

Minimum Wages Act, 1948

- Objective...
 - To provide minimum wages to the workers working in organised sector.
 - To stop exploitation of the workers
 - To empower the government to take steps for fixing minimum wages and to revise this wages every two years.
 - To apply this law on most of the sectors in organised sector (scheduled employment)
- What is appropriate government?
 - In relation to scheduled employment (including railway) carried out by central government – the central govt.
 - In all other cases – the state govt.
 - (thus for our purpose, the appropriate govt. is state govt.).
- Who is an employee?
 - Sec. 2 (i) : 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. Employee included outworker to whom the goods are given for repairing, finishing etc.
- What is wages?
 - Wages means all remuneration capable of being expressed in terms of money. It includes house rent allowance but does not include * value of house accommodation, supply of light, water, medical attendance * Value of any other amenity provided, if excluded by Government order * Contribution to pension fund or provident fund or insurance * Traveling allowance * special expenses incurred by the nature of employment * Gratuity payable on discharge. [section 2(h)].
- Who is employer...
 - “ Employer” means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employee In any scheduled employment in respect of which minimum rates of

wages have been fixed under this Act, and includes, except, in sub-section (3) of Section 26

- (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 under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948, 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 of authority is so appointed the Head of the Department ;
- Employer...
 - 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;
 - 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 of the supervision and control of the employees or for the payment of wages.
- Minimum wage fixation
 - by Appropriate Government after following prescribed procedure. The rate fixed can be revised periodically. [section 3(1)]. The rate can be fixed on * time work basis * piece work basis * a guaranteed rate when rate is fixed on piece work basis and * overtime rate. [section 3(2)]. Different minimum wage rates can be fixed for * different scheduled employments * different class of work in the same scheduled employment * adults, adolescents, children and apprentices * Different localities. [section 3(3)(a)].
- Minimum wage fixation...
 - Rates can be fixed on basis of hour, day or month, or even larger period. [section 3(3)(b)]. - - The rate shall consist of basic rate of wages with or without allowance for cost of living allowance based on _cost of living index number_. An all inclusive rate allowing for basic wage, cost of living allowance and cash value of concession can also be fixed. [section 4].
- Procedure for fixation of minimum wages...

- Minimum wages will be fixed after appointing a committee. Their proposals will be published by way of notification. After hearing representations, rate of minimum wages will be notified. [section 5].
- Advisory board...
 - Government is required to constitute Advisory Board to recommend minimum wages. The recommendations of Advisory Board are not binding on Government. – State of AP v. Narayana Vellur Beedi Mfg Factory AIR 1973 SC 307.
- Central Advisory Board...
 - It will be constituted from persons nominated by central government.
 - It will consist of representatives of employers, employees and independent members (upto 1/3 rd of the total strength).
- Can you pay in kind?
 - Sec. 11 of min. wages act says that you can only make the payment in cash.
 - If it is a custom to make payment wholly or partly in kind, the appropriate govt. may permit it.
- Are working hours also fixed?
 - Sec. 13: the govt. may fix the hours of work also. The govt. may provide for rest day, the govt. may provide for interval also.
- Will there be overtime?
 - Sec. 14: if minimum wages is fixed by hours, then the workers will be paid overtime if he works more than the hours prescribed. The overtime rate will be as fixed in this law or other law as applicable.
- What will happen if a worker works less than normal hours?
 - He will receive minimum wages
 - However, he will not receive minimum wages if he is not willing to work or circumstances as may be prescribed.
- Employer to close the unit, if minimum wages cannot be paid...
 - employer cannot pay minimum wages, he has to close down the undertaking. * Crown Aluminium Works v. Their Workmen AIR 1958 SC 30 = 1958 I LLJ 587

(SC) * Deepak Photos v. State of Kerala 2001 LLR 10 (Ker HC DB) * Andhra Pradesh Hotels Association v. Government of AP 2002 LLR 1122 = 101 FJR 703 (AP HC DB). Paying capacity is not relevant consideration for rate of minimum wages. Cost of living and general wages in locality are relevant. – Chandrabhavan Boarding v. State of Mysore AIR 1968 Mys 156 = 1968 Lab IC 879.

- Minimum wages have to be paid irrespective of the financial condition...
 - Minimum wages are payable irrespective of financial position of individual employer. – Hindustan Aeronautics v. Workmen AIR 1967 SC 948.
- Procedure for fixation of minimum wages... (sec. 5(1) (a & b))
 - Committee method : a committee is appointed to hold enquiry and suggest minimum wages to be fixed.
 - Notification Method : notification is published in the official gazette and 2 months period is given for different parties to suggest their case. Based on the representations, the govt. will fix the minimum wages...the notification can apply from retrospective dates also.
- If you pay more than minimum wages – fair
 - Even if State Government notification prescribes variable dearness allowance which is linked with cost of living index, amount paid on basis of DA is not to be taken as an independent component of minimum wages, but as part and parcel of process of computing minimum wages. Hence, in cases where employer is paying total sum which is higher than minimum rates of wages fixed under the Act including the cost of living index (VDA), he is not required to pay VDA separately. - Airfreight Ltd. v. State of Karnataka 1999(4) SCALE 451 = 1999 AIR SCW 2608 = AIR 1999 SC 2459 = 95 FJR 395 = 1999 LLR 1008 = 83 FLR 126 (SC) – same view in Harilal Jechand Doshi v. Maharashtra General Kamgar Union 2000(1) Bom CR 620 (Bom HC) * Management of Ramkrishna Pharmaceuticals v. State Authority 2002 LLR 988 (AP HC) * Andhra Pradesh Hotels Association v. Government of AP 2002 LLR 1122 = 101 FJR 703 (AP HC DB). – Thus, even if rates fixed by State Government indicate basic and DA separately,
- Minimum wages – sufficient condition...
 - It is sufficient if employer pays total amount which is equal to or more than total minimum wages (including DA) as specified by State Government in a notification.
- Penlty...

- Sec. 22 & sec. 13 : imprisonment of 6 month and / or fine of Rs. 500.
- Authorities...
 - Following authorities may be appointed by the govt. (sec. 20,21)
 - Commissioner for workmen compensation
 - Labour commissioner
 - Judge / civil court as : stipendiary magistrate

Santhosh Thomas Thaikkanadan