

**My observation & research that sharing with you for below Topic:-**

**“Do we pay salary for the total number of calendar days in a month or only for the working days, after deducting the number of Sundays and other holidays in a month?”**

Of course, organizations pay the same salary each month to an employee who works the entire month. The number of days for which salary is calculated in a month becomes relevant when an employee is paid only for a part of a month – in the first month of service, if the employee does not join the organization on the first day or in the last month of service, if the employee does not work until the last day of the month. The number of days for which salary is paid is relevant even in case of loss pay.

For example, if the monthly gross salary of an employee is Rs 30,000 and the employee joins an organization on 31st May, should his salary for May (for one day of work) be Rs  $30,000/31$  (calendar day basis) or should it be Rs  $30,000/30$  or Rs  $30,000/26$  (on a fixed number of days basis)?

If the monthly gross salary of an employee is Rs 30,000 and the employee has loss of pay for 2 days in May, should the loss of pay value be Rs  $(30,000/31) \times 2$  (calendar day basis) or should it be Rs  $(30,000/30) \times 2$  or Rs  $(30,000/26) \times 2$  (on a fixed number of days basis)?

**The question, at a fundamental level, is: What should be the base days for salary calculation?**

We find organizations in India adopting different bases for pay calculation.

### **1. Calendar days**

This is probably the most widely adopted basis. In the calendar-day basis, the per-day pay is calculated as the total salary for the month divided by the total number of calendar days.

For example, if the total monthly salary of an employee is Rs 30,000, and if the employee joins an organization on September 21, the employee will be paid Rs 10,000 for the 10 days in September. Since September has 30 calendar days, the per-day pay is calculated as  $\text{Rs } 30,000/30 = \text{Rs } 1,000$ .

For the first or the last month of service, an employee – depending on whether he or she joins or leaves the organization in a 30 day or a 31 day month – will receive different pay amounts for the same number of service days. In the above example, if the same employee joins the organization on October 22 (instead of September 21) and works for 10 days in October, he or she would receive only Rs 9,677 (after rounding off) in October. Since October has 31 days, the per-day pay is calculated as  $\text{Rs } 30,000/31 = \text{Rs } 967.74$ .

## 2. Calendar days adjusted for Sundays

This is a variant of the Calendar day basis. In this method, the pay per day is calculated as the total salary for the month divided by the total number of calendar days minus Sundays.

For example, let us assume that an employee joins an organization in September which happens to have 4 Sundays. If the employee's total monthly salary is Rs 26,000, and if the employee joins on September 21, he or she will be paid Rs 10,000 for the 10 days in September. Since September has 26 base days (30 minus 4 Sundays), the per-day pay is calculated as  $\text{Rs } 26,000 / 26 = \text{Rs } 1,000$ .

Some organizations add holidays to the total number of Sundays in order to arrive at the base days for the month. In other words, the total number of days for which salary is calculated each month varies from one month to another depending on the number of calendar days, Sundays, and other holidays.

## 3. Fixed number of days, such as 26 or 30

In some organizations, the per-day pay is calculated as the total salary for the month divided by a fixed number of days, such as 26 or 30.

If an organization uses 26 as the fixed number of base days each month, an employee who joins on September 21 and whose monthly salary is Rs 26,000, will get paid Rs 10,000 for the 10 days in September; the per-day pay is calculated as  $\text{Rs } 26,000 / 26 = \text{Rs } 1,000$ .

In the fixed days method, an employee, whether he joins or leaves the organization in a 30 day or a 31 day month, will get the same pay amount for the same number of pay days. In the above example, if the employee joins the organization on October 22 (instead of September 21), he would be paid the same amount of Rs 10,000 (for 10 service days) since both September and October are 26-day months from the point of view of payroll.

Of course, the discussion on days for which salary is paid is relevant only for employees who have to be paid for less than a month – due to loss of pay or in their first or last month of service. For employees who have to be paid full salary for the month, the base days are of no consequence.

Given that organizations follow different base days for pay calculation, is there is a particular method which can be said to be statutorily and logically correct?

## What do the statutes say regarding base days?

The key statutes which refer to salary payment are The Payment of Wages Act, 1936, The Industrial Disputes Act, 1947, The Payment of Gratuity Act, 1972, The Shops and Establishment Act, and The Factories Act, 1948.

Surprisingly, none of the statutes except The Payment of Gratuity Act directly specify how many base days exist in a month. The Payment of Gratuity Act states that the number of base days in a month shall be 26 for the purpose of gratuity calculation.

The Industrial Disputes Act, which deals with issues such as retrenchment salary, defines the term “average pay,” in case of monthly paid workman, as the average of the wages payable “in the 3 complete calendar months.” There is no explicit reference to how the per-day salary should be calculated.

According to the Minimum Wages Act, the minimum rates of wages may be fixed by wage-periods, namely, by the hour, by the day, by the month, or by such other larger wage-period as may be prescribed. In addition, “where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated.” Here again, there is no reference to how the per-day wage should be calculated.

The Factories Act states that each worker shall have one day off (Sunday or any one of the three days immediately before or after Sunday) each week. However, the Act is silent on whether the weekly holiday should be a paid holiday or not. Hence, it follows that if the weekly holiday is a paid holiday, then the organization shall calculate the per-day pay on the basis of the calendar days in the month. If the weekly holiday is not considered to be a paid holiday, then the total base days in a month shall be the total number of calendar days in the month minus the total number of Sundays or any other weekly off days. For example, if there are 4 Sundays (weekly off days) in September and October, the total base days in September shall be 26 (30 minus 4) and the total base days in October shall be 27 (31 minus 4).

The Shops and Establishment Act, legislated by the states in India, specify that employees should be given weekly holidays. According to the Tamil Nadu Shops and Establishment Act, “Every person employed in an establishment shall be allowed in each week a holiday of one whole day.” Further, “No deduction shall be made from the wages of any person employed in an establishment on account of any day or part of a day on which a holiday has been allowed.” The Karnataka Shops and Commercial Establishment Act too requires that employees be provided one day off each week and no wage deduction shall be done for the weekly holiday.

As far as the Shops and Establishment Act and the Factories Act- the 2 statutes which govern the majority of the organizations in India – are concerned, it can be concluded that the base days for monthly salary calculation shall either be the calendar days in a month or the number of calendar days after deducting the number of weekly off days.

Other statutes which govern sectors such as mines (The Mines Act 1952), plantations (The Plantations Labour Act, 1951), and transportation sector (The Motor Transport Workers Act, 1961) can also be referred to in this regard.

### **A fixed number of days (such as 26 or 30) as base days**

The use of a fixed number of days such as 26 or 30 each month leads to inconsistencies in salary calculation and organizations should consider avoiding this method. Here is an illustration to describe the problem with calculating per-day salary on the basis of 26 days.

Let us assume that the monthly salary for an employee is Rs 26,000, which works out to Rs 1,000 per day ( $\text{Rs } 26,000/26$ ). For employees who join the organization in the month of October (which has 31 calendar days) the salary calculation shall be as follows.

For those who join in early October, the number of days paid must be as per the number of days not worked in October. For example, employees who join on October 1 will have zero “not worked” days and hence will get paid Rs 26,000 as salary. Employees joining on October 2 will have 1 “not worked” day and hence will get paid Rs 25,000 as salary and so on. The “not worked” days logic will not work till the end of the month since as per this logic anyone who joins on the 27th of October will have 26 “not worked” days and hence will receive Rs 0 as salary.

For those who join towards the end of the month, one should use “worked” days instead of “not worked” days for salary calculation. For example, employees who join on October 31 will get salary for 1 day (Rs 1,000), employees joining on October 30 will get salary for two days (Rs 2,000) and so on.

The problem in using a fixed number of days such as 26 as the base days for pay calculation is that at some point in time during the month the payroll manager should switch from the “not worked days” basis to the “worked days” basis, and whenever the switch is made, there will be a problem of logical inconsistency. With regard to our above example, let us assume that the switch is made on October 16. A simple calculation shows that an employee who joins on October 15 will get paid Rs 12,000 as salary for the month of October (on the basis of the “not worked days” method) and another employee who joins one day later on October 16 will get paid Rs 16,000 (on

the basis of the “worked days” method) – please see the table below. Needless to say, this is illogical and not fair to the employee who works for more number of days.

The table below presents salary calculations for employees who join on different dates in October for a monthly salary of Rs 26,000. The organization calculates salary on the basis of 26 days each month.

N W Days (in the Calculation Method column) refers to “Not Worked” days

| Date of Joining | Base Days | Calculation Method | Not Worked Days | Salary Days | Salary (Rs)  | Calculation Method | Worked Days | Salary (Rs)  |
|-----------------|-----------|--------------------|-----------------|-------------|--------------|--------------------|-------------|--------------|
| 1               | 26        | N W days           | 0               | 26          | 26000        | Worked days        | 31          | 26000        |
| 2               | 26        | N W days           | 1               | 25          | 25000        | Worked days        | 30          | 26000        |
| 3               | 26        | N W days           | 2               | 24          | 24000        | Worked days        | 29          | 26000        |
| 4               | 26        | N W days           | 3               | 23          | 23000        | Worked days        | 28          | 26000        |
| 5               | 26        | N W days           | 4               | 22          | 22000        | Worked days        | 27          | 26000        |
| 6               | 26        | N W days           | 5               | 21          | 21000        | Worked days        | 26          | 26000        |
| 7               | 26        | N W days           | 6               | 20          | 20000        | Worked days        | 25          | 25000        |
| 8               | 26        | N W days           | 7               | 19          | 19000        | Worked days        | 24          | 24000        |
| 9               | 26        | N W days           | 8               | 18          | 18000        | Worked days        | 23          | 23000        |
| 10              | 26        | N W days           | 9               | 17          | 17000        | Worked days        | 22          | 22000        |
| 11              | 26        | N W days           | 10              | 16          | 16000        | Worked days        | 21          | 21000        |
| 12              | 26        | N W days           | 11              | 15          | 15000        | Worked days        | 20          | 20000        |
| 13              | 26        | N W days           | 12              | 14          | 14000        | Worked days        | 19          | 19000        |
| 14              | 26        | N W days           | 13              | 13          | 13000        | Worked days        | 18          | 18000        |
| <b>15</b>       | <b>26</b> | <b>N W days</b>    | <b>14</b>       | <b>12</b>   | <b>12000</b> | Worked days        | 17          | 17000        |
| 16              | 26        | N W days           | 15              | 11          | 11000        | <b>Worked days</b> | <b>16</b>   | <b>16000</b> |
| 17              | 26        | N W days           | 16              | 10          | 10000        | Worked days        | 15          | 15000        |
| 18              | 26        | N W days           | 17              | 9           | 9000         | Worked days        | 14          | 14000        |
| 19              | 26        | N W days           | 18              | 8           | 8000         | Worked days        | 13          | 13000        |
| 20              | 26        | N W days           | 19              | 7           | 7000         | Worked days        | 12          | 12000        |
| 21              | 26        | N W days           | 20              | 6           | 6000         | Worked days        | 11          | 11000        |
| 22              | 26        | N W days           | 21              | 5           | 5000         | Worked days        | 10          | 10000        |

|    |    |          |    |    |       |             |   |      |
|----|----|----------|----|----|-------|-------------|---|------|
| 23 | 26 | N W days | 22 | 4  | 4000  | Worked days | 9 | 9000 |
| 24 | 26 | N W days | 23 | 3  | 3000  | Worked days | 8 | 8000 |
| 25 | 26 | N W days | 24 | 2  | 2000  | Worked days | 7 | 7000 |
| 26 | 26 | N W days | 25 | 1  | 1000  | Worked days | 6 | 6000 |
| 27 | 26 | N W days | 26 | 0  | 0     | Worked days | 5 | 5000 |
| 28 | 26 | N W days | 27 | -1 | -1000 | Worked days | 4 | 4000 |
| 29 | 26 | N W days | 28 | -2 | -2000 | Worked days | 3 | 3000 |
| 30 | 26 | N W days | 29 | -3 | -3000 | Worked days | 2 | 2000 |
| 31 | 26 | N W days | 30 | -4 | -4000 | Worked days | 1 | 1000 |

The above problem exists – whether the base days are 26 or 30 days – for salary calculation in the first or last month of service when an employee works for less than full month, and in case of loss of pay. The problem ceases to exist only when the calendar day basis or its variant is used for pay calculation.

### A CASE OF OVERPAYMENT OF SALARY

Let us take a look at a numerical example which shows that a company, by following the 30-day calculation, could be overpaying its new joiners or exiting employees in a 31-day month.

An employee (new joiner or exiting employee), whose monthly gross pay is Rs 30,000, works for 10 days in the month of July (31-day month). The per-day salary in July as per company's calculation is Rs 1000 (Rs 30,000/30 days). Hence, the company would pay the employee Rs 10,000 as salary (for 10 days) in July. If the company were to follow the calendar day logic, the per-day salary in July shall be Rs 967.74 (Rs 30,000/31 days) and hence for 10 days, the company shall be paying only Rs 9,677 (instead of Rs 10,000) in July.

There are more 31-day months (7) than 30-day months (4) in a calendar year. The “overpayment” will happen in 7 months (31-day months) in a calendar year.

Arguments in favor of the fixed-days method are fallacious. A typical argument we hear in favour of the fixed-days method is as follows.

Let us maintain consistency across 30 and 31 day months. Whether an employee joins on September 21 or October 22 (and hence works for 10 days) they should be paid the same salary.

Given the Gregorian calendar system, organizations which make monthly salary payments have chosen to pay the same amount as salary whether it is a 28 or 30 or 31 day month. What about consistency there?

We wonder how organizations that follow the fixed days logic resolve the problem inherent in the method. Or maybe they don't, and just pay employees whatever salary amount comes out of applying this method.