

Employees' Provident Funds and Miscellaneous Provisions Act, 1952

- **Object:** The Act aims at providing Social Security and Timely Monetary Assistance to industrial employees and their families when they are in distress.
- CG has constituted Employees' Provident Funds Appellate Tribunal consisting of One Person only (qualified to be a High Court/District Court Judge) appointed by the CG to exercise the powers, determine the money due and discharge the functions conferred upon by the Act.
The Proceedings before the Tribunal shall be deemed to be a judicial proceeding and any order made by the Tribunal finally disposing of the appeal can not be questioned in any Court.
- The Act is administered by the Indian govt. through the Employees' Provident Fund Organization (EPFO).
- The Act is applicable to employees drawing PAY not exceeding Rs. 6500/- per month (at the time of joining).
- PAY = Basic Wages + Dearness Allowance + Retaining Allowance + Cash Value of Food concession
- **Applicability:**
 - The Act extends to whole of India except Jammu & Kashmir.
 - This Act Applies to every factory or establishment employing Twenty or more persons.
 - Once applicable – Forever Applicable,
 - Act will continue to be applicable even if there is only one employee,
 - When there is not even one employee, it would be difficult to say that the Act continues to apply.
- **Non-Applicability:** Doesn't apply to-
 - Co-operative Societies employing less than 50 persons and working without the Aid of power,
 - Establishment under the control of CG / SG,
 - Establishments' set-up under any Central / State / Provincial Act.
- The Constitutional Validity of this Act was challenged on the ground of Discrimination and Excessive delegation in the case of Delhi Cloth Mills v. R.P.F. Commissioner.
- The date of establishment of a factory is the date when the factory starts its manufacturing process.
A change in the Ownership / Partnership deed does not shift the date of establishment.
- **Employee:** means any person employed for wages in any kind of work of an establishment directly or indirectly and it includes-
 - ♥ Part-Time Employee,
 - ♥ Sweeper working twice or thrice in a week,
 - ♥ Gardener working for 10 days in a month,
 - ♥ Workers rolling Beedi at home,
 - ♥ Apprentice (Not being an apprentice engaged under Apprentice Act),
 - ♥ Sons being paid wages,
 - ♥ Person employed through contractor,
 - ♥ Members of Co-operative society doing work in connection with society and getting Wages.
- Employee does not include-
 - ♥ Casual Workers,
 - ♥ Person employed for short duration or on account of urgent necessity,
 - ♥ Working partners drawing Salaries.

➤ **Contributions:**

- Employer's Contribution in General - 10% of PAY (Previously it was 8.33%)
- Employer's contribution in Specially Notified - 12% of PAY (Previously it was 10%)
- Employee's Contribution - 10% of PAY (May contribute higher than this)
- Contribution shall be rounded off to the Nearest Rupee.
- Amount received by way of contributions is invested by the Board of Trustees in accordance with the Investment pattern approved by Govt. of India.

➤ **Advances/Withdrawals:**

- *Non-Refundable Advances* can be taken for following purposes-
 - For payment of LIC Premium,
 - For Hospitalization lasting one month or more (Any Family Member/Himself),
 - For Major Surgical Operation,
 - For treatment of T.B., Leprosy, Cancer, Paralysis, Mental derangement or Heart ailment,
 - For Daughter/Son/Brother/Sister Marriage or Self-Marriage,
 - For post matriculation education of son/daughter,
 - Purchasing an equipment in case of physically handicapped members,
 - If property is damaged by a calamity of unexceptional nature e.g., Flood,
 - Temporary closure of factory or establishment for more than 15 days (Not due to strike),
 - Non-receipt of wages for 2 months or more,
 - Closure of factory/establishment for more than 6 months.
- *Withdrawals* can be made for-
 - Purchasing a Dwelling House/flat or for construction of a dwelling house,
 - Repayment of Loans in special cases.

➤ **Final Withdrawal:** Full Accumulated amount including interest thereon is refunded in the event of-

- Death,
- Permanent Disability,
- Superannuation,
- Voluntary Retirement,
- Retrenchment or Migration from India for permanent settlement Abroad,
- Transfer to an establishment not covered under the Act,
- Female members resigning from service for the purpose of getting married,
- In other cases, with permission of commissioner or any subordinate officer to him.

➤ Arrears of Provident Fund can be recovered in the same manner as an arrear of Land Revenue.

➤ Employer is prohibited from reducing wages or the total quantum of benefits of any employee directly or indirectly to whom the scheme or the insurance scheme applies, simply by reason of his liability for the payment of contribution to the Fund or Insurance Fund or any charges.

➤ Statutory Protection is provided to the amount of contribution to Provident Fund u/s 10 from attachment to any court decree.

➤ The establishment shall send a consolidated return within 15 days of the commencement of the Provident Fund scheme to the Commissioner during the Financial Year.

➤ The establishment shall send a consolidated return within 3 months of the commencement of the Employees' Pension Scheme to the commissioner.

➤ The establishment has no employees entitled to become Members of either the Employees' Provident Fund or the Employees' Pension Scheme during the financial year, Then file 'NIL Return' to the commissioner.

Employees' Pension Scheme

- Govt. has introduced new pension scheme named Employees' Pension Scheme, 1995 in place of Family Pension Scheme.
- The new scheme is compulsory for-
 - All the persons who were members of the Family Pension Scheme,
 - Persons who become members of the Provident fund from the date of introduction of the scheme.
- Minimum 10 Years Contributory service is required for entitlement to Pension.
- Normal Superannuation Pension is payable on attaining the age of 58 years.
- Pension on a discounted rate is also payable on attaining the age of 50 years.
- The Scheme provides for payment of monthly pension in the following contingencies-
 - Retirement,
 - Permanent total disablement,
 - Superannuation on attaining the age of 58 years,
 - Death during service or after retirement/superannuation/permanent total disablement,
 - Children Pension and Orphan Pension.
- The formula for calculation of monthly members pension is as under-
 - Members Pension = Pensionable Salary*(Pensionable Service + 2)/70
 - Pensionable salary will be Average of last 12 months PAY.
- In case where the contributory service is less than 20 years but more than 10 years, monthly pension is required to be determined as if the member has rendered eligible service of 20 years. The amount so arrived shall be reduced at the rate of 3% for every year by which the eligible service falls short of 20 years, subject to maximum reduction of 25%.
- The rate of minimum widow pension is Rs. 450/- p.m.
- In addition to the widow pension the family is also entitled to children pension, Rate of children pension is 25% of widow pension for each child subject to minimum of Rs. 115 p.m. per child payable up to 2 children at a time until they attain the age of 25.
- If there are no parents alive, the scheme provides for Orphan pension @ 75% of the widow pension payable to orphans subject to the minimum of 170/- p.m. per child.
- Dependent parents are also eligible for Pension; Disabled children are eligible for Life Long Pension.
- Under the scheme, neither the employer nor the employee is required to make any additional contribution.
- Employers share of PF contribution representing 8.33% of the wage is being diverted to the said fund.
- CG is also contributing to the pension fund at the rate of 1.16% of the wage of the employees.

Employees' Deposit-Linked Insurance Scheme

- Employees' Deposit Linked Insurance Scheme, 1976 came into force on the 1st August, 1976.
- Scheme is applicable to all those factories/establishments to which the Employees' Provident Fund Act applies.
- All the employees who are members of Provident Funds in both the Exempted and the unexempted establishments are covered under the scheme.
- The employees are not required to contribute to the Insurance fund.
- Employers are required to pay Contributions to the Insurance fund at the rate of 1% of the PAY.
- Employers are required to pay Charges to the Insurance fund, at the rate of 0.01% of the PAY of the employee-members subject to a minimum of Rs. 2/- per month.