

RECENT AMENDMENTS IN THE LABOUR LAWS

| Sl. No | Month | Name of the Act | Amendment details | Effective from |
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| 1 | Jan, 2010 | Workmen Compensation Act, 1923 | <p>Workmen's compensation Act has been amended on 9th January 2010. Given below are the synopsis of the changes.</p> <p>(1) THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 2009 is now renamed as THE EMPLOYEE'S COMPENSATION (AMENDMENT) ACT, 2009 and wherever "workman" or "workmen" is mentioned in the entire Act the same needs to be read as "Employee"</p> <p>(2) The compensation payable on death from the injury, is (i) minimum of Rs.80000 is increased to Rs.120000 or (ii) 50% of the monthly wages of deceased multiplied by the relevant factor.</p> <p>(3) The compensation payable on Permanent Total Disablement from the injury, is (i) minimum of Rs.90000 is increased to Rs.140000 or (ii) 60% of the monthly wages of deceased multiplied by the relevant factor.</p> <p>(4) Definition of wages remains unaltered.</p> <p>(5) For the purpose of claims settlement actual monthly wages have to be calculated without ceiling of Rs.4000/- which will lead to multifold increase in claim outgo. The maximum amount of claim compensation payable was Rs. 4.56 lakh in the case of death and Rs. 5.48 lakh in the case of permanent total disablement. *(Refer to table and calculation below).</p> <p>With the ceiling of Rs.4000/- being removed, the claims outgo will increase.</p> <p>(6) Definition of workmen replaced by "Definition of Employee"- also no includes CLERICAL employees.</p> <p>* Maximum claim outgo in case of death when ceiling of Rs.4000 was there is calculated as below:</p> | 18.1.2010 |

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| | | | 50% of 4000* 228.54 (if age of employee was 16 years from table below) = Rs.4.56 lakhs | |
| 2 | May, 2010 | Employee State Insurance Act, 1948 | <p>GOVERNMENT OF INDIA MINISTRY OF LABOUR AND EMPLOYMENT New Delhi, 2010 NOTIFICATION</p> <p>G.S.R. (E)- The following draft rules further to amend the Employees' State Insurance Central) Rules, 1950 were published as required under sub-section (l) of section 95 of the Employees' State Insurance Act, 1948 (34 of 1948) in the notification of the Government of Indian in the Ministry of Labour & Employment vide No. G.S.R.164 (E), dated the 26th February, 2010, in the Gazette of India, Part II, Section 3, Sub-section (i), dated 27th February, 2010 for inviting objections and suggestions from all persons likely to be affected thereby till the expiry of the period of thirty days from the date on which the copies of the Gazette of India in which the said notification was published, were made available to the public; And whereas the copies of the said Gazette were made available to the public on 27th February, 2010; And whereas, objections and suggestions received from persons likely to be affected Thereby have been considered by the Government; Now, therefore, in exercise of powers conferred by section 95 of the Employees' State Insurance Act, 1948, the Central Government, after consultation with Employees' State Insurance Corporation, hereby makes the following rules further to amend the Employees' State Insurance (Central) Rules, 1950, namely:-</p> <ol style="list-style-type: none"> 1. These Rules may be called the Employees' State Insurance (Central) Amendment Rules, 2010. 2. These shall come into force from the 1st day of May, 2010. 3. In the Employees' State Insurance (Central) Rules, 1950, in Rule 50, for the words "Ten Thousand", wherever they occur, the words "Fifteen thousand" shall be substituted. | 1.5.2010 |

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| 3 | May, 2010 | THE PAYMENT OF GRATUITY ACT, 1972 | <p>Dated 17th May 2010 MINISTRY OF LAW AND JUSTICE (Legislative Department) <i>New Delhi, the 18th May, 2010/Vaisakha 28, 1932 (Saka)</i> The following Act of Parliament received the assent of the President on The 17th May, 2010, and is hereby published for general information:- THE PAYMENT OF GRATUITY (AMENDMENT) ACTS, 2010 (NO.15 OF 2010) [17th May, 2010.] An Act further to amend the Payment of Gratuity Act, 1972. BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:- 1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2010. Short title and commencement. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 2. In section 4 of the Payment of Gratuity Act, 1972, in sub-section (3), for the words "Three lakhs and Fifty thousand rupees", the words "Ten lakh rupees" shall be substituted. Amendment of section 4 of Act 39 of 1972. V.K. BHASIN, <i>Secy. to the Govt. of India.</i></p> | 24 .5.2010 |
| 4 | May, 2010 | Workmen Compensation Act, 1923 | <p>Revised monthly wage ceiling limit of 50% of Rs.4000 increased to Rs.8000-Employees Compensation Act for maximum compensation calculation</p> <p>As you are aware, Workmen's Compensation Act, 1923 becomes Employees with enhanced compensation limits, full medical expenses reimbursement, case disposal within 3 months, etc. as & also applicable to casual & clericals, the said amendment which has removed the ceiling of monthly wage limit of Rs.4,000 for the purpose of calculation of Maximum Compensation under the Act is now amended again.</p> <p>Now, a new monthly wage-ceiling limit of Rs. 8000 is introduced for the purpose of calculation of 50% of it during computation of Maximum compensation under the Act. Hence, the maximum</p> | 31.5.2010 |

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| | | | <p>compensation can go UPTO 50% of 8000 which comes to Rs. 4000/- that shall be multiplied by Age factor. Thus, effectively it was erstwhile 50% of Rs.4000 and now it is 50% of Rs.8000/-. This amendment is notified vide Central Government Notification No. S.O. 1258(E) vide Ministry of Labour & Employment dated 31st May 2010.</p> | |
| 5 | June, 2010 | ESI Act, 1948 | <p>Employees' State Insurance (Amendment) Act, 2010. The Government of India through its notification in the official gazette dated: 25th May, 2010 has enacted The Employees' State Insurance (Amendment) Act, 2010 to amend the earlier ESIC Act, 1948. The ESIC (Amendment) Act, 2010 has received assent of the President on 24th May 2010. Further, as per the Government of India Gazette Notification No. S.O. 1296(E) dated: 1st June 2010, the Central Government has appointed the 1st day of June, 2010, as the date on which the said Act, except Section 18 thereof, shall come into force. Amended Section 18 comes into force on 3rd July, 2010. Following inter alia, are the salient feature of the Employees' State Insurance (Amendment) Act, 2010.</p> <ol style="list-style-type: none"> 1. These amendments will substantially improvise the medical and other benefits under the Scheme. Emphasis has been given for development and expansion of infrastructure for augmenting the benefits under the Scheme. 2. APPRENTICES COVERED: Benefits under the scheme have also been extended to apprentices and trainees employed under Apprentice Act and Standing Order Act. 3. POWER TO APPROPRIATE GOVERNMENT; The appropriate Government is empowered to extend the provisions of ESIC Act 1948 to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise after giving one month's notice of its intention of doing so by notification in Official Gazette instead of notice period of six months. 4. DEFINITION OF DEPENDENT EXPANDED: Definition of "dependents" as contained in clause 6A of section 2 of the Act has been extended to enlarge the number of beneficiaries under the act such as: A widow, a legitimate or adopted son below the age of 25 years and | 1.6.2010 |

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| | | | <p>an unmarried legitimate or adopted daughter. The age limit of the dependants has been enhanced from 18 to 25.</p> <p>5. Dependent parents as per definition of “family” has been substituted so as to include; “A minor brother or sister wholly dependent upon the earnings of the insured person in case the insured person is unmarried and his or her parents are not alive”. It has been also clarified that dependent parents to include “Dependent parents, whose income from all sources does not exceed such income as prescribed by the Central Government”.</p> <p>6. SMALL FACTORIES ALSO ARE COVERED: The definition of Factory under Section 2(12) has been amended to expand coverage of smaller factories. The amended Act covers all factories, which employ 10 or more persons irrespective of the fact whether the manufacturing process is being carried out with the aid of the power or without the aid of the power.</p> <p>7. INSPECTORS RE-DESIGNATED AS SOCIAL SECURITY OFFICERS: The designation of Inspector has been re-designated as “Social Security Officer” to enroll them as facilitator of the Scheme rather than to act as mere inspectors.</p> <p>8. VRS EMPLOYEES ALSO COVERED: Medical benefits to the insured person and his spouse have been extended under circumstances where insured person retires under Voluntary Retirement Scheme or takes premature retirement. In the earlier Act the benefit was applicable only on attaining the age of superannuation. Proviso to sub section 3 of section 56 has been substituted to provide the same.</p> <p>9. NOTIONAL EXTENSION OF PREMISES: Accident occurring to an insured person while commuting from his residence to the place of employment and vice-a-versa shall be deemed to have arisen out of and in the course of employment for the purpose of benefit under the Act. A new section 51-E has been added for this purpose.</p> <p>10. NORGANIZED SECTOR EMPLOYEES COVERED:A new Chapter V-A has been added to enable provision for extending medical care to non insured persons against payment of user-charges to facilitate providing medical care to the below poverty line (BPL) families and</p> | |
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| | | | <p>other un-organized sector workers covered under the Rashtriya Swasthya Bima Yojana (RSBY).</p> <p>11. Exemption of a factory or establishment or class of factories or establishments from the operation of this Act will be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.</p> <p>12. Section 91 A of the Act is amended to removing. retrospective grant of exemption from the provision of the Act</p> | |
| 6 | August' 10 | The Industrial Dispute Act, 1947 | <p>THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 2010 No.24 OF 2010 [18 th August, 2010] MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION New Delhi, the 15th September, 2010 S.O. 2278(E).- In exercise of the powers conferred by sub-section (2) of Section 1 of the Industrial Disputes (Amendment) Act, 2010 (24 of 2010), the Central Government hereby appoints the 15 th Day of September, 2010, as the date on which the said Act shall come into force. [F.No.S-11012/1/2007-IR(PL)] RAVI MATHUR, Addl. Secy. An Act further to amend the Industrial Disputes Act, 1947. Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-</p> <p>1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 2010. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2, -(i) in clause (a),- (a) in sub-clause (i), for the words "major port, the Central Government, and", the words "major port, any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government , or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking , subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central</p> | 15.9. 2010 |

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| | | | <p>Government and” shall be substituted: (b) for sub-clause (ii), the following sub-clause shall be substituted, namely:-</p> <p>“(ii) in relation to any other industrial dispute , including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government.”;</p> <p>Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.”;</p> <p>(ii) in clause (5), in sub-clause (iv), for the words “one thousand six hundred rupees”, the words “ten thousand rupees” shall be substituted.</p> <p>3. Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after subsection (l) as so numbered, the following sub-sections shall be inserted, namely:-</p> <p>“(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of three months from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.</p> <p>(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”</p> <p>4. In section 7 of the principal Act, in sub-section (3), after clause</p> | |
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| | | | <p>(e), the following clauses shall be inserted, namely:- “(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department , having a degree in law and at least seven years’ experience in the labour department after having acquired degree in law including three years of experience as Conciliation Officer: Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or (g) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.”</p> <p>5. In section 7A of the principal Act, in sub-section (3), after clause (aa), the following clauses shall be inserted, namely:- “(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department after having acquired degree in law including three years of experience as Conciliation Officer: Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may he, before being appointed as the presiding officer; or (c) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.”</p> <p>6. After section 9B of the principal Act, for chapter IIB, the following Chapter shall be substituted namely:-</p> <p>CHAPTER II B GRIEVANCE REDRESSAL MACHINERY</p> <p>9C. (l) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances. (2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen. (3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen</p> | |
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| | | | <p>alternatively on rotation basis every year.</p> <p>(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six: Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.</p> <p>(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.</p> <p>(6) The Grievance Redressal Committee may complete its proceedings within forty-five days on receipt of a written application by or on behalf of the aggrieved party.</p> <p>(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.</p> <p>(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned.”</p> <p>7. In section 11 of the principal Act, after sub-section (8), the following sub-sections shall be inserted, namely:- “(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure , 1908.</p> <p>(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”</p> <p>8. In section 38 of the principal Act, in sub-section (2),-</p> <p>(i) clause (ab) shall be omitted;</p> <p>(ii) for clause (c), the following clause shall be substituted, namely:-</p> | |
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| | | | “(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;”. | |
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