Summary of

EMPLOYEE'S PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

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“Om Sai Namo Namah”

Summary of Employee’s Provident Fund And Miscellaneous provisions Act, 1952

For CA-IPCC Students

An approach to make students easily understand the concept of this law, and can easily prepare for their examination in a very short period of time.

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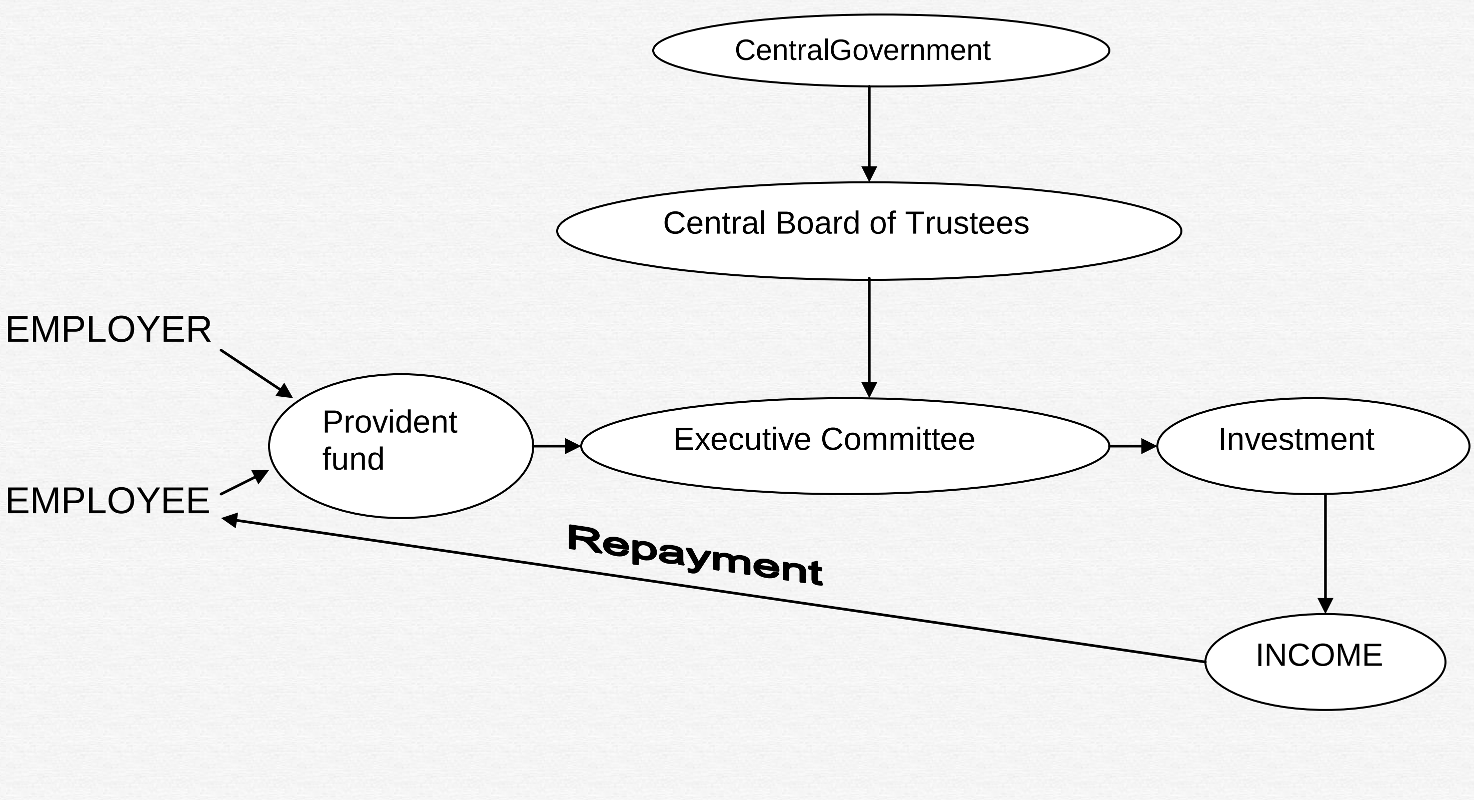
THE EMPLOYEE'S PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT, 1952

Meaning of Provident Fund:

Provident Fund means a fund which is created employer and employee together for the benefit of the employee. In Provident Fund contributions are made by employer and employees and contribution are invested, from investment whatever income is received is reinvested

The total amount of Provident Fund will be given to employee on their retirement. This amount will be given to the dependents of employee on his death.

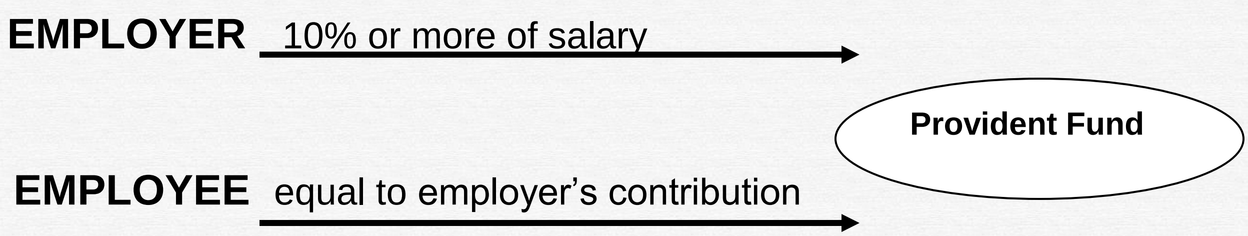


This diagram shows the functioning of Provident Fund Act.

Explaination-

Firstly ,both **employee** and **employer** with contribute same amount to the **provident fund** which is being transferred to **executive committee** which is being made **Central Board of Trustees** on the recommendation of the **Central Government.** Thus the amount of provident fund is **being invested** by the executive committee and the income generated is being reinvested till the retirement of the employee and the total amount generated is being transferred to employee on his retirement.

Provident Fund Contribution- (Sec.6)



(i) The employers contribution in Provident Fund must be at least 10% of salary income of employees however the contribution may be more.

(ii) The employer's contribution depends upon the will of employer.

(iii) The employee's contribution must be at least equal to employer's contribution however it may be more.

(iv) The contributions may be different hence employee and employer may contribute different amounts.

In EPF Salary means = Basic salary+ Dearness Allowance

The salary does not include any other payment for the purpose of EPF.

Benefits and Purpose of EPF Act-

EPF Act was passed by parliament to provide 3 benefits.

(1) Employee's Provident Fund

(2) Pension Fund for Employees

(3) Deposit Linked Insurance Plan

Applicability of EPF Act-

(1)According to **Section 1** EPF Act is applicable to whole of India except Jammu& Kashmir.

(2) The **EPF Act applies to those businesses in which 20 or more workers are employed.**

Constitution of Central Board of Trustees

It consists

- 1 Chairman
- 1 Vice Chairman
- 1 Provident Fund Commissioner
- 15 Officers of Central Government
- 15 Officers of State Government
- 10 Representative of Employer
- 10 Representative of Employees

Constitution of Executive Committee

- 1 Chairman
- 1 Vice Chairman
- 1 Provident Fund Commissioner – **same as in CBT**
- 3 Officers of Central Government
- 3 Officers of State Government
- 2 Representative of Employer
- 2 Representative of Employees

NOTE- The CBT and EC have basic function of managing the EPF Act. Hence in EPF Act these bodies perform various functions.

Functions of Board-

1. Management and Administration of EPF
2. Management and Administration of PF
3. Management and Administration of DLIP

Employees Pension Scheme (Sec 6A)

1. The Central Government has prepared pension scheme for the benefit of employees. This pension scheme provides that after retirement of employees pension will be given.
2. Or the pension to be given to widow or children of employee after his death.
3. The normal pension of employee is equal to the 50% of his last drawn salary.

Family Pension-

1. Means the pension given to the widow of employee or his children after his death.

2. Widow pension is given till the death of widow or till her second marriage.

3. Children pension is given to the children till they become major.

4. The widow pension is 50% of employees pension and children pension is 25% of employees pension up to maximum of 2 children.

Nature of Payment of Pension-

1. Pension maybe given on monthly basis or on annual basis.

2. Some times pension is given for many years in lump sum it is known as commuted pension.

3. The pension given to employees may be commuted as per the choice of employer and employee. If the pension is given for many years in lump sum then after those years if the employee is alive then pension will be given to employees after that time period also.

Employee's Deposit Linked Insurance (Sec 6C)

1. Every employer upon whom EPF Act is applicable must pay insurance premium to the Central Board of Trustees.

2. The CBT shall maintain an insurance fund out of which some amount is given to the employee on his accidents or illness. Similarly if the employee expires than amount is given to family of employee.

3. The Deposit Link Insurance is a benefit provided by employer to employees compulsorily under this law.

4. The insurance premium paid by employer will be ¼ of the total contribution in Provident Fund.

Calculation of Amount Due from Employer (Sec 7)

1. PF Department has Provident Fund Commissioners and they may calculate money due from employer.

2. For calculation of money the audited P&L A/c and Balance Sheet of the employer is verified. It is assumed that P&L A/c and Balance Sheet are correct and can be relied upon.

Inquiry Officer-

Under EPF Act, enquiry officers are appointed and these enquiry officers have the power of court. The enquiry officers will carry out the inquiry and investigations so that EPF contribution can be calculated.

Inquiry Officers may order the employers to produce documents and books of accounts at the same time these officers may issue order to the employer for payment of PF contribution, pensions and deposit link insurance premium.

Own Provident Fund of Employer-

Authorizing Employer to maintain PF Account (Sec 16A)

1. IF **the employer has 100 or more employees** and the employer and majority of employees **makes an application to the PF Commissioner** then the employer is authorizes to maintain his own Provident Fund.

2. Employer will create a trust and the trust will maintain the fund as per the terms and conditions of PF Commissioner and Central Government.

3. Permission will be given to employer only if he has not committed any default in payment of provident fund in last 3 years.

4. The EPF Trust will manage contribution and when the employee retires then trust will make the payment to employee.

Transfer of Accounts (Sec 17A)

If an employer has Provident Fund and his employee leaves the employment and joins new employment then in the new employment if he has a new provident fund then the provident fund balance of employee will be transferred to new employment if the employee desires. However if the employee does not want to transfer the PF balance with new employer then amount will be withdrawn and in the new employment a new PF A/c will be started from beginning.

Following are the circumstances

1. If PF A/c is applicable to both the establishments then if the employee desires then PF will be transferred.
2. If the law is applicable to earlier establishment and not on subsequent establishment then also PF will be transferred to new establishment if the employee desires.

<u>APPELLATE TRIBUNAL</u> (Sec 7D)

1. The Central Government constitutes EPF Appellate Tribunal. This tribunal is framed to provide for dispute solving mechanism so that disputes under EPF Act can be resolved without wastage of time.
2. Every tribunal has a **Presiding Officer** who is qualified to be a high court judge or district judge.
3. The tribunal will work with all the powers of court given under Indian Penal Code (IPC).
4. It has power to decide upon any of the dispute relating to EPF Act.
5. The Presiding Officer of tribunal will have the power to pass such orders which are necessary.
6. The Presiding Officer shall hold the office for maximum 5 years.

<u>Definitions</u> (Sec.2)

<u>Appropriate Government-</u>

Government which has power to make rules and regulations regarding the EPF Act.

Following are the appropriate Government

1. For establishment working in area of Central Government, then Central Government is appropriate Govt.
2. For working is area of State Government, then State Government is the appropriate Govt.

Inspectors (Sec 13)

Inspectors are being appointed by appropriate government for the purpose of Act and Scheme. Inspectors are required to collect the information from employers from whom any amount is due.

He is to make copies of, or take extract from any book, register or other document maintained in relation to the employer or establishment, where he has reason to believe that any offence has been committed.

Penalties for Non-Payment (Sec 14)

1. Employer will be penalized if he is found that knowingly or by making false statement he was avoiding payment.
2. Such penalty is in the form of imprisonment for a term extending to one year or of fine extending to Rs. 5000 or both.

Basic Wages-

1. Cash value of any food possession.
2. Other payments made in form of cash (eg. D.A., HRA, bonus, commission, etc.)
3. any present from employer.

Employer- means

1. In relation to establishment, the owner or occupier of the factory including the agent of such owner of occupier.
2. The legal representative of the deceased owner or occupier.

Employee –

Means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with work of an establishment, and who gets his wages directly or indirectly from employer.