LABOUR & INDUSTRIAL LAW

UNIT – II

Wages, Bonus and Gratuity

Minimum Wages Act, 1948 • Payment of Bonus Act, 1965
Payment of Gratuity Act, 1972

Learning Objectives

01 Explain the concept, theories and kinds of wages

02 Describe the scheme and key sections of the Minimum Wages Act, 1948

03 Analyse the Payment of Bonus Act, 1965 – eligibility, calculation and exemptions

04 Examine the Payment of Gratuity Act, 1972 – entitlement, rate and forfeiture

05 Identify landmark judgments on wages, bonus and gratuity

Concept and Meaning of Wages

Wages mean all remuneration capable of being expressed in terms of money, which would, if the terms of employment were fulfilled, be payable to a person employed in respect of his employment.

Definitions appear in:

- Minimum Wages Act, 1948 – Section 2(h)
- Payment of Wages Act, 1936 – Section 2(vi)
- Payment of Bonus Act, 1965 – Section 2(21)
- Payment of Gratuity Act, 1972 – Section 2(s)

Wages generally include basic wage, dearness allowance and other allowances, but exclude certain items such as bonus, gratuity, employer's contribution to PF, etc. (depending on the statute).

Theories of Wages

Subsistence Theory

Wages tend to the minimum necessary for the worker's subsistence (Ricardo).

Wage Fund Theory

Wages depend on the size of the capital fund set aside for labour.

Marginal Productivity

Wages equal the marginal product of labour.

Bargaining Theory

Wages are determined by the relative bargaining power of employers and workers.

Minimum Wages Act, 1948 – Overview

Object: To provide for fixing minimum rates of wages in certain employments.

The Act is a social welfare legislation intended to prevent exploitation of labour by ensuring that workers receive at least a minimum wage sufficient for a basic standard of living.

Key concepts:
- Scheduled employment (Section 2(g) + Schedule)
- Appropriate Government (Central or State)
- Minimum rate of wages may include basic rate + cost of living allowance + cash value of concessions
- Minimum wage is the bare minimum; living wage and fair wage are higher concepts developed by the Supreme Court.

Minimum Wages Act – Important Sections

Section 3	Fixing of minimum rates of wages by appropriate Government
Section 4	Components of minimum rates of wages
Section 5	Procedure for fixing and revising minimum wages
Section 12	Payment of minimum rates of wages – mandatory
Section 13–16	Hours of work, overtime, rest day, weekly holiday
Section 20–21	Claims and penalties

Procedure for Fixing Minimum Wages

Section 5 provides two methods:

1. Committee Method
• Appropriate Government appoints a committee or advisory board
• Committee inquires and makes recommendations
• Government considers recommendations and notifies minimum rates

2. Notification Method
• Government publishes its proposals in the Official Gazette
• Objections and suggestions are invited
• After considering them, final notification is issued

The Act also provides for revision of minimum wages at intervals not exceeding five years.

The process is quasi-legislative; courts generally do not interfere unless the procedure is violated or the rates are grossly inadequate.

Payment of Bonus Act, 1965 – Overview

Object: To provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity.

Applicability: Every establishment in which 20 or more persons are employed on any day during an accounting year.

Key principles:

- Bonus is a statutory right, not a matter of grace
- Minimum bonus is payable even if there is no profit
- Maximum bonus is capped
- Calculation is based on “available surplus” after making prior charges

The Act was enacted after the Bonus Commission Report and has been amended several times.

Bonus – Eligibility and Quantum

Eligibility (Section 8):
• Employee who has worked for at least 30 days in the accounting year
• Drawing salary/wages not exceeding the prescribed ceiling

Minimum Bonus (Section 10):
• 8.33% of salary/wages earned during the accounting year
• Payable even if the employer has no allocable surplus

Maximum Bonus (Section 11):
• 20% of salary/wages

Calculation of available surplus and allocable surplus is governed by Sections 4–7 and the Schedules.

Special provisions exist for new establishments, sick units and public sector.

Payment of Bonus Act – Key Sections

Section 2(13)	Definition of employee
Section 8	Eligibility for bonus
Section 10	Payment of minimum bonus (8.33%)
Section 11	Payment of maximum bonus (20%)
Section 15	Set-on and set-off of allocable surplus
Section 32	Act not to apply to certain classes of employees

Payment of Gratuity Act, 1972 – Overview

Object: To provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops and other establishments.

Nature of gratuity:
- It is a reward for long and continuous service
- It is a statutory right, not a bounty or gift
- It is payable on termination of employment after continuous service of five years (except in case of death or disablement)

The Act applies to every shop or establishment in which 10 or more persons are employed or were employed on any day of the preceding 12 months.

Gratuity – Eligibility and Calculation

Eligibility (Section 4):
• Employee who has rendered continuous service for not less than five years
• Continuous service includes interruptions due to sickness, accident, leave, lay-off, strike, etc. (Section 2A)
• Five-year condition is not required in case of death or disablement

Rate of gratuity:
• 15 days' wages for every completed year of service
• "Wages" means last drawn wages
• For monthly-rated employees: (last drawn wages × 15 × number of years) / 26

Maximum ceiling on the amount of gratuity is fixed by notification and is revised from time to time.

Forfeiture of Gratuity

Section 4(6) of the Payment of Gratuity Act permits forfeiture of gratuity in limited cases:

• Wholly or partially forfeited if the employee’s services are terminated for wilful omission or negligence causing damage or loss to the employer’s property (to the extent of the damage)
• Wholly forfeited if services are terminated for riotous or disorderly conduct or any other act of violence, or for any act which constitutes an offence involving moral turpitude, provided the offence is committed in the course of employment

The power to forfeit is not absolute; principles of natural justice must be followed and the forfeiture must be limited to the extent of loss proved.

Landmark Cases – Wages

People's Union for Democratic Rights (1982)

Non-payment of minimum wages amounts to forced labour under Article 23. Minimum wage is a constitutional requirement.

Sanjit Roy v. State of Rajasthan (1983)

Even in famine relief work, minimum wages must be paid. Exploiting the helplessness of the poor is forced labour.

Unichoyi v. State of Kerala (1962)

Constitutional validity of the Minimum Wages Act upheld. The Act is not ultra vires the Constitution.

Landmark Cases – Bonus & Gratuity

Jalan Trading Co. v. Mill Mazdoor Sabha (1967)

Constitutional validity of the Payment of Bonus Act examined. Bonus is a statutory right.

Municipal Corpn. of Delhi v. Female Workers (2000)

Maternity benefits and welfare rights given liberal interpretation.

Y.K. Singla v. Punjab National Bank

Principles relating to calculation and entitlement of gratuity under the 1972 Act.

Wages ● Bonus ● Gratuity – Comparison

Aspect	Minimum Wages	Bonus	Gratuity
Nature	Statutory floor	Profit-sharing right	Reward for service
When payable	Continuously	Annually	On exit after 5 yrs
Minimum	Fixed by Govt	8.33%	15 days/year
Ceiling	None	20%	Notified limit

Key Takeaways (1/2)

- Minimum wages are a statutory floor; non-payment can amount to forced labour under Article 23.
- The Minimum Wages Act empowers the appropriate Government to fix and revise rates for scheduled employments.
- Bonus under the 1965 Act is a statutory right – minimum 8.33% is payable even in loss-making years.
- Gratuity is a reward for long continuous service and becomes payable after five years (or on death/disablement).

Key Takeaways (2/2)

- Forfeiture of gratuity is permitted only in limited cases under Section 4(6) and must follow natural justice.
- Contracting out of minimum wages or statutory bonus/gratuity is generally void.
- Judicial interpretation has consistently expanded the protective reach of these three statutes.
- These Acts form the core of wage-related social security for organised sector workers.

Unit-II – Quick Revision

Minimum Wages Act	S. 3, 4, 5, 12 – fixation, components, payment
Bonus Act	S. 8, 10, 11 – eligibility, min 8.33%, max 20%
Gratuity Act	S. 4 – 15 days' wages per year after 5 years
Key Case (Wages)	PUDR (1982) – non-payment = forced labour
Key Case (Bonus)	Jalan Trading (1967) – statutory right
Key Case (Gratuity)	Principles on calculation & forfeiture

End of Unit – II

Wages • Bonus • Gratuity

Next → Unit-III : Child Labour & Contract Labour