

Chapter 2

MiniMuM Wages act, 1948

Objectives :-

- a) To prevent the exploitation of the labour;
- b) To prescribe minimum rate of wages in scheduled industries;
- c) To provide decent wages to the workmen.

This Point in Exam:-

- Philosophy behind the enactment of the minimum wages Act, 1948. [2011(J), 2008 (D)]
- 5 marks

Applicability :-

- It is applicable whole of India.

Important Terminologies:-

a) "Employee" :-

- **It means:-** any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and
- **It includes:-** an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and
- **It also includes:-** an employee declared to be an employee by the appropriate Government;
- **It excludes:-** any member of the Armed Forces of the.

b) "Employer":-

- **It means** any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any

CS EXECUTIVE

scheduled employment in respect of which minimum rates of wages have been fixed under this Act.

- **It includes:-**

- i. in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named as **manager** of the factory;
- ii. in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or **authority appointed by such Government** for the supervision and control of employees or where no person or authority is so appointed, the head of the department;
- iii. in any scheduled employment under any **local authority** in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;
- iv. in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages.

Judicial Pronouncement :-

- 1) Contractor would be deemed as employer for the purpose of the act.
- 2) If the minimum wages of work has not been fixed for any branches of the work of any scheduled employment, the person employing workers in such branch is not employer within the meaning of the act. (**Nathu Ram Sukla vs. State of Madhya Pradesh**).
- 3) An out worker who prepared goods at his residence and then supplied them to his employer is deemed to be employee for the purpose of this act. (**Loknath Nathu Lal vs. State of Madhya Pradesh**).

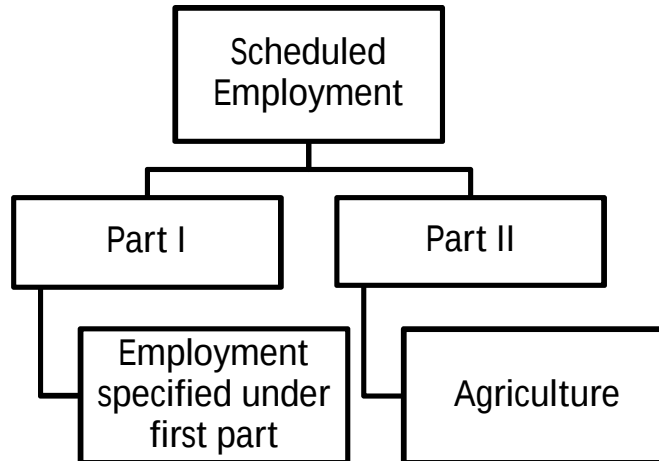
c) “Wages” :-

- **It means :-** all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment.
- **It includes:-** House rent allowance.
- **It excludes :-**
 - i. any house-accommodation, supply of light, water, medical attendance, or
 - ii. any other amenity or any service excluded by general or special order of the appropriate Government;

CS EXECUTIVE

- iii. any contribution paid by the employer to any **Pension Fund** or Provident Fund or under any scheme of social insurance;
- iv. any **travelling allowance** or the value of any travelling concession;
- v. any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;
- vi. any **gratuity** payable on discharge.

d) “Scheduled Employment” :-



Fixation of minimum rate of wages:-

- **Part I:-** Minimum rate of wages must be fixed for entire state. No part must be left altogether. However rate of wages may be different for different regions.
- **Part II:-** Minimum rate of wages may not be fixed for entire state. Parts of state may be left altogether.

Notes:-

Appropriate government may not fixed minimum rate of wages in respect of any scheduled employment in which less than 1000 employees are engaged in whole of the state.

Judicial Pronouncement:-

In case *Bijoy Cotton Mills vs. State of Ajmer*, Constitutional validity of the Act has been upheld by the apex court. Court has held that even the provision of the Act impose restriction on the right to carry on trade and profession but these restriction was held to be reasonable and aims to fulfill the objectives specified in directive principle of state policy.

This Point in Exam:-

- A company was running into losses and was unable to pay the minimum rates of wages to its workers. The workers pleaded that the employer must pay them the minimum rates of wages. The employer (company) intends to go to the court challenging the constitutional validity of the Minimum Wages Act, 1948. Will the company succeed? [2010(J)]- 5 Marks [Poor economic condition serves as no ground to challenge the constitutional validity of the Act.]

Manner of fixation of Minimum rate of wages:-

Minimum rates of wages may be fixed by any one or more of the following wage periods, namely:-

- i. by the hour,
- ii. by the day,
- iii. by the month, or
- iv. by such other larger wage-period as may be prescribed.

Further appropriate government may fix minimum rate of wages :-

- Minimum time rate
- Minimum piece rate
- Guaranteed time rate
- Over time rate.

Minimum Rate of Wages :-

Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of –

- i. a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct; or
- ii. a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of **essential commodities** at concession rates, where so authorized; or
- iii. an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

Procedure of fixing and revising Minimum Wages :-

- **Committee Method:-** Government may appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be. Committee shall consist of independent member not exceeding $\frac{1}{3}^{\text{rd}}$ of total members. **Committee is an advisory body and government is not bound to accept its recommendation; or**
- **Notification method:-** Appropriate government may by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration. **Minimum wages rates can be revised with retrospective effect.**

This Point in Exam:-

- 'Methods of fixing and revising minimum rates of wages' under the Minimum Wages Act, 1948. [2009(J),(D), 2010(D)]- 5 Marks
- 'Committee method' and 'notification method' for the fixation of minimum wages under the Minimum Wages Act, 1948. [2011(D)]- 5 Marks.
- 'Minimum wages' and 'fixation of the minimum rates of wages' under the Minimum Wages Act, 1948. [2012(J)]- 5 marks

❖ **Advisory Board :-**

For the purpose of co-ordinating the work of advising the appropriate Government generally in the matter of **fixing and revising minimum rates of wages**, the appropriate Government shall appoint an Advisory Board.

❖ **Central Advisory Board :-**

For the purpose of advising the Central and State Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

❖ **Composition of Central Advisory Board :-**

The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

CS EXECUTIVE

❖ Minimum wages -in cash or kind? :-

Minimum wages payable under this Act shall be **paid in cash**. Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the Official Gazette, authorize the payment of minimum wages either wholly or partly in kind.

❖ Payment of minimum wages :-

Payment of minimum wages is mandatory for the employer and payment of any wages less than minimum wages is an offence.

❖ Fixing hours for normal working day :-

The appropriate government may :-

- a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;
- b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;
- c) provide for payment for work on a day of rest at a rate not less than the overtime rate

In case of ***Binod Bihari shah vs. State of WB***, it has been held that there is correlation between minimum rates of wages and hours of work. Minimum rate of wages are to be fixed on the standard normal working hours, namely 48 hours a week.

❖ Payment of overtime :-

Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day ***in excess of the number of hours constituting a normal working day***, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

High Impact Points :-

Payment for overtime work can be claimed only by the employees who are getting minimum rate of wages under the act and not by those getting better wages.

Offences and Penalties:-

Any employer who pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act, or shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

MCQs on Minimum Wages Act 1948

1. Statutory Minimum wage is fixed under

- (a) Payment of Wages Act, 1936
- (b) Equal Remuneration Act, 1976
- (c) Workmen's Compensation Act, 1923
- (d) Minimum Wages Act, 1948

Answer - (d)

2. Under the Minimum Wages Act, 1948 the appropriate government shall fix the minimum rates of wages payable to the employees employed in an employment specified in

- (a) Schedule I part I
- (b) Schedule I part II
- (c) Schedule I, Part I, II and the employments and added under section 27
- (d) Schedule I and II

Answer - (c)

3. Which of the following is not a method for fixing Minimum Wages under the Minimum Wages Act, 1948?

- (a) Notification Method
- (b) Committee Method
- (c) Bargaining Method
- (d) None of the above

Answer - (c)

4. The minimum wages as fixed under the Minimum Wages Act, 1948 must be revised at least once in

- (a) 2 years
- (b) 3 years
- (c) 5 years
- (d) No mention under the Act

Answer - (c)

CS EXECUTIVE

5. The Minimum Wages Act, 1948 has

- (a) One schedule covering different types of industries.
- (b) One schedule covering different types of industries, shops and establishments.
- (c) One schedule covering shops and establishments.
- (d) Two schedules covering industrial establishments and agriculture.

Answer - (d)

6. Which one of the following is not based on the principle of welfare?

- (a) Mica Mines Labour Welfare Funds Act
- (b) Iron Ore Mines Labour Welfare Funds Act
- (c) Minimum Wages Act
- (d) Dock Workers (Safety, Health, Welfare) Act

Answer - (c)

7. Which of the following legislations apply to unorganized sector workers in India?

- (a) Minimum Wages Act
- (b) Child Labour (Prohibition and Regulation) Act, 1986
- (c) Contract Labour (Regulation and Abolition) Act 1970
- (d) All of the above

Answer - (d)

8. Under the Minimum Wages Act, which of the following cannot be appointed by the appropriate government by notification under the official gazette for deciding claims arising out of payment of less than the minimum rates of wages?

- (a) Any commissioner for Workmen's compensation
- (b) Any officers of the Central Government exercising functions as a Labour Commissioner for any region
- (c) Any officer of the State Government not below the rank of Labour Commissioner
- (d) Any officer not less than the rank of District Magistrate

Answer - (d)

CS EXECUTIVE

9. What are the methods mentioned in Section 5 of the Minimum Wages Act, 1948 for fixation/revision of minimum wages.

- (a) Committee method
- (b) Notification method.
- (c) Voting method
- (d) Both (a) & (b)

Answer - (d)

10. In order to protect the minimum wages against inflation, the Central Government has made the provision of Variable Dearness Allowance (VDA) linked to ----- .

- (a) Wholesale Price Index Number for Industrial Workers (WPI – IW)
- (b) Consumer Price Index Number for Industrial Workers (CPI – IW)
- (c) Consumer Price Index Number for all Urban Consumers (CPI-UC)
- (d) Wholesale Price Index Number for all Urban Consumers (WPI-UC)

Answer - (b)

11. Which of the following are the responsibilities of Central Advisory Board.

- (a) Advising the Central and State Governments in the matters of the fixation of minimum rates of wages
- (b) Advising the Central and State Governments in the matters of the revision of minimum rates of wages
- (c) Co-ordinate the work of State Advisory Boards
- (d) All the above

Answer - (d)

12. The Central Advisory Board shall consist of the following members nominated by the Central Government

- (a) The employers
- (b) The employees
- (c) Independent persons
- (d) All the above

Answer - (d)

13. If an employee works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall be entitled to receive wages

- (a) for a full normal working day
- (b) for the hours he had worked
- (c) for a half working day

CS EXECUTIVE

(d) None of the above

Answer - (a)

14.To provide guidelines for wage structures in the country, a tripartite Committee Viz., "The Committee on Fair Wage" was constituted on ----- .

- (a) 1946
- (b) 1948
- (c) 1964
- (d) 1950

Answer - (b)

15.Under this act, the appropriate Governments have the power to notify any employment where ----- number of employees are working in 'schedule of employment' to fix the rates of minimum wages

- (a) 500 or more
- (b) 100 or more
- (c) 1000 or more
- (d) 250 or more

Answer - (c)
