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MINISTRY OF LAW AND JUSTICE  
( LEGISLATIVE DEPARTMENT )

New Delhi, the 2nd December, 1988/Agrahayana 11, 1910 (Saka)

The following Act of Parliament received the assent  
of the President on the 30th November, 1988 and is hereby  
published for general information :-

THE MATERNITY BENEFIT (AMENDMENT) ACT, 1988  
No.61 OF 1988

(30th November, 1988)

An Act further to amend the Maternity Benefit Act, 1961.

Be it enacted by Parliament in the Thirty-ninth Year  
of the Republic of India as follows :-

1. Short title and commencement - Amendment of Section 2. (1) This  
Act may be called the Maternity Benefit (Amendment) Act, 1988.

(2) It shall come into force on such date as the Central  
Government may, by notification in the Official Gazette, appoint -

2. In section 2 of the Maternity Benefit Act, 1961 (53 of 1961)  
(53 of 1961) (hereinafter referred to as the principal act), in  
sub-section (1), for the opening paragraph, the following  
shall be substituted, namely :-

"(1) It applies, in the first instance, -

(a) to every establishment being a factory,  
mine or plantation including any such establishment  
belonging to Government and to every establishment  
wherein persons are employed for the exhibition  
of equestrian acrobatic and other performances;

(b) to every shop or establishment within the  
meaning of any law for the time being in force in  
relation to shops and establishments in estate, in  
which ten or more persons are employed or were  
employed, on any day of the preceding twelve months;"

3. Amendment of Section 3: In Section 3 of the principal act, in clause  
(e),-

(a) in sub-clause (iv), the word "or" at the end shall be omitted;

(b) after sub-clause (iv), the following sub-clause shall be inserted namely :-

"(iva) a shop or establishment; or "

4. Amendment of section 5 : In section 5 of the principal Act,

(a) in sub-section (1),-

(i) for the opening paragraph, the following shall be substituted, namely :-

(i) Subject to the provisions of this Act, everywoman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day."

(ii) In the Explanation, for the words "or one rupee a day, whichever is higher.", the words and figures "the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948. (11 of 1948) or ten rupees, whichever is the highest" shall be substituted;

(b) in sub-section (2),-

(i) for the words "one hundred and sixty days", at both the places where they occur, the words "eighty days" shall be substituted;

(ii) in the Explanation, for the words "the days for which she has been laid off", the words "the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages" shall be substituted;

(c) in sub-section (3),-

(i) for the opening paragraph, the following shall be substituted, namely,-

"(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;"

(ii) for the second proviso, the following proviso shall be substituted, namely :-

"Provided further that where a woman having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days upto and including the date of the death of the child."

5. Amendment of Section 6 : In Section 6 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely :-

"(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit".

6. Amendment of Section 8: In section 8 of the principal Act, for the words "twenty-five rupees" the words "two hundred and fifty rupees" shall be substituted.

7. Amendment of Section 12: In section 12 of the principal Act, in sub-section (2), for clause (b), the following clause shall be substituted, namely :-

"(b) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may, within sixty days from the dates on which order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decisions of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final."

8. Amendment of section 17: In section 17 of the principal Act,-

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :-

"(1) Any woman claiming that -

(a) maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld;

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Act, make a complaint to the Inspector.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an enquiry or cause an enquiry to be made and if satisfied that -

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.";

(b) for sub-section (5), the following sub-section shall be substituted, namely :

"(5) Any amount payable under this section shall be recoverable by the collector on a certificate issued for that amount by the Inspector as an arrear of land revenue."

9. Substitution of new section for section 21: For section 21 of the principal Act, the following section shall be substituted, namely:-

"21. Penalty for contravention of Act by employer:

(1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provision of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees;

Provided that the court may, for sufficient reasons to be recorded in writing impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

(2) If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both:

Provided that where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto."

10. Amendment of Section 22: In section 22 of the principal Act, for the words "which may extend to three months, or with fine which may extend to five hundred rupees" the words "which may extend to one year, or with fine which may extend to five thousand rupees" shall be substituted.

11. Substitution of new Section 23. For section 23 of the principal Act, the following section shall be substituted, namely:-

"23: Cognizance of offences:(1) Any aggrieved woman, an office-bearer of a trade union registered under the Trade Unions Act, 1926 (16 of 1926) of which such woman is a member or a voluntary organisation registered under the Societies Registration Act, 1860 (21 of 1860) or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court or competent jurisdiction and no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act."

S. RAMAIAH,

Secy. to the Govt. of India