

MATERNITY BENEFIT ACT, 1961

Lecture on:

Lecture by

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MBA guest faculty MMH

TIME 11-12 A.M.

1. Short title, extent and commencement:
 - (a) This Act may be known as Maternity Benefit Act, 1961
 2. It extends to the whole of India.
 3. It shall come into force on such date as may be notified in this behalf in the official Gazette—
 - (a) in relation to mines and to any other establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performance, by the Central Government.
 - (b) in relation to other establishment in a state, by the state govt.
2. **Application of Act:** (1) It applies to every establishment a factory, mine or plantation belonging to govt to every establishment wherein persons are employed, industrial, commercial, agriculture or otherwise.
3. **Definition** — (a) In this act, (a) 'appropriate govt' means central govt as well as state govt.
 - (b) 'child' - include a still born child.
 - (c) delivery means the birth of child
 - (d) Employer means in relation to establishment which is under the control of the govt., a person or authority appointed by the govt for the supervision and control of employees.

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(c) establishment means -

(i) a factory

(ii) a mine, plantation

(iii) an establishment wherein persons are employed for the exhibition equestrian, acrobatics, and other performances -

(iv) an establishment wherein persons to which the provisions of this act under sub sec (4) of sec 2 to be applicable.

(d) "maternity benefit" means the payment referred to in sub sec (1) of section 5

(e) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the 26 weeks of pregnancy but does not include any miscarriage the causing of which is punishable under the Indian Penal Code (45 of 1860).

(f) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

4 **Employment of, or work by, women prohibited during certain period** (1) NO employer shall knowingly employ a woman in any establishment during the **6 Six weeks** immediately following the date of her delivery or her miscarriage

(2) NO woman shall work in any establishment during the **Six weeks** immediately following the day of her delivery of her miscarriage.

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5. Right to payment of maternity benefit -

(1) The provision of this act every woman shall be entitled to and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks (6) immediately following that date.

6. Notice of claim for maternity benefit and payment thereof - (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this act may give notice in writing in such forms as may be prescribed to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this act may be paid to her or to such person as she may nominate in the notice that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than

(6) Six weeks from the date of her expected delivery.

7. Payment of maternity benefit in case of death of a woman: If a woman entitled to maternity benefit or any other amount under this act, dies before receiving such benefit, or any other amount or where the employer is liable for maternity benefit the second provision to sub sec (3) of sec 5, the employer shall pay such benefit.

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8. **Payment of medical bonus:** Every woman entitled to maternity benefit under this act shall also be receive from employer a medical bonus of twenty five rupees.
9. **Leave for miscarriage:** In case of miscarriage a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit for a period of six weeks immediately following the date of miscarriage.
10. **Leave for illness arising out of pregnancy, delivery, premature birth of child or miscarriage** — A woman suffering illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall, on production of such proof as may be prescribed entitled in addition to the period of absence allowed to her under sec 6. or under sec 9, to leave with wages at the rate of maternity benefit.
11. **Nursing break** — Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attain the age of fifteen months.
12. **Dismissal during absence or pregnancy** — When a woman absent herself from work in accordance with the provisions of this act shall be unlawful for her employer to discharge or dismiss —
— Soal on such date that the notice will expire during such absence.

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OBJECTIVE

- It aims to regulate the employment of women in certain period before and after child - birth.
- To provide for maternity benefits including maternity leave, wages, bonus, nursing breaks.
- To protect the dignity of motherhood and the dignity of a new person providing for full and healthy maintenance of the women and her child at this important time when she is not working.

Duties of Employee for Maternity benefits:

- Under 5(2) of the maternity benefit act, 1961
- She must work not less than 80 days in the 12 months, immediately preceding the date of her expected delivery.
- Ten (10) weeks before the date of her expected delivery, she may ask the employer to give her light work for a month.
At that time she should produce a certificate that she is pregnant.
- She should give written notice to the employer about 07 (Seven) weeks before the date of her delivery that she will be absent before and after her delivery. She should also name the person to whom payment will be made in case she cannot take it herself.

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Key Highlights of the maternity benefit act amendment:

1. Increase in maternity benefit
 - a. - paid Maternity leave increased 26 weeks.
 - b. - leave prior to expected delivery date 8 weeks
2. NO increased benefit for third child.
 - The increased maternity benefit is only available for first two children.
 - A woman having two or more surviving children shall only be entitled to 12 weeks of maternity benefit of which not more than 6 (Six) shall be taken prior to the date of the expected delivery.
3. Adoption / Surrogacy: A woman who adopts a child below the age of 3 (three) months, a Commissioning mother will be entitled to maternity benefit for a period of 12 (twelve) weeks from the date of child is handed over to the adopting mother or the Commissioning mother.
4. CRECHE FACILITY: Establishments having 50+ employees mandatory to have creche facility.
The woman is also to be allowed 4 (four) visits a day to the creche, which will include the interval for rest allowed to her.

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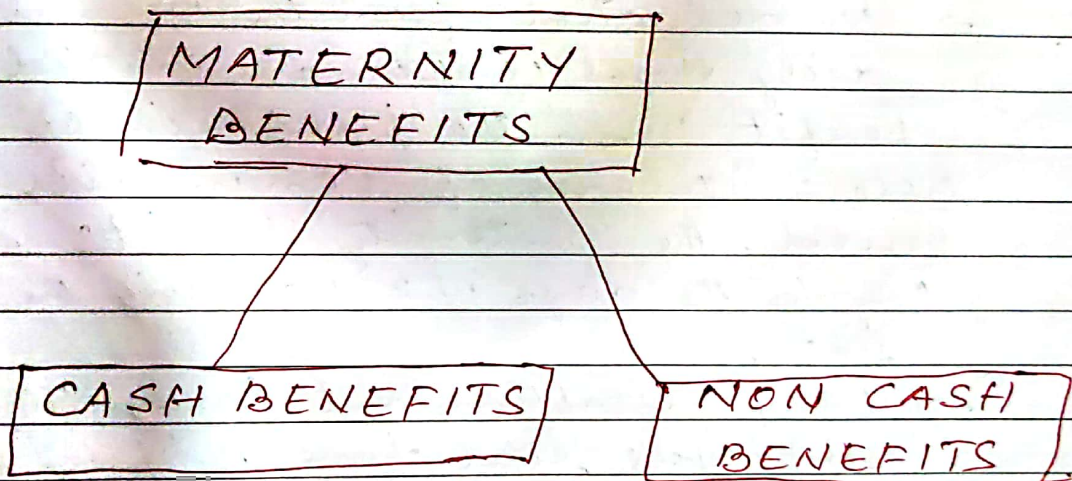
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5. Work from home: An employer may allow her to work from home post the period of maternity benefit. The conditions for working from home may be mutually agreed between the employer and the woman.

6. Prior Intimation: Every establishment will be required to provide woman at the time of her initial appointment, information about every benefit available under the act.



CASH BENEFITS :

⇒ Leave of 26 weeks (8 weeks before expected date of delivery & 18 weeks after expected date of delivery -

⇒ A medical bonus of Re 3500 (Minimum amount)

⇒ In case of miscarriage: Leave of 8 weeks immediately after the date of miscarriage.

⇒ An additional leave with pay up to one month. (Proof of illness)

⇒ Tubectomy operation: Leave with wages for a period of 2 weeks.

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NON CASH BENEFITS:

- ⇒ NO discharge or dismissal when on maternity leave
- ⇒ Light work for 10 weeks before delivery.
- ⇒ NO change to be made on her in any of the conditions to her job while on ML
- ⇒ Two Nursing Breaks until the child will become the 15 fifteen month old.
- ⇒ NO deduction from the normal and usual daily wages of woman entitled to maternity benefit under the provision of this act.

Note: In case of woman dies during this period, the maternity benefits shall be payable only for the days up to including the day of her death.

- ⇒ Every establishment having 50 or more employees shall have the facility of creche.
- ⇒ Employer shall allow 4 visits a day to the creche by the women, which shall also include the interval for rest allowed to her.

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Right, Duty & Penalty of Employer.

=> Forfeiture of maternity benefit

=> Abstract of Act and Rules: An abstract of the provisions of this act and rules made there under in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

Records Management: Every employer shall prepare and maintain such registers, records and muster rolls and in such manner as may be prescribed under the maternity act.

=> Penalty for Contravention of act:
=> imprisonment which shall not be less than (03) three months but which may extend to (01) one year and
=> fine which shall not be less than Rs 2000/- which may extend to Rs 5000/-

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CONCLUSION:

After analyzing various provisions of the act, it can be concluded maternity benefit act, 1961 is a boon for the working women in sense that don't have job insecurity during their maternity period. This act regulate the employment of women & provide maternity & and other benefits to them.