

DEPARTMENT OF SOCIAL WORK
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ODD SEMESTER EXAMINATION- 2014
MSW III SEMESTER-2014

Model Answer

Time: 3 HOUR

M.M= 75 MARKS

PAPER: - MS-304 (B) Employee Welfare in Industrial Organization and Social Security

I. ATTEMPT ALL QUESTIONS EACH CARRY EQUAL MARKS 10X2= 20.

1. Who among the following has the responsibility for employee welfare?

- a. Employers
- b. Central government
- c. State government
- d. All of the above

Ans. (d) All of the above

2. Which of the following benefits is covered under social security schemes?

- a. Retirement benefits
- b. Compensation facilities
- c. Medical facilities
- d. All of the above

Ans. (d) All of the above

3. In order to be eligible for maternity benefit under the Maternity Benefit Act, 1961, a woman worker should have worked for not less than 160 days in the 12 months immediately preceding the date of delivery. (True/False)

Ans. True

4. In order to be eligible for Gratuity under the Payment of Gratuity Act, 1972, an employee should have a minimum continuous service of _____

Ans. 5 years

5. In which of the following years was the Workmen's Compensation Act introduced?

- a. 1948
- b. 1976
- c. 1923
- d. 1961

Ans. (c) 1923

6. Employees Provident Fund and Miscellaneous Provisions Act, 1952 is applied to establishments employing not less than _____

Ans. 20 employees

7. The Payment of Gratuity Act was introduced in the year 1972. (True/False)

Ans. True

8. Employees who are drawing salary not more than _____ are covered under the Employees State Insurance Act, 1948.

- a. Rs 10000
- b. Rs 7500
- c. Rs 6500
- d. Rs 3500

Ans. (a) Rs. 10000

9. Safety Officers are to be appointed if Organization is engaging _____ or more employees.

Ans. 1000

10. Leave with wages is allowed for employees if they work for _____ days in a month.

Ans. 20

II. ATTEMPT ANY FIVE QUESTIONS (Write your Answers 150- 200Words) 7X5=35.

1. Trace out the history of employee welfare in India.

Ans. Historical Development of Labour Welfare in India

During the early period of industrial development, efforts towards workers' welfare was made largely by social workers, philanthropists and other religious leaders, mostly on humanitarian grounds. Before the introduction of welfare and other legislation in India, the conditions of labour were miserable. Exploitation of child labour, long hours of work, bad sanitation, absence of safety measures etc., were the regular features of the factory life. The earliest legislative approach could be tracked back to the passing of the **Apprentices Act of 1850**. This act was enacted with the objective of helping poor and orphaned children to learn various trades and crafts. The next act was the **Fatal Accidents Act of 1853** which aimed at providing compensation to the families of workmen who lost their life as a result of "actionable wrong". Earlier attempts at legislation in this country were mainly aimed at regulation of employment.

Pre- Independence Era

The movement to improve the working conditions of Indian labour started with the passing of the first Indian Factories Act in 1881. The deplorable conditions in which labour worked in the textile mills in Bombay during those days, as testified by the factory commission of 1875 was the immediate cause for the passing of the Act. Adult labour, however, was not protected in any manner. It was found inadequate in many respects. Any how, it recognized the right of the government to safeguard the interests of the workers by means of a suitable legislation. Therefore, the **Mulock Commission** was appointed by the Government of Bombay in 1884 to review the working of the Factories Act of 1881.

The Factories (Amendment) Act 1891 applied to all factories employing 50 persons or more. Provisions relating to better ventilation, cleanliness and for preventing over crowding in factories were also made. The hours of work for children were reduced to six per day. Employment of women between 7.00 pm and 5.00 am was prohibited. Women were allowed to work for eleven hours in a day with one and a half hours rest. Certain provisions were also made for the health and safety of the Industrial workers.

The outbreak of First World War in 1914 led to a number of new developments. During the war years (1914 to 1918) the number of factories and the number of persons employed therein increased. Wages did not keep pace with the rising prices and profits. The establishment of the **International Labour Organization (ILO)** in 1919 was another important landmark in the history of Labour Welfare Movement in our Country. The formation of **AITUC (1920)**, the first central trade union organization in our country, also helped in furthering the cause of welfare movement.

Another milestone in the field of labour welfare was reached with the appointment of Labour Investigation Committee (**Rege Committee**) in 1944. The committee was asked to investigate problems relating to wages and earnings, employment, housing and social conditions of workers. It covered different areas in labour welfare such as housing policy, rest and recreation, occupational diseases, relief in the case of old age and death, crushes, canteens, medical aid, washing and bathing facilities, educational facilities etc. For the first time in India, this committee highlighted the importance of welfare measures for workers in improving their social and economic life.

Post Independence Period

After independence, the labour welfare movement acquired new dimensions. It was realized that labour welfare had a positive role to play in the increasing productivity and reducing industrial tensions. The emergence of different central trade union organizations – **INTUC (1947)**, **HMS (1943)**, **BMS (1955)**, **CITU (1970)**, **NLO** etc. gave a further fillip to the growth of labour welfare movement. Mainly on the basis of the recommendations of the Rege Committee, the Government of India enacted the Factories Act 1948. To draft this important

piece of legislation the services of **Sir Wilfred Garrett** were utilized. Thus, the **Factories Act of 1948** came into effect from 1st April 1949.

Various Labour Welfare Activities were incorporated in different five year plans.

The **First Five Year plan (1951 to 1956)** paid considerable attention to the welfare of working classes. It laid emphasis on the development of welfare facilities, for avoidance of Industrial Disputes and for creating mutual goodwill and understanding. During this period, the **Plantations Labour Act, 1951**, the **Mines Act, 1951**, and the **Employees' Provident Fund Act, 1952** were enacted.

The **Second Five Year plan (1956 to 1961)** saw further developments in the field of labour welfare. New enactments were made to cover seamen and motor transport workers. A comprehensive scheme known as Dock Workers (safety health and welfare) scheme was drawn up in 1951. In 1959, the Government of Assam passed an Act called The Assam Tea Plantations Employees' Welfare Fund Act. This period also saw number of enactments in the field of industrial housing by various state governments.

The **Third Five Year plan (1961 to 1966)** stressed the need for effective implementation of various statutory welfare provisions. It recommended improvement in working conditions and emphasized greater productivity on the part of workers. Some of the legislative measures during this period include the **Maternity Benefit Act 1961**, **Apprentices Act 1961**, and **Payment of Bonus Act 1965**.

The **Fifth five year plan (1974 to 1979)** also laid down programmes for labour welfare. For promoting industrial safety in increasing measure, the plan provided for setting up of safety cells in various states. An amount of Rs.57 crores was provided for labour welfare including craftsmen training and employment service.

The **Sixth Five Year plan (1980 to 1985)** decided to promote special programmes which would also need to be undertaken by the state governments for the benefit of Agricultural Labour, Artisans, Handloom Weavers, Fishermen, Leather workers and other unorganized workers in the rural and urban areas. An outlay of Rs.161.7 crores was proposed for the labour welfare programmes during this year.

In spite of all these efforts, the welfare work in India is still considerably below the standard setup in other countries. However, it has come to stay as an accepted feature of employment conditions and is bound to make rapid progress in the years to come, especially when the Indian Republic is wedded to the ideal of a welfare state with socialistic objectives.

2. Explain the concept and significance of employee welfare.

Ans. **Employee Welfare**

Welfare includes anything that is done for the comfort and improvement of employees and provided over and above the wages. Welfare helps in keeping the morale and motivation of the employees high so as to retain the employees for longer duration. The welfare measures need not be in monetary terms only but in any kind/forms. Employee welfare includes monitoring of working conditions, creation of industrial harmony through infrastructure for health, industrial relations and insurance against disease, accident and unemployment for the workers and their families. Labor welfare entails all those activities of employer which are directed towards providing the employees with certain facilities and services in addition to wages or salaries.

Labor welfare has the following objectives:

1. To provide better life and health to the workers
2. To make the workers happy and satisfied
3. To relieve workers from industrial fatigue and to improve intellectual, cultural and material conditions of living of the workers

Importance Labour Welfare

The necessity for labour welfare is felt all the more in our country because ours is a developing economy aiming at rapid economic and social development. The need for labour welfare was felt by the Royal Commission on Labour in 1931.

The philosophy of labour welfare and its necessity was mentioned in a resolution passed by the Indian National Congress on fundamental rights and economic programme in its Karachi Session in 1931.

The resolution demanded that the organisation of economic life in the country must conform to the principles of justice and it might secure a decent standard of living. It also emphasized that the state should safeguard the interest of industrial workers and should secure for them by suitable legislation a living wage, healthy conditions of work, limited hours of work, suitable machinery for the settlement of disputes consequences of old age sickness and unemployment.

Following motives and considerations have promoted employers to provide welfare measures:

- (1) It is helpful in winning over their employees' loyalty and to combat trade unionism.
- (2) It builds up a stable labour force by reducing labour turnover and absenteeism.
- (3) It raises the morale of workers. A feeling is developed among the workers that they are being looked after properly.
- (4) One of the reasons for provision of welfare activities in recent times by certain employers is to save themselves from heavy taxes on surplus.
- (5) The motive behind provision of welfare activities by some companies is to enhance their image and to create an atmosphere of goodwill between the labour and management and also between management and the public.
- (6) The social evils prevalent in the labour force such as gambling, drinking etc. are reduced to the minimum. It brings improvement in the health of the workers and keeps them cheerful.

3. What do you mean by social security explain its various forms?

Ans. Social security is based upon a concept set forth in Article 22 of the Universal Declaration of Human Rights which states, Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the

economic, social and cultural rights indispensable for his dignity and the free development of his personality. In simple terms, the signatories agree that society in which a person lives should help them to develop and to make the most of all the advantages (culture, work, social welfare) which are offered to them in the country.

Social Security may also refer to the action programs of government intended to promote the welfare of the population through assistance measures guaranteeing access to sufficient resources for food and shelter and to promote health and well-being for the population at large and potentially vulnerable segments such as children, the elderly, the sick and the unemployed. Services providing social security are often called **social services**.

Terminology in this area in the United States is somewhat different from in the rest of the English-speaking world. The general term for an action program in support of the well being of the population in the United States is welfare program and the general term for all such programs is simply welfare. In American society, the term welfare arguably has negative connotations. The term Social Security, in the United States, refers to a specific social insurance program for the retired and the disabled. Elsewhere the term is used in a much broader sense, referring to the economic security society offers when people are faced with certain risks. In its 1952 Social Security (Minimum Standards) Convention (nr. 102), the International Labour Organization defined the traditional contingencies covered by social security as including:

- Survival beyond a prescribed age, to be covered by old age pensions;
- The loss of support suffered by a widow or child as the result of the death of the breadwinner (survivor's benefit);
- Responsibility for the maintenance of children (family benefit);
- The treatment of any morbid condition (including pregnancy), whatever its cause (medical care);
- A suspension of earnings due to pregnancy and confinement and their consequences (maternity benefit);
- A suspension of earnings due to an inability to obtain suitable employment for protected persons who are capable of, and available for, work (unemployment benefit);
- A suspension of earnings due to an incapacity for work resulting from a morbid condition (sickness leave benefit);

- A permanent or persistent inability to engage in any gainful activity (disability benefit);
- The costs and losses involved in medical care, sickness leave, invalidity and death of the breadwinner due to an occupational accident or disease (employment injuries).

People who cannot reach a guaranteed social minimum for other reasons may be eligible for social assistance (or welfare, in American English).

Modern authors often consider the ILO approach too narrow. In their view social security is not limited to the provision of cash transfers, but also aims at security of work, health, and social participation; and new social risks (single parenthood, the reconciliation of work and family life) should be included in the list as well.

Social security may refer to:

- **Social insurance**, where people receive benefits or services in recognition of contributions to an insurance program. These services typically include provision for retirement pensions, disability insurance, survivor benefits and unemployment insurance.
- **Services** provided by government or designated agencies responsible for social security provision. In different countries, that may include medical care, financial support during unemployment, sickness, or retirement, health and safety at work, aspects of social work and even industrial relations.
- **Basic security** irrespective of participation in specific insurance programs where eligibility may otherwise be an issue. For instance, assistance given to newly arrived refugees for basic necessities such as food, clothing, housing, education, money, and medical care.

A report published by the International Labour Organisation (ILO) in 2014 estimated that only 27% of the world's population has access to comprehensive social security.

India's social security system is composed of a number of schemes and programs spread throughout a variety of laws and regulations. Keep in mind, however, that the government-controlled social security system in India applies to only a small portion of the population.

Furthermore, the generally accepted concept of the social security system includes not just an insurance payment of premiums into government funds (like in China), but also lump sum employer obligations.

Generally, India's social security schemes cover the following types of social insurances:

- Pension
- Health Insurance and Medical
- Maternity
- Gratuity
- Disability

While a great deal of the Indian population is in the unorganized sector and does not have an opportunity to participate in each of these schemes, Indian citizens in the organized sector (which include those employed by foreign investors) and their employers are entitled to coverage under the above schemes.

The applicability of mandatory contributions to social insurances is varied. Some of the social insurances require employer contributions from all companies, some from companies with ten or more employees, and some from companies with twenty or more employees.

4. What should the qualities in a good labour welfare officer?

Ans. **Labour Welfare**

Labour welfare is a term including various services, benefits and facilities offered to employees by the employers. The welfare measures need not be monetary but in any kind/forms. This includes items such as allowances, housing, transportation, medical insurance and food. Employee welfare also includes monitoring of working conditions, creation of industrial harmony through infrastructure for health, industrial relations and insurance against disease, accident and unemployment for the workers and their families. Through such generous benefits the employer makes life worth living for employees.

The following should be the qualities in a labour welfare officer.

- (i) To establish contacts and hold consultations with a view to maintaining harmonious relations between the factory management and workers.

- (ii) To bring to the notice of factory management, the grievances of workers, individual as well as collective, with a view to securing their expeditious redress and to act as a Liaison Officer between the management and labour.
- (iii) To study and understand the point of view of labour in order to help the factory management to shape and formulate labour policies and to interpret these policies to the workers in language they can understand
- (iv) To advise on the fulfillment by the concerned departments of the factory management of obligations statutory or otherwise concerning the application of the provisions of the Factories Act, 1948 and the rules made there under and to establish liaison with the Inspector of Factories, and the medical services concerning medical examination of employees, health records, supervision of hazardous jobs, sick visiting and convalescence, accident prevention and supervision of safety committees, systematic plant inspection, safety education, investigation of accidents, maternity benefits and workmen's compensation;
- (v) To advise on fulfillment by the management and the concerned departments of the factory of their obligations, statutory or otherwise, concerning regulation of working hours, maternity benefit, compensation for injuries and sickness and other welfare and social benefit measures ;
- (vi) To advise and assist the management in the fulfillment of its obligations, statutory or otherwise concerning prevention of personal injuries and maintaining a safe work environment, in such factories where a Safety Officer is not required to be appointed under the enabling provisions under Section 40-B
- (vii) To encourage the formation of works and joint production committees, co-operative societies, and welfare committees and to supervise their work
- (viii) To encourage provision of amenities such as canteens, shelters for rest, crèches, adequate latrine facilities, drinking water, sickness and benevolent scheme payments, pension and superannuation funds, gratuity, payments, granting of loans and legal advice to workers
- (ix) To help the factory management in regulating the grant of leave with wages and explain to workers the provisions relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of applications for regulating authorized absence;

- (x) To advise on provision of welfare facilities such as housing facilities food-stuffs, social and recreational facilities and sanitation and on individual personal problems and on the education of children;
- (xi) To advise the factory management on questions relating to training of new starters, apprentices, workers on transfer and promotion, instructors and supervisors; supervision and control of notice board and information bulletins; to further the education of workers and encourage their attendance at technical institutes;
- (xii) To suggest measures which will serve to raise the standard of living of workers and in general, promote their well being;

5. Enlist the policies and programmes for the welfare of the employees in India.

Ans. Introduction

One of the major concerns of the Government has been the improvement of labour welfare with increasing productivity and provision of a reasonable level of social security.

The situation of surplus labour, coupled with employment of most of the workers in the unorganized segments of the economy, has given rise to unhealthy social practises like bonded labour, child labour and adverse working conditions faced by the migrant labour. Within the available resources, a limited effort at handling these problems has not been feasible.

2. Minimum Wage Act

The wages of the workers in the unorganized sector of employment are primarily fixed under the Minimum Wages Act, 1948. Under the Act both Central and State Governments are appropriate governments for fixation/ revision of minimum rates of wages in respect of the scheduled employments falling under their respective jurisdiction.

3. Payments of Wagers Act, 1936

This Act was enacted to regulate the payment of wages to certain classes of person (whose monthly wage is below Rs. 1600) employed in industry with the object to provide for a

speedy and effective remedy to the employees arising out of illegal deductions or unjustified delay made in paying the wages to them.

4. Wage Board for Newspaper Employees

The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 regulates conditions of service of working journalists and other persons employed in newspaper establishments.

5. Contract Labour (regulation and Abolition Act, 1970, and bonus Act, 1965

This Act was enacted to regulate the employment of contract labour in certain establishments and for matters connected therewith. The Act provides for the Constitution of Central and State Advisory Boards to advise the concerned governments on matters arising out of the administration of the Act. This Act provides for payment of bonus to employees as defined under the Act.

Bonded Labour System (Abolition) Act, 1976

This act envisages release of all bonded labourers, liquidation of their debts and their rehabilitation. Under this Act, identification and release of bonded labourers and rehabilitation of freed bonded labourers is the direct responsibility of the State Government concerned.

6. Industrial Relations

Trade Union Act, 1926

This Act provides for registration of trade unions. Any seven or more workers may, by subscribing their names to the rules of a trade union and otherwise complying with the provisions of the Act with respect to registration, apply for registration of the trade union under the Act.

Code of Discipline

The Code of Discipline was evolved at the Indian Labour Conference in 1958 requiring employers and workers to utilize the existing machinery for the settlement of disputes.

Industrial Disputes Act, 1947

The layoffs, retrenchments and closures are regulated under the provisions of the Industrial Disputes Act, 1947. The Government has taken steps to further regulate lay offs, retrenchments and closures through the Industrial Disputes (Amendment) Acts of 1982 and 1984.

7. Social Security

Workmen's Compensation Act, 1923

This Act provides for payment of compensation to workmen and their dependents in case of injury and accident (including certain occupational disease) arising out of and in the course of employment and resulting in disablement or death.

Maternity Benefit Act, 1961

It regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. The Act applies to mines, factories, circus, industry, plantation, shops and establishments employing ten or more persons, except employees covered under the Employees State Insurance Act, 1948.

Payment of Gratuity Act, 1972

It is applicable to factories, mines, oil fields, plantations, ports, railways, motor transport undertakings, companies, shops and other establishments. The Act provides for the payment of gratuity at the rate of 15 days' wages for each completed year of service subject to a maximum of Rs. 3,50,000.

Employees State Insurance Act

This Act is applicable in the first instance to non- seasonal factories using power and employing 10 or more persons and non-power using factories employing 20 or more persons. It covers employees drawing wages not exceeding Rs. 6,500 with effect from 1 January 1997.

Provident Fund and Miscellaneous Provisions Act, 1952

Under this Act, retirement benefits in the form of provident fund, family pension and deposit linked insurance are available to employees.

Employees' Deposit Insurance Scheme, 1976

It was introduced for members of the Employees' Provident Fund and exempted provident funds with effect from 1 August, 1976.

Employees Pension Scheme, 1995

Under this scheme pension at the rate of 50% pay is payable to the employees on retirement/superannuation on completion of 33 years' contributory service. A minimum of 10 years' service is required for entitlement to pension.

Emigration Act, 1983

This Act regulates immigration of citizens of India for employment in other countries on contractual basis and seeks to safeguard the interest of such workers. Under the provisions of the Act, an employer can recruit any citizen of India for employment in any country or place outside India either through Recruiting Agent competent under the Act to make such recruitment or directly in accordance with a valid permit issued by the Central Government under the Act.

8. Vocational Training

Industrial Training Institutes were set up all over the country to impart skills' in 42 engineering and 18 non- engineering trades to young men and women in the age group of 15-25 years.

Advanced Training Institutes (ATIs) at Howrah, Mumbai, Kanpur, Ludhiana, and Hyderabad and the Central Training Institute for instructors at Chennai, were established in 1960s to train instructor trainees in the techniques of imparting skills, who in turn train and make available skilled manpower for industry.

Advanced Vocational Training Scheme (AVTS) was launched in October 1977 for training of highly skilled workers and technicians in a variety of advanced and sophisticated skills not available for other vocational training programmes.

9. Womens' Vocational Training Programme

In 1996, National Council for Vocational Training recommended that in general ITIs, up to 25 per cent of the sanctioned seats might be reserved for women candidates.

Under the vocational training programme managed directly by the Ministry of Labour DGE&T, a National Vocational Training Institute at Noida as an apex centre and ten Regional Vocational Training Institutes at Mumbai, Bangalore, Thiruvananthapuram, Calcutta, Hissar, Tura, Allahabad, Indore, Vadodara and Jaipur have been set up with an intake capacity of one thousand nine hundred and twenty in basic, advanced and instructional skills.

Central Instructional Media Institute (CIMI) which was granted autonomy from 1 April, 1999, has been set up in Chennai to make available instructional materials in the form of Media Packages (MPs) for the use of trainers and trainees in the ITIs and apprentices under the Apprenticeship Training Scheme.

The Apprentices Act, 1961, makes it mandatory for employers in specified industries to engage apprentices for undergoing Apprenticeship Training, which varies from one year to four years.

10. Working Conditions and Welfare

To provide housing, medical, recreational, educational family welfare and other welfare facilities, welfare funds have been created like:

(a) Mica Mines Labour Welfare Fund Act, 1946

(b) Limestone and Dolomite Mines Labour Welfare Fund Act, 1972

(c) Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines, Labour Welfare Fund Act, 1976.

(d) Beedi Workers' Welfare Fund Act, 1976

(e) Cine-Workers' Welfare Fund Act, 1981.

11. National Employment Services

It has a network of nine hundred and forty five employment exchanges/University Employment Information and Guidance Bureaux (UEIGBX) at the end of February 1999. It assists all employment seekers through placement against job notified by employers.

Under the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, it is obligatory for all establishments in the public sector and such of those non- agricultural establishments in the private sector which employ twenty five or more workers to notify their vacancies (with certain exemptions), to employment exchanges and supply periodic information as prescribed in the Act and in the rules thereunder. There are thirty seven special exchanges for the physically handicapped.

12. Workers' Safety

The Factories Act 1948 is the principal legislation for regulating various aspects relating to safety, health and welfare of workers employed in factories. This Act is a Central enactment which aims at protecting workers employed in factories from industrial and occupational hazards. The Directorate General, Factory Advice Service and Labour Institute (DGFASLI), Mumbai, an attached office of the Ministry of Labour, renders technical advice to the States/UTs in regard to administration and enforcement of the Factories Act.

Provisions relating to safety, health and welfare of workers employed in docks are contained in the Dock Workers (Safety, Health, and Welfare) Act, 1986 and rules and regulations framed thereunder. The Act came into force on 15 April, 1987.

13. Five-Year Plan and Labour Welfare

Five-Year Plan will aim at reducing the number of laws which determine relations between workers and employers, with the objective that a much smaller number of laws can reach the entire work force.

Second National Commission on Labour

The First National Commission on Labour was constituted on 24th December 1966 and it submitted its report on August 1969. Different far-reaching changes have taken place. The

reform measures of 1991 have brought about radical transformations in the domestic industrial scenario and the labour market.

Accordingly, the Government decided to set up the Second National Commission on Labour on 24th December 1998, for suggesting appropriate changes in labour legislation/policy. The resolution for setting up the Commission was issued on 15th October, 1999.

The Second- National Commission is headed by Chairman and two full- time Members, including Member Secretary. There are seven part time Members representing trade unions, industry, women-expert etc. The Commission is required to give its final report within twenty four months from the date of its constitution.

6. Explain the workmen's compensation act 1923.

Ans. The Workmen's Compensation Act, 1923 provides for payment of compensation to workmen and their dependants in case of injury and accident (including certain occupational disease) arising out of and in the course of employment and resulting in disablement or death. The Act applies to railway servants and persons employed in any such capacity as is specified in Schedule II of the Act. The schedule II includes persons employed in factories, mines, plantations, mechanically propelled vehicles, construction works and certain other hazardous occupations.

The amount of compensation to be paid depends on the nature of the injury and the average monthly wages and age of workmen. The minimum and maximum rates of compensation payable for death (in such cases it is paid to the dependents of workmen) and for disability have been fixed and is subject to revision from time to time.

A Social Security Division has been set up under the Ministry of Labour and Employment, which deals with framing of social security policy for the workers and implementation of the various social security schemes. It is also responsible for enforcing this Act. The Act is administered by the State Governments through Commissioners for Workmen's Compensation.

The main provisions of the Act are:-

An employer is liable to pay compensation:-

- (i) If personal injury is caused to a workman by accident arising out of and in the course of his employment;
- (ii) If a workman employed in any employment contracts any disease, specified in the Act as an occupational disease peculiar to that employment.

However, the employer is not liable to pay compensation in the following cases:-

- If the injury does not result in the total or partial disablement of the workman for a period exceeding three days.
- If the injury, not resulting in death or permanent total disablement, is caused by an accident which is directly attributable to:- (i) the workman having been at the time of the accident under the influence of drink or drugs; or (ii) the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen; or (iii) the willful removal or disregard by the workman of any safety guard or other device which has been provided for the purpose of securing safety of workmen.
- The State Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such area as may be specified in the notification. Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.
- Compensation shall be paid as soon as it falls due. In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be.
- If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a Commissioner. No Civil Court shall have jurisdiction to

settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

- The State Government may, by notification in the Official Gazette, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation together with such other particulars as to the compensation as the State Government may direct.
- Whoever, fails to maintain a notice-book which he is required to maintain; or fails to send to the Commissioner a statement which he is required to send; or fails to send a report which he is required to send; or fails to make a return which he is required to make, shall be punishable with fine.

7. What is the process of employee counseling.

Ans. What is counseling

Counseling is a formal process, initiated by the first-level supervisor where an employee is provided with specific feedback on their performance. It involves advising the employee in advance that a discussion about their performance is to be held, arranging and holding the meeting, and documenting that meeting.

When to counsel an employee

First-level supervisors are to move from providing informal comments or constructive feedback on an employee's work to a more formal approach where an employee has not responded to advice and assistance provided on a less formal basis. First-level supervisors are to also counsel employees on their performance:

- During each performance exchange; and
- Where there is a lapse in performance and a:

Performance Improvement Plan (PIP) is in place, or

Performance Evaluation Process (PEP) is underway.

The details of the counselling session are to be formally recorded as evidence of what has occurred and as a basis for possible future action.

In some cases where there are personal issues, it may be appropriate to also refer the employee to a professionally qualified counsellor, such as through the Employee Assistance Program (EAP).

The role of the supervisor

First-level supervisors are to address poor performance by taking corrective action as soon as poor performance is identified. Following simple guidelines can assist the first-level supervisor in the counselling process.

Preparing for the session

- Assess the situation and gather factual information to support your assessment, including specific examples of the employee's performance.
- Determine, to the extent possible, whether there are causal factors outside the workplace which are impacting on the employee's performance.
- Consider the format of the session and noting appropriate open questions which may encourage open discussion.
- Identify and book an appropriate location which is conducive to a private discussion.
- Notify the employee, giving them sufficient time to prepare for the discussion, including time to arrange for a support person to be present, if they so choose.

Setting the framework

The framework for the counselling session is to be established by the first-level supervisor. During the session the supervisor is to:

- Provide the reason for the counselling
- Explore the possible relevance of factors outside the workplace

The assessment can only be based on the available evidence which the employee may choose to disclose.

- Advise the employee of the purpose and the use of records that are to be kept.

The discussion

Through the use of active listening skills the first-level supervisor is to set the tone of the discussion. These include:

- Use of open questions to invite the sharing of details;
- Paraphrasing and briefly summarising the salient points;
- Focus on the work-related issues; and
- Be constructive by looking to improvement and future outcomes.

Next steps

To support a successful outcome, the employee and the first-level supervisor are to agree to:

- A plan of action; and
- A time table for implementing those actions and reviewing the results.

Follow up action

The first-level supervisor is to:

- Follow up relevant actions such as assisting with on-the-job training or exploring training opportunities; or
- Monitor and review the action to which the employee has agreed.

Employee input

The first-level supervisor is to provide the employee with an opportunity to respond to any issues raised during the counselling session including full participation in discussion around improvement and future actions and outcomes.

Where the employee chooses to have a support person present, the arrangement is to be accommodated. The support person does not participate directly in the issues being discussed nor are they to advocate for either party.

Documenting the session

Where a supervisor has undertaken a counselling session in relation to performance, there is to be a formal record of that meeting. The record is to be made as soon as possible after the meeting while the events are still fresh. Only the relevant facts are to be recorded including:

- The names of the people present;
- The date and location;
- The reason for the discussion;
- The main points covered, including the positives;
- Any agreed actions or outcomes; and
- Time frames.

The employee and the first-level supervisor and generally any other persons present at the meeting are to sign the record. The employee may attach their own signed version of the meeting where they believe the record is not an accurate reflection of the discussion.

Guidance and/or support for supervisors in undertaking performance counselling is available from their supervisor, the performance case manager or local DPG HR advisors.

Record keeping

The keeping of APS records, including performance counselling records, is covered by the Information Privacy Principles contained in the *Privacy Act 1988* and the *Archives Act 1983*. These Acts cover:

- The way in which personal information is collected and stored;
- How personal information is to be used and to whom it should be disclosed; and
- How long that information is to be kept.

Supervisors are to ensure that only personal information that is relevant to the purpose for which it was collected, is recorded, and that the employee is informed as to why the record is necessary and who else will see it.

Further information about recording keeping can be found in Chapter 12 Part 1 Section 9 - Documentation and Record Keeping.

Specific support for supervisors

Practical advice about issues supervisors face in the workplace is available through the EAP Managers Help Line. This service is designed to:

- Give supervisors options;
- Assist supervisors in deciding on a practical plan of action; and
- Help supervisors with their own emotions and stress levels.

III. ATTEMPT ANY TWO QUESTIONS. 10X2=20

1. What are the constitutional and legal safeguards for employee welfare in India?

Ans. Indian labour law refers to laws regulating labour in India. Traditionally Indian governments at federal and state level have sought to ensure a high degree of protection for workers, but in practice, legislative rights only cover a minority of workers. India is a federal form of government and because labour is a subject in the concurrent list of the Indian Constitution, labour matters are in the jurisdiction of both central and state governments. Both central and state governments have enacted laws on labour relations and employment issues.

In the Constitution of India from 1950, articles 14-16, 19(1) (c), 23-24, 38, and 41-43A directly concern labour rights.

Article 14 states everyone should be equal before the law;

Article 15 specifically says the state should not discriminate against citizens, and

Article 16 extends a right of "equality of opportunity" for employment or appointment under the state.

Article 19(1) (c) gives everyone a specific right "to form associations or unions". **Article 23** prohibits all trafficking and forced labour, while

Article 24 prohibits child labour under 14 years old in a factory, mine or "any other hazardous employment".

Articles 38-39, and 41-43A, however, like all rights listed in **Part IV** of the Constitution are not enforceable by courts, rather than creating an inspirational "duty of the State to apply these principles in making laws". The original justification for leaving such principles unenforceable by the courts was that democratically accountable institutions ought to be left with discretion, given the demands they could create on the state for funding from general taxation, although such views have since become controversial.

Article 38(1) says that in general the state should "strive to promote the welfare of the people" with a "social order in which justice, social, economic and political, shall inform all the institutions of national life.

In article **38(2)** it goes on to say the state should "minimise the inequalities in income" and based on all other statuses.

Article 41 creates a "right to work", which the National Rural Employment Guarantee Act 2005 attempts to put into practice.

Article 42 requires the state to "make provision for securing just and human conditions of work and for maternity relief".

Article 43 says workers should have the right to a living wage and "conditions of work ensuring a decent standard of life".

Article 43A, inserted by the Forty-second Amendment of the Constitution of India in 1976, creates a constitutional right to codetermination by requiring the state to legislate to "secure the participation of workers in the management of undertakings".

2. Explain the social security legislations in detail.

Ans. Social security is based upon a concept set forth in Article 22 of the Universal Declaration of Human Rights which states, Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. In simple terms, the signatories agree that society in which a person lives should help them to develop and to make the most of all the advantages (culture, work, social welfare) which are offered to them in the country.

Social Security may also refer to the action programs of government intended to promote the welfare of the population through assistance measures guaranteeing access to sufficient resources for food and shelter and to promote health and well-being for the population at large and potentially vulnerable segments such as children, the elderly, the sick and the unemployed. Services providing social security are often called **social services**

Social Security Legislations

Workmen's Compensation Act, 1923

This Act provides for payment of compensation to workmen and their dependents in case of injury and accident (including certain occupational disease) arising out of and in the course of employment and resulting in disablement or death.

Maternity Benefit Act, 1961

It regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. The Act applies to mines, factories, circus, industry, plantation, shops and establishments employing ten or more persons, except employees covered under the Employees State Insurance Act, 1948.

Payment of Gratuity Act, 1972

It is applicable to factories, mines, oil fields, plantations, ports, railways, motor transport undertakings, companies, shops and other establishments. The Act provides for the payment of gratuity at the rate of 15 days' wages for each completed year of service subject to a maximum of Rs. 3,50,000.

Employees State Insurance Act

This Act is applicable in the first instance to non- seasonal factories using power and employing 10 or more persons and non-power using factories employing 20 or more persons. It covers employees drawing wages not exceeding Rs. 6,500 with effect from 1 January 1997.

Provident Fund and Miscellaneous Provisions Act, 1952

Under this Act, retirement benefits in the form of provident fund, family pension and deposit linked insurance are available to employees.

Employees' Deposit Insurance Scheme, 1976

It was introduced for members of the Employees' Provident Fund and exempted provident funds with effect from 1 August, 1976.

Employees Pension Scheme, 1995

Under this scheme pension at the rate of 50% pay is payable to the employees on retirement/superannuation on completion of 33 years' contributory service. A minimum of 10 years' service is required for entitlement to pension.

Emigration Act, 1983

This Act regulates immigration of citizens of India for employment in other countries on contractual basis and seeks to safeguard the interest of such workers. Under the provisions of the Act, an employer can recruit any citizen of India for employment in any country or place outside India either through Recruiting Agent competent under the Act to make such recruitment or directly in accordance with a valid permit issued by the Central Government under the Act.

3. Describe the various approaches and theories of employee welfare.

Ans. THEORIES OF LABOUR WELFARE

The theories of labour welfare reflect the evolution of the concept of welfare. Earlier, the Government had to compel the industrial organisations to provide basic amenities to their employees. Such compulsion was necessary because the employers used to exploit the labour

and treated them in an unfair manner. With the passage of time, the concept of welfare has undergone changes. Progressive managements today provide welfare facilities voluntarily and with enlightened willingness and enthusiasm. In fact, welfare facilities are no longer restricted to workers alone but also extended to social welfare also. In this regard, a brief description of the various theories of employee welfare has been outlined hereunder.

- The Police Theory of Labour Welfare
- The Religious Theory of Labour Welfare. This has two aspects:
 - (a) Atonement
 - (b) Investment aspects.

- The Philanthropic Theory
- The Trusteeship Theory
- The Placating Theory
- The Public Relations Theory, and
- The Functional Theory of Labour Welfare.

A) The Police Theory

The police theory is based on the contention that a minimum standard of welfare is necessary for labourers. Apparently, this theory assumes that man is selfish and self-centred, and always tries to achieve his own ends, even at the cost of the welfare of others. If wealth or authority or both help him to be in an advantageous position, he uses it for his own advantage, exploiting those who are under him. According to this theory, owners and managers of industrial undertakings get many opportunities for this kind of exploitation. The welfare state has to prevent this kind of exploitation and coerce the industrialists to offer minimum standard of welfare to their workers. Such interference is in the interest of the progress and welfare of the state. Laws are enacted to compel managements to provide minimum wages, congenial working conditions, reasonable hours of work and social security. The police theory, therefore, leads to the passing of laws relating to the provision of minimum welfare for workers; periodical supervision to ascertain that these welfare measures are provided and implemented and punishment of employers who evade or disobey these laws. In this theory, the emphasis is unfortunately on fear and not on the spirit of welfare, which should be the guiding factor. There are some big employers who do not undertake welfare programs, which are not required by law, even though they can easily do so. There are others who find loopholes in the law and convince factory/mine inspectors that they have duly carried out the

legal requirements. These laws, moreover, impose a heavy burden on the Government, which has to maintain a costly Inspectorate to ensure that minimum welfare programmes are implemented in all the industries. However, in a country like India, where working conditions in many places are not at all congenial and where the majority of the workers is illiterate, a certain amount of coercion is essential in the interests of the working population.

B) The Religious Theory

This theory is based on the concept that man is essentially “a religious animal”. Even today, many acts of men are related to religious sentiments and beliefs. These religious feelings, sometimes, prompt an employer to take up welfare activities in the expectation of future benefit, either in this life or in some future life. According to this theory, any good work is considered as “Investment”. In this case, both benefactor and the beneficiary are rewarded. Many trusts and charitable institutions in India function on the basis of this belief.

Another aspect of the religious theory is the atonement aspect. Some people take up welfare work in a spirit of atonement for their sins. Thus, the benevolent acts of welfare are treated either as an investment or atonement. According to this theory, man is primarily concerned with his own welfare and only secondarily with the welfare of others. The religious basis of welfare however cannot be rational. Fundamentally, welfare based on charity is not good for the beneficiary in the long run. These services are voluntary and sometimes even amount to more than what is required by legal enactments.

C) The Philanthropic Theory

This theory is based on man’s love for mankind. In Greek, philo means love of and anthropes means man. So philanthropic means loving mankind. Man is believed to have an instinctive urge by which he strives to remove the sufferings of others and promote their well-being. This drive may be a rather powerful one and may impel him to perform noble sacrifices. When some employers have compassion for their fellowmen, they may undertake labour welfare measures for the benefit of their workers. In fact, the labour welfare movement began in the early years of the Industrial Revolution with the support of such philanthropists as Robert Owen. In India, Mahatma Gandhi was one of the eminent philanthropists who strove for the welfare of labour. This theory thus, depends largely on man’s love for others and therefore, cannot be universal. Irregular and occasional philanthropic acts of welfare may sometimes defeat the very purpose of welfare. All the same, the utilisation of such philanthropic sentiments on the part of employers and others has worked well for the time being, at least.

D) Trusteeship Theory

This is also called the paternalistic theory of labour welfare, according to which “the industrialist or employer holds the total industrial estate, properties and profits”. These properties and profits, he uses for himself, for the benefit of his workers and also for society. Workers are like minors. They are ignorant because of lack of education and are not able to look after their own interests. Employers, therefore have the moral responsibility to look after the interests of their wards, who are the workers. As a matter of fact, it is not legally binding as it is a moral obligation. The main emphasis here is on the idea that employers should spend a portion of their funds for the well-being of their workers. Mahatma Gandhi very strongly advocated this Trusteeship Theory. Here too, labour welfare depends on the initiative of the top management. Since it has no legal sanction, its value is related to the moral conscience of the industrialists. This theory treats “workers as perpetual minors and industrialists as eternal guardians”. The self-reliant growth of the trade union movement is ignored in this theory, though it may create a basis of goodwill between labour and management.

E) The Placating Theory

This theory is based on the fact that labour groups are becoming more militant and are conscious of their rights and privileges than ever before. Their demand for higher wages and better standards cannot be ignored. According to this theory, timely and periodical acts of labour welfare can appease the workers. They are some kind of pacifiers by way of friendly gestures. Sincerity may be lacking in these programs psychologically this theory is unsound, though it has often been acted upon to secure the workers cooperation.

F) Public Relation Theory

This theory provides the basis for an atmosphere of goodwill between labour and management and also between management and the public. Labour welfare programs, under this theory work as a sort of an advertisement and help an industrialist to build up good and healthy public relations. This theory is based on the assumption that the labour welfare movement may be utilised to improve relations between management and labour. An advertisement or an exhibition of a labour welfare program may help an industrialist to project to the public a good image of his company. His sales as well as profits may improve as a result of two-fold benefit to the company. But this kind of program may also lack insincerity and continuity. When such a programme loses its advertisement value, it may be

neglected or abandoned by the employers even though it is useful to employees. Hence, welfare may tend to become a publicity stunt. Nevertheless, these programs do improve industrial relations.

G) The Functional Theory

This is also called Efficiency Theory. Here, welfare work is used as means to secure, preserve and develop the efficiency and productivity of labour. It is obvious that if an employer takes good care of his workers, they will tend to become more efficient and thereby they step up production. But all this will depend on a healthy collaboration between union and management and their mutual concern for the growth and development of the organisation. Higher production is of great benefit to both management and labour. The latter will get better wages and perhaps, a share in the profits. This is the functional aspect of welfare having efficiency as its object which increases productivity this theory is a reflection of contemporary support for labour welfare. It can work well if both the parties have an identical aim in mind that is higher production through better welfare and this will encourage labour's participation in welfare programmes. In India, it is said, the industrial system clings largely to the paternalistic approach. Some management, however try to achieve results through police control. Either way, workers start expecting too much from employers, as a result of which employers provide welfare measures in a somewhat half-hearted manner. The trusteeship theory, too, can be applied suitably in Indian conditions, though, in the long run, it is better to act on the basis of the functional theory of labour welfare, for it works effectively by reason of an intelligent and willing participation of workers