registration from the appropriate government.
- Application must show details of contractor and nature of work.
- If registration is revoked, employer cannot use contract labour.

2. Restriction on Contractor (Section 11 & 12)

- No contractor can supply contract labour without a license from the government.
- License is valid for a specific period (usually 1 year) and can be renewed.
- Conditions of license: payment of prescribed fee, compliance with welfare provisions.

3. Restriction on Type of Work (Section 10)

- The government (central or state) can prohibit contract labour in any process, operation, or establishment after consulting the Central/State Board.
- Conditions for prohibition:
 - Work is of perennial (continuous) nature.
 - Work is incidental to the main activity.
 - It is not suitable for contract labour.

4. Restriction on Number of Workers

- The government can limit the number of contract workers in an establishment.

5. Restriction on Wages and Benefits (Section 21)

- The contractor must pay wages equal to what direct employees get for the same or similar work (if notified by government).
- Wages must be paid in presence of principal employer's representative.

6. Restriction on Working Hours

- Contract workers must be given the same working hours, overtime, and holidays as direct employees.

Welfare Restrictions (Section 16-20)

Contractor must provide:

- Canteen (if 100+ contract workers).
- Rest rooms (if 100+ workers).
- First aid facilities.
- Latrines and urinals.

If contractor fails, principal employer is obliged to provide them and recover cost.

Penalties for Violation (Section 22-25)

Offence	Penalty
Employing contract labour without registration/license	Fine up to ₹1,000 per day + imprisonment up to 3 months
Violating welfare provisions	Fine up to ₹10,000
Obstructing inspector	Fine up to ₹500
Offences by companies	Director/manager liable unless due diligence

Conclusion

The Act does not abolish contract labour, but it tightly regulates it. The most powerful restriction is Section 10 – government's power to prohibit contract labour in certain jobs. However, in practice, prohibition has been rarely used.

Question 31: Explain features of the Inter-State Migrant Workmen Act, 1979.

Introduction

This Act protects workers who migrate from one state to another for work. They are often exploited – low wages, bad housing, no medical facilities. The Act provides special safeguards.

Who is an Inter-State Migrant Workman? (Section 2(e))

A person recruited by a contractor or employer from one state to work in another state, whose wages are \leq ₹15,000 per month (amended).

Salient Features

1. Registration of Principal Employer (S.4)

- Any employer who intends to employ inter-state migrant workers must register with the government.

2. Licensing of Contractor (S.8)

- Contractors recruiting migrant workers must obtain a license from the government of both the home state and the work state.

3. Recruiting Only Through Licensed Contractor (S.9)

- No employer can recruit migrant workers directly without a contractor (to prevent exploitation).

4. Displacement Allowance (S.16)

- At the time of recruitment, the contractor must pay a displacement allowance equal to 50% of monthly wages (or ₹500, whichever is higher) to cover moving costs.

5. Journey Allowance (S.17)

- Contractor must pay travel expenses from home state to work site and back.
- During travel, wages must be paid.

6. Equal Wages (S.13)

- Migrant worker must get the same wages, holidays, and other benefits as local workers doing the same work.

7. Residential Accommodation (S.15)

- Contractor must provide suitable accommodation with:
 - Separate for men and women.
 - Proper ventilation, sanitation, and drinking water.
 - Medical facilities.

8. Medical Facilities (S.15)

- Free medical treatment for the worker and family.

9. Protective Clothing (S.14)

- If work requires protective gear, contractor must provide.

10. Register and Records (S.21)

- Principal employer and contractor must maintain registers showing:
 - Names, addresses, wages, allowances.
 - Displacement allowance paid.
 - Journey details.

11. Inspectors (S.23)

- Government appoints inspectors to enforce the Act.

12. Penalties (S.24-25)

- Violation of license conditions: fine up to ₹1,000 per worker.
- Forced labour: imprisonment up to 1 year + fine.

Comparison with Contract Labour Act

Feature	CLRA Act	ISMW Act
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Applies to	All contract labour	Only inter-state migrant workers
Displacement allowance	No	Yes (50% of wage)
Journey allowance	No	Yes
Residential accommodation	General rest rooms	Specific accommodation with medical

Conclusion

The ISMW Act provides extra protection for migrant workers, who are among the most vulnerable. However, implementation is poor, and many migrant workers (e.g., construction labour) remain unprotected.

Question 32: Explain provisions of the Bonded Labour System (Abolition) Act, 1976 with case laws.

Introduction

Bonded labour is a form of slavery where a person is forced to work to repay a debt, but the debt never ends. This Act abolishes bonded labour and makes it a criminal offence.

Key Provisions

1. Abolition of Bonded Labour System (Section 3 & 4)

- The bonded labour system is fully abolished.
- Any custom, agreement, or law that permits bonded labour is void.

- Every bonded labourer is freed from their obligation to work.

2. Cancellation of Debt (Section 5)

- All debts of bonded labourers are extinguished (cancelled).
- The labourer does not have to repay anything.

3. Prohibition of Forced Labour (Section 6)

- No one can force a person to work against their will for debt.
- Any agreement to work as bonded labour is illegal.

4. Duty of State Government (Section 7-12)

- State governments must:
 - Identify and release bonded labourers.
 - Rehabilitate them (provide land, house, money, employment).
 - Set up vigilance committees at district and sub-division level.

5. Offences and Penalties (Section 16-20)

Offence	Penalty
Enforcing bonded labour	Imprisonment up to 3 years + fine up to ₹2,000
Advancing loan for bonded labour	Imprisonment up to 2 years + fine
Making an agreement for bonded labour	Imprisonment up to 3 years + fine
Abetting bonded labour	Same as principal offence
Failure to restore property	Imprisonment up to 1 year + fine

6. Cognizance of Offences (Section 21)

- Offences are cognizable (police can arrest without warrant) and bailable.

7. Rehabilitation (Section 12)

- State government must provide:
 - Financial assistance (usually ₹1 lakh per family).
 - Land, house site, or agricultural land.
 - Seed, cattle, tools.
 - Education for children.
 - Employment or skill training.

Case Laws

1. Bandhua Mukti Morcha v. Union of India (1984) – Supreme Court

- Facts: NGO reported bonded labour in stone quarries of Haryana.
- Held: Bonded labour is a violation of Article 21 (right to life) and Article 23 (forced labour). The court laid down guidelines for identification and rehabilitation.
- Importance: Supreme Court expanded the definition of bonded labour to include any worker forced to work due to economic or social pressure, not just debt.

2. People's Union for Democratic Rights v. Union of India (1982) – Supreme Court

- Facts: Workers in Asiad construction project were paid less than minimum wage.
- Held: Non-payment of minimum wage is a form of forced labour under Article 23. The state must ensure payment of minimum wage to all workers.

3. Neeraja Chaudhary v. State of M.P. (1984)

- Court directed states to identify bonded labourers and provide rehabilitation within 6 months.

Current Status

- Bonded labour still exists in brick kilns, silk industry, rice mills, and agriculture (especially in Tamil Nadu, Bihar, Odisha, Uttar Pradesh).
- The government has a Central Sector Scheme for Rehabilitation of Bonded Labour with ₹3 lakh per worker.

Conclusion

The 1976 Act is strong on paper, but implementation is weak. Many bonded labourers remain unreleased. The Supreme Court has played a proactive role in enforcing the Act.

Question 33: Explain maternity benefits under the Maternity Benefit Act, 1961.

Introduction

The Maternity Benefit Act, 1961 protects the health and livelihood of pregnant women workers. It applies to every factory, mine, plantation, shop, and establishment with 10 or more employees.

Key Benefits

1. Paid Maternity Leave (Section 5)

- Duration: 26 weeks (for first two children).
- For third child and above: 12 weeks.
- Breakup: 8 weeks before delivery, 18 weeks after delivery.
- Rate: Full average daily wage (100%).
- Woman can take leave up to 6 weeks before delivery; remaining after.

2. Medical Bonus (Section 8)

- If employer does not provide free medical care, they must pay ₹3,500 as medical bonus.

3. Leave for Miscarriage (Section 9)

- In case of miscarriage, 6 weeks paid leave from the date of miscarriage.

4. Leave for Tubectomy (Section 9A)

- For sterilization operation: 2 weeks paid leave.

5. Leave for Illness (Section 10)

- If a woman suffers from illness due to pregnancy or delivery, she can get additional leave (paid) up to 1 month.

6. Nursing Breaks (Section 11)

- For 15 months after delivery, she gets two nursing breaks of 15 minutes each during working hours.
- These breaks are counted as working time (paid).

7. Creche Facility (Section 11A)

- If the establishment has 50+ employees, employer must provide a creche for children under 6.
- Woman worker can visit the creche up to 4 times a day.

8. No Dismissal or Disadvantage (Section 12)

- It is illegal to dismiss a woman because of pregnancy or maternity leave.
- Any notice of dismissal during leave is void.
- She cannot be given any disadvantage (like reduction in seniority or promotion).

9. Prohibition of Arduous Work (Section 4)

- For 10 weeks before delivery, employer cannot assign work that is "arduous" or involves long hours or night shifts.

10. Payment of Maternity Benefit (Section 5(3))

- Employer must pay the benefit within 15 days from when she applies.
- If delayed, employer pays interest at the rate notified by government.

Eligibility Conditions

- Must have worked for 80 days in the 12 months immediately preceding the date of expected delivery.

Who is Covered?

- All women workers (including casual, contract, and temporary) in establishments with 10+ employees.
- Also applies to mines, plantations, and government establishments.

Case Law

B. Shah v. Presiding Officer, Labour Court (1978) – Supreme Court held that "average daily wage" includes all allowances and dearness allowance, not just basic pay.

Conclusion

The Maternity Benefit Act is one of the most progressive in the world (26 weeks). It encourages women to continue working after childbirth and protects their health and job security.

Question 34: Explain provisions relating to workplace sexual harassment under the 2013 Act.

Introduction

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (SH Act) was passed following the Vishaka guidelines (1997). It protects women from sexual harassment in the workplace.

Key Provisions

1. Definition of Sexual Harassment (Section 2(n))

Includes any unwelcome act of:

- Physical contact and advances
- Demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature

2. What is "Workplace"? (Section 2(o))

Very wide definition – includes:

- Government and private offices
- Factories, shops, hospitals
- Even non-traditional workplaces: teleworking, field work, transportation, etc.
- Any place visited by the employee during employment.

3. Internal Complaints Committee (ICC) (Section 4)

- Mandatory for every workplace with 10 or more employees.
- Composition:
 - Presiding officer (woman employee at senior level)
 - 2 members from among employees (committed to women's issues)
 - 1 external member (NGO or person familiar with issues of sexual harassment)
- At least 50% of members must be women.

4. Local Complaints Committee (LCC) (Section 5)

- For workplaces with less than 10 employees, or if employer fails to form ICC.
- Formed by district officer at district level.

5. Complaint Procedure (Section 9)

- Complaint must be filed within 3 months of the incident.
- Can be extended by another 3 months if justified.
- Complaint can be in writing or by electronic means.
- If woman cannot complain due to physical incapacity, her legal heir or friend can complain.

6. Conciliation (Section 10)

- Before inquiry, ICC can try to settle the matter through conciliation (if complainant agrees).
- However, no monetary settlement allowed.

7. Inquiry (Section 11)

- ICC must complete inquiry within 90 days.
- Both parties are heard.
- Follow principles of natural justice.

8. Punishment (Section 13)

- If allegations proved:
 - Employer may take action as per service rules (warning, censure, withholding promotion, termination).
 - Deduct from wages if appropriate.
- If allegations false, ICC can recommend action against complainant.

9. Interim Relief (Section 12)

- During inquiry, ICC can order:
 - Transfer of complainant or respondent.
 - Leave for complainant (up to 3 months).
 - No deduction of wages during leave.

10. Prohibition of Retaliation (Section 18)

- Employer cannot take adverse action against a woman for filing complaint.

11. Annual Report (Section 21)

- ICC must submit annual report to district officer.

12. Penalties (Section 25-26)

- Failure to constitute ICC: fine up to ₹50,000.
- Repeat offence: double fine, cancellation of license, and deregistration.

Important Case: Vishaka v. State of Rajasthan (1997)

- Before the Act, Supreme Court laid down guidelines (Vishaka guidelines) making it mandatory for employers to prevent sexual harassment.
- The 2013 Act is based on these guidelines.

Conclusion

The SH Act is a powerful tool for women to seek justice. It creates a mechanism for fast, internal redressal. However, many small workplaces still do not have ICC, and awareness is low.

Question 35: Define factory and explain provisions under the Factories Act, 1948.

Definition of Factory (Section 2(m))

Factory means any premises where:

1. Manufacturing process is carried on, and
2. Either:
 - 10 or more workers are working (or were working on any day of the preceding 12 months) with the aid of power, OR
 - 20 or more workers are working without the aid of power.

Excludes:

- Mines, railway running sheds, hotels, restaurants, etc.

Manufacturing process (Section 2(k)) includes:

- Making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating any article or substance.
- Pumping oil, water, or sewage.
- Generating, transforming, or transmitting power.
- Printing, bookbinding, photography.

- Construction or repair of ships, buildings, etc.

Key Provisions of the Factories Act, 1948

The Act has 11 chapters. Important provisions:

Chapter III – Health (S.11-20)

- Cleanliness, waste disposal, ventilation, dust control, lighting, drinking water, latrines.

Chapter IV – Safety (S.21-40)

- Fencing of machinery, work on moving machinery, hoists, pressure vessels, floors, fire safety.

Chapter V – Welfare (S.41-50)

- Washing, clothes storage, sitting, first aid, canteen (250+), rest room (150+), crèche (30+ women), welfare officer (500+).

Chapter VI – Working Hours (S.51-66)

- Maximum 48 hours per week (S.51).
- Daily 9 hours max (S.54).
- Overtime: double wages (S.59).
- Weekly holiday: one day off (S.52).
- No night shift for women (except with safety) (S.66(1)(b)).
- Spread over: 10.5 hours max (S.56).

Chapter VII – Employment of Young Persons (S.67-77)

- No child below 14 (S.67).
- Adolescent (15-18) allowed only with certificate of fitness (S.68).
- Hours for adolescent: 4.5 hours per day (S.71).

Chapter VIII – Annual Leave (S.78-84)

- One day leave for every 20 days worked (adult).
- One day for every 15 days (child).

- Maximum 30 days per year.

Chapter IX – Hazardous Processes (S.87A-87G)

- Special provisions for dangerous industries.
- Medical checkups, safety committee.

Chapter X – Penalties (S.92-106)

- General penalty: fine up to ₹2 lakh + imprisonment up to 2 years.
- For death of worker: fine up to ₹5 lakh + imprisonment up to 3 years.

Chapter XI – Miscellaneous (S.106-120)

- Inspectors, appeals, registers, notices.

Who is an Occupier? (Section 2(n))

- The person who has ultimate control over the factory.
- In companies, it is a director (not just manager).

Important Case

J.K. Industries Ltd. v. Chief Inspector of Factories (1996) – Supreme Court held that occupier must be a natural person (human), not a company. Company can nominate one director as occupier.

Conclusion

The Factories Act is the cornerstone of industrial safety in India. It balances productivity with worker welfare. Every factory must comply with these provisions to avoid penalties and ensure a safe workplace.

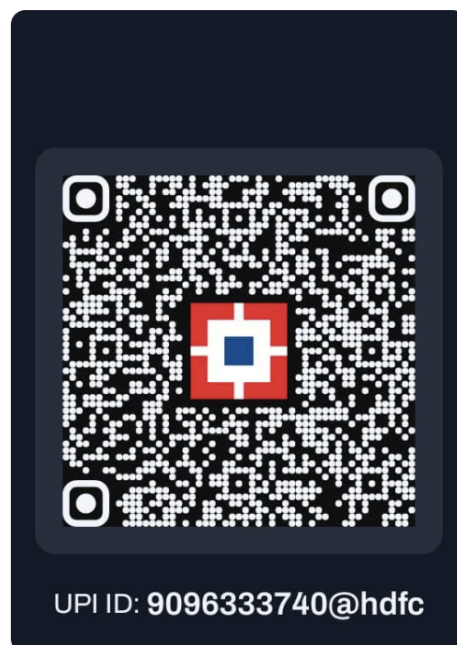
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