



RAMA UNIVERSITY

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LECTURE: 19

NAME OF FACULTY: DR. H. L. BHASKAR

Lecture-19



Social Security Legislations: Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; The Workmen's Compensation Act, 1923; The Employee State Insurance Act, 1948; Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961

Minimum Wages Act, 1948

Sec 1. Short title and extents

(1) This Act may be called the Minimum Wages Act 1948.

(2) It extends to the whole of India.

Sec 2. Interpretation

In this Act unless there is anything repugnant in the subject or context –

(a) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

(aa) "adult" means a person who has completed his eighteenth year of age;

(b) "appropriate government" means –

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government or a railway administration] or in relation to a mine oilfield or major port or any corporation established by a Central Act the Central Government and

(ii) in relation to any other scheduled employment the State Government;

(bb) "child" means a person who has not completed his fourteenth year of age;

(c) "competent authority" means the authority appointed by the appropriate government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(d) "cost of living index number" in relation to employees in any scheduled employment in

respect of which minimum rates of wages have been fixed means the index number ascertained and declared by the competent authority by notification in the Official Gazette to be the cost of living index number applicable to employee in such employment;

(e) "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 employees 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 (63 of 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 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 persons 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;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "schedule employment" means an employment specified in the Schedule or any process or branch of work forming part of such employment;

(h) "wages" 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 and includes house rent allowance but does not include –

(i) the value of –

(a) any house accommodation supply of light water medical attendance or

(b) any other amenity or any service excluded by general or special order of the appropriate government;

(ii) any contribution paid by the employer to any person fund or provident fund or under any scheme of social insurance;

(iii) any traveling allowance or the value of any traveling concession;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge; (i) "employee" 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 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 also includes an employee declared to be an employee by the appropriate government; but does not include any member of the Armed Forces of the Union.

Sec 3. Fixing of minimum rates of wages

(1) The appropriate government shall in the manner hereinafter provided –

(a) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Party by notification under section 27 :

Provided that the appropriate government may in respect of employees employed in an employment specified in Part II of the Schedule instead of fixing minimum rates of wages under this clause for the whole State fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;

(b) review at such intervals as it may think fit such intervals not exceeding five years the minimum rates of wages so fixed and revise the minimum rates if necessary :

Provided that where for any reason the appropriate government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them if necessary and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

(1A) Notwithstanding anything contained in sub-section (1) the appropriate government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment but if at any time the appropriate government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more it shall fix minimum rates of wages payable to employees in such employment as soon as may be after such finding.

(2) The appropriate government may fix –

(a) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(b) a minimum rates of wages for piece work (hereinafter referred to as "a minimum piece rate");

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(2A) Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act 1947 (14 of 1947) or before any like authority under any other law for the time being in force or an award made by any Tribunal National Tribunal or such authority is in operation and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award then notwithstanding anything contained in this Act the minimum rates of wages so fixed or so revised shall not apply to those employees during the period in which the proceeding is pending and the award made therein is in operation or as the case may be where the notification is issued during the period of operation of an award during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.

(3) In fixing or revising minimum rates of wages under this section –

(a) different minimum rates of wages may be fixed for –

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults adolescents children and apprentices;

(iv) different localities;

(b) 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

and where such rates are fixed by the day or by the month the manner of calculating wages for a month

or for a day as the case may be may be indicated :

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act 1936 (4 of 1936) minimum wages shall be fixed in accordance therewith.

Sec 4. Minimum rate of wages

(1) 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 to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance"); 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 suppliers 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.

(2) The cost of living allowance and the cash value of the concessions in respect of supplied of essential commodities at concession rate shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate government.

Sec-5. Procedure for fixing and revising minimum wages

(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed the appropriate government shall either –

(a) 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 or

(b) 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.

(2) After considering the advice of the committee or committee appointed under clause (a) of sub-section (1) or as the case may be all representations received by it before the date specified in the notification under clause (b) of that sub-section the appropriate government shall by notification in the Official Gazette fix or as the case may be revise the minimum rates of wages in respect of each scheduled employment and unless such notification otherwise provides it shall come into force on the expiry of three months from the date of its issue :

Provided that where the appropriate government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1) the appropriate government shall consult the

Advisory Board also.

Categorization Of Unskilled Employees As Semi-Skilled And Semi-Skilled As Skilled On The Basis Of Their Experience Is Ultra Vires: SC [\[Read Judgment\]](#)

The Supreme Court has held that the categorization of unskilled employees as semiskilled and semi-skilled as skilled on the basis of their experience in the notification issued for fixing/revising the minimum rates of wages is beyond jurisdiction of Government.

In the notification issued under **Section 5 of the Minimum Wages Act**, the labour department of Haryana provides for following categorization: unskilled employees having five years experience would be deemed categorized as semi-skilled "A"; that after three years of experience in semi-skilled "A", the employees would be deemed categorized as semi-skilled "B"; that after three years of experience in skilled "A", the employees would be deemed categorized as skilled "B".

In Hindustan Sanitaryware and Industries Ltd. vs. State of Haryana, the Supreme Court was considering an appeal against Punjab and Haryana High Court order which had upheld the notification issued under Minimum Wages Act. The bench comprising Justice L. Nageswara Rao and Justice MR Shah observed:

"Such categorization or classification by deeming workmen in one category to belong to another category is in direct contravention of the contract between the employer and the employee and is beyond the jurisdiction of the Government."

Prohibition of segregation of wages into components Impermissible

The bench also held that the prohibition of segregation of wages into components in the form of allowances in the Notification is impermissible. It said:

"Wages" is defined in Section 2(h) to mean all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of the employment, express or implied were fulfilled, be payable to a person in respect of his employment or of work done in such employment and includes house rent allowance. There are four exclusions in the definition relating to travelling allowance, value of housing accommodation, supply of light, water, medical attendance, etc. If certain components of the remuneration are taken care of by the employer, he cannot be asked to pay twice over such allowance/ payments which are part of the remuneration."

Allowing the appeals, the bench summarized:

- The prohibition of segregation of wages into components in the form of allowances in the Notification is impermissible;
- The security inspector/ security officer/ security supervisor cannot be included in the Notification;
- Trainees who are employed without payment of any reward cannot be covered by the Notification
- Categorization of unskilled employees as semiskilled and semi-skilled as skilled on the basis of their experience is ultra vires

- Fixing the training period for one year is beyond the jurisdiction of the Government.

Sec-6. [Repealed.] 6. [Advisory committees and sub-committees.]-Rep. by the Minimum Wages (Amendment) Act, 1957 (30 of 1957), s. 5.

Sec-7. Advisory Board

For the purpose of co-coordinating work of committees and sub-committees appointed under section 5 and advising the appropriate government generally in the matter of fixing and revising minimum rates of wages the appropriate government shall appoint an Advisory Board.

Sec- 8. Central Advisory Board

(1) 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-coordinating the work of the Advisory Boards the Central Government shall appoint a Central Advisory Board.

(2) 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.

Sec- 9. Composition of committees etc.

Each of the committees sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate 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 by the appropriate government.

Sec -10. Correction of errors

(1) The appropriate government may at any time by notification in the Official Gazette correct clerical or arithmetical mistakes in any order fixing or revising minimum rates of wages under this Act or errors arising therein from any accidental slip or omission.

(2) Every such notification shall as soon as may be after it is issued be placed before the Advisory Board for information.

Sec -11. Wages in kind

(1) Minimum wages payable under this Act shall be paid in cash.

(2) 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.

(3) If appropriate government is of the opinion that provision should be made for the supply of essential commodities at concession rates the appropriate government may by notification in the Official Gazette authorize the provision of such supplies at concessional rates.

(4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates authorized under sub-sections (2) and (3) shall be estimated in the prescribed manner.

Sec 12. Payment of minimum rate of wages

(1) Where in respect of any scheduled employment a notification under section 5 is in force the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorized within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act 1936 (4 of 1936)

Sec-13. Fixing hours for normal working day etc.

(1) In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act 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.

(2) The provisions of sub-section (1) shall in relation to the following classes of employees apply only to such extent and subject to such conditions as may be prescribed :-

(a) employees engaged on urgent work or in any emergency which could not have been foreseen or prevented;

(b) employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;

(c) employees whose employment is essentially intermittent;

(d) employees engaged in any work which for technical reasons has to be completed before the duty is over;

(e) employees engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces.

(3) For the purposes of clause (c) of sub-section (2) employment of an employee is essentially intermittent when it is declared to be so by the appropriate government on the ground that the daily hours of duty of the employee or if there be no daily hours of duty as such for the employee the hours of duty normally include periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention.

Sec -14. Overtime

(1) 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.

(2) Nothing in this Act shall prejudice the operation of the provisions of section 59 of the Factories Act 1948 (63 of 1948) in any case where those provisions are applicable.

Comment: "Overtime under Section 14 is payable to those employees who are getting a minimum rate of wage as prescribed under the Minimum Wages Act, 1948. These are the only employees to whom overtime under Section 14 would become payable. In the present case the respondents cannot be described as employees who are getting a minimum rate of wages fixed under the Minimum Wages Act, 1948. They are getting much more and that too under the Madhya Pradesh Municipal Service (Scales of Pay and Allowances) Rules, 1967. Therefore, Section 14 has no application to them. We have not been shown any other provision under which they can claim overtime" Municipal Council, Hatta v. Bhagat Singh. AIR 1998.

Sec 15. Wages of worker who works for less than normal working day

If an employee whose minimum rate of wages has been fixed under this Act by the day 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 save as otherwise hereinafter provided be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day :

Provided however that he shall not be entitled to receive wages for a full normal working day –

(i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work and

(ii) in such other cases and circumstances as may be prescribed.

Sec -16. Wages for two or more classes of work

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable the employer shall pay to such employee in respect of the time respectively occupied in each such class of work wages at not less than the minimum rate in force in respect of each such class.

Sec -17. Minimum time rate wages for piece work

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act the employer shall pay to such employee wages at not less than the minimum time rate.

Sec -18. Maintenance of registers and records

(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him the work performed by them the wages paid to them the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited in such manner as may be prescribed in the factory workshop or place where the employees in the scheduled employment may be employed or in the case of out-workers in such factory workshop or place as may be used for giving out work to them notices in the prescribed form containing prescribed particulars.

(3) The appropriate government may by rules made under this Act provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribed to manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

Sec -19. Inspectors

(1) The appropriate government may by notification in the Official Gazette appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf an Inspector may within the local limits for which he is appointed –

(a) enter at all reasonable hours with such assistants (if any) being persons in the service of the government or any local or other public authority as he thinks fit any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act for the purpose of

examining any register record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who he has reasonable cause to believe is an employee employed therein or an employee to whom work is given out therein;

(c) require any person giving out-work and any out-workers to give any information which is in his power to give with respect to the names and addresses of the persons to for and from whom the work is given out or received and with respect to the payments to be made for the work;

(d) seize or take copies of such register record or wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer; and

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(4) Any person required to produce any document or thing or to give any information by an Inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

Sec -20. Claim

(1) The appropriate government may by notification in the Official Gazette appoint any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labor Commissioner for any region or any officer of the State Government not below the rank of Labor Commissioner or any other officer with experience as a judge for a civil court or as a Stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14 to employees employed or paid in that area.

(2) Where an employee has any claim of the nature referred to in sub-section (1) the employee himself or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf or any Inspector or any person acting with the permission of the authority appointed under sub-section (1) may apply to such authority for a direction under sub-section (3)
:

Provided that every such application shall be presented within six months from the date on which the minimum wages or other amount became payable :

Provided Further that any application may be admitted after the said period of six months when

the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained the authority shall hear the applicant and the employer or give them an opportunity of being heard and after such further inquiry if any as it may consider necessary may without prejudice to any other penalty to which the employer may be liable under this Act direct –

(i) in the case of a claim arising out of payment of less than the minimum rates of wages the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid together with the payment of such compensation as the authority may think fit not exceeding ten times the amount of such excess;

(ii) in any other case the payment of the amount due to the employee together with the payment of such compensation as the authority may think fit not exceeding ten rupees;

and the authority may direct payment of such compensation in cases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious it may direct that a penalty not exceeding fifty rupees be paid to be employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered –

(a) if the authority is a Magistrate by the authority as if it were a fine imposed by the authority as a Magistrate or

(b) if the authority is not a Magistrate by any Magistrate to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate.

(6) Every direction of the authority under this section shall be final. (7) Every authority appointed under sub-section (1) shall have all the powers of a civil court under the Code of Civil Procedure 1908 (5 of 1908) for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents and every such authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure 1898 (5 of 1898).

Sec- 21. Single application in respect of a number of employees

(1) Subject to such rules as may be prescribed a single application may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess or ten rupees per head as the case may be.

(2) The authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

Sec -22. Penalties for certain offences

Any employer who

(a) 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

(b) contravenes any rule or order made under section 13;

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 :

Provided that in imposing any fine for an offence under this section the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

Sec -22A. General provision for punishment of other offences

Any employer who contravenes any provision of this Act or of any rule or order made thereunder shall if no other penalty is provided for such contravention by this Act be punishable with fine which may extend to five hundred rupees.

Sec- 22B. Cognizance of offences

(1) No court shall take cognizance of a complaint against any person for an offence –

(a) under clause (a) of section 22 unless an application in respect of the facts constituting such offence has been presented under section 20 and has been granted wholly or in part and the appropriate government or an officer authorized by it in this behalf has sanctioned the making of the complaint;

(b) under clause (b) of section 22 or under section 22A except on a complaint made by or with the sanction of an Inspector.

(2) No court shall take cognizance of an offence –

(a) under clause (a) or clause (b) of section 22 unless complaint thereof is made within one month of the grant of sanction under this section;

(b) under section 22A unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Sec -22C. Offences by companies

(1) If the person committing any offence under this Act is a company every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director manager secretary or other officer of the company such director manager secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section –

(a) "company" means any body corporate and includes a firm or other association of individuals and

(b) "director" in relation to a firm means a partner in the firm.

Sec- 22D. Payment of undisbursed amounts due to employees

All amounts payable by an employer to an employee as the amount of minimum wages of the employee under this Act or otherwise due to the employee under this Act or any rule or order made thereunder shall if such amounts could not or cannot be paid to the employee on account of his death before payment or on account of his whereabouts not being known be deposited with the prescribed authority who shall deal with the money so deposited in such manner as may be prescribed.

Sec -22E. Protection against attachment of assets of employer with government

Any amount deposited with the appropriate government by an employer to secure the due performance of a contract with that government and any other amount due to such employer from that government in respect of such contract shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the employer other

than any debt or liability incurred by the employer towards any employee employed in connection with the contract aforesaid.

Sec- 22F. Application of Payment of Wages Act 1936 to scheduled employments

(1) Notwithstanding anything contained in the Payment of Wages Act 1936 (4 of 1936) the appropriate government may by notification in the Official Gazette direct that subject to the provisions of sub-section (2) all or any of the provisions of the said Act shall with such modifications if any as may be specified in the notification apply to wages payable to employees in such scheduled employments as may be specified in the notification. (2) Where all or any of the provisions of the said Act are applied to wages payable to employees in any scheduled employment under sub-section (1) the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of the provisions so applied within the local limits of his jurisdiction.

Sec -23. Exemption of employer from liability in certain cases

Where an employer is charged with an offence against this Act he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if after the commission of the offence has been proved the employer proves to the satisfaction of the court-

(a) that he has used due diligence to enforce the execution of this Act and

(b) that the said other person committed the offence in question without his knowledge consent or connivance.

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged :

Provided that in seeking to prove as aforesaid the employer may be examined on oath and the evidence of the employer or his witness if any shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

Sec -24. Bar of suits

No court shall entertain any suit for the recovery of wages in so far as the sum so claimed –

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff or

(b) has formed the subject of a direction under that section in favor of the plaintiff or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff or

(d) could have been recovered by an application under that section.

Sec -25. Contracting out

Any contract or agreement whether made before or after the commencement of this Act whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

Sec -26. Exemption and exceptions

(1) The appropriate government may subject to such conditions if any as it may think fit to impose direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate government if for special reasons it thinks so fit by notification in the Official Gazette direct that subject to such conditions and for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

(2A) The appropriate government may if it is of opinion that having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area or to any establishment or a part of any establishment in a scheduled employment it is not necessary to fix minimum wages in respect of such employees of that class or in respect of employees in such establishment or such part of any establishment as are in receipt of wages exceeding such limit as may be prescribed in this behalf direct by notification in the Official Gazette and subject to such conditions if any as it may think fit to impose that the provisions of this Act or any of them shall not apply in relation to such employees.

(3) Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

Explanation : In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

Sec- 27. Power of State Government to add to Schedule

The appropriate government after giving by notification in the Official Gazette not less than three months' notice of its intention so to do may by like notification add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly.

Sec -28. Power of Central Government to give directions

The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

Sec -29. Power of Central Government to make rules

The Central Government may subject to the condition of previous publication by notification in the Official Gazette make rules prescribing the term of office of the members the procedure to be followed in the conduct of business the method of voting the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.

Sec -30. Power of appropriate government to make rules

- (1) The appropriate government may subject to the condition of previous publication by notification in the Official Gazette make rules for carrying out the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing power such rules may –
 - (a) prescribe the term of office of the members the procedure to be followed in the conduct of business the method of voting the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees sub-committees and the Advisory Board;
 - (b) prescribe the method of summoning witnesses production of documents relevant to the subject-matter of the enquiry before the committees sub-committees and the Advisory Board;
 - (c) prescribe the mode of computation of the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates;
 - (d) prescribe the time and conditions of payment of and the deductions permissible from wages;
 - (e) provide for giving adequate publicity to the minimum rates of wages fixed under this Act;
 - (f) provide for a day of rest in every period of seven days and for the particulars to be entered in such registers and records;
 - (g) prescribe the number of hours of work which shall constitute a normal working day;
 - (h) prescribe the cases and circumstance in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day;

- (i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records;
- (j) provide for the issue of wage book and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips;
- (k) prescribe the powers of Inspectors for purposes of this Act;
- (l) regulate the scale of costs that may be allowed in proceedings under section 20 and
- (m) prescribe the amount of court-fees payable in respect of proceedings under section 20; and
- (n) provide for any other matter which is to be or may be prescribed.

30A. Rules made by Central Government to be laid before Parliament

Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Sec -31. Validation of fixation of certain minimum rates of wages

Where during the period –

- (a) commencing on the 1st day of April 1952 and ending with the date of the commencement of the Minimum Wages (Amendment) Act 1954 (26 of 1954); or
- (b) commencing on the 31st day of December 1954 and ending with the date of the commencement of the Minimum Wages (Amendment) Act 1957 (30 of 1957); or
- (c) commencing on the 31st day of December 1959 and ending with the date of the commencement of the Minimum Wages (Amendment) Act 1961 (31 of 1961) minimum rate of wages have been fixed by an appropriate government as being payable to employees employed in any employment specified in the Schedule in the belief or purported belief that such rates were being fixed under clause (a) of sub-section (1) of section 3 as in force immediately before the commencement of the Minimum Wages (Amendment) Act 1954 (26 of 1954) or the Minimum Wages (Amendment) Act 1957 (30 of 1957) or the Minimum Wages (Amendment) Act 1961 (31 of 1961) as the case may be such rates shall be deemed to have been fixed in accordance with

law and shall not be called in question in any court on the ground merely that the relevant date specified for the purpose in that clause had expired at the time the rates were fixed :

Provided that nothing contained in this section shall extend or be construed to extend to affect any person with any punishment or penalty whatsoever by reason of the payment by him by way of wages to any of his employees during any period specified in this section of an amount which is less than the minimum rates of wages referred to in this section or by reason of non-compliance during the period aforesaid with any order or the rule issued under section 13.

PART I

- (1) Employment in any woolen carpet making or shawl weaving establishment.
 - (2) Employment in any rice mill flour mill or dal mill.
 - (3) Employment in any tobacco (including bidi making) manufactory.
 - (4) Employment in any plantation that is to say any estate which is maintained for the purpose of growing cinchona rubber tea or coffee.
 - (5) Employment in any oil mill.
 - (6) Employment under any local authority.
 - (7) Employment on the construction or maintenance of roads or in building operations.
 - (8) Employment in stone breaking or stone crushing.
 - (9) Employment in any lac manufactory.
 - (10) Employment in any mica works.
 - (11) Employment in public motor transport.
 - (12) Employment in tanneries and leather manufactory.
- Employment in gypsum mines.
- Employment in barytes mines.
- Employment in bauxite mines.
- Employment in manganese mines.
- Employment in the maintenance of buildings and employment in the construction and maintenance of runways.
- Employment in china clay mines.

Employment in kyanite mines.

Employment in copper mines.

Employment in clay mines covered under the Mines Act 1952 (35 of 1952).

Employment in magnesite mines covered under the Mines Act 1952 (35 of 1952).

Employment in white clay mines.

Employment in stone mines.

PART II

Employment in agriculture that is to say in any form of farming including the cultivation and tillage of the soil dairy farming the production cultivation growing and harvesting of any agricultural or horticultural commodity the raising of live-stock bees or poultry and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operation (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).