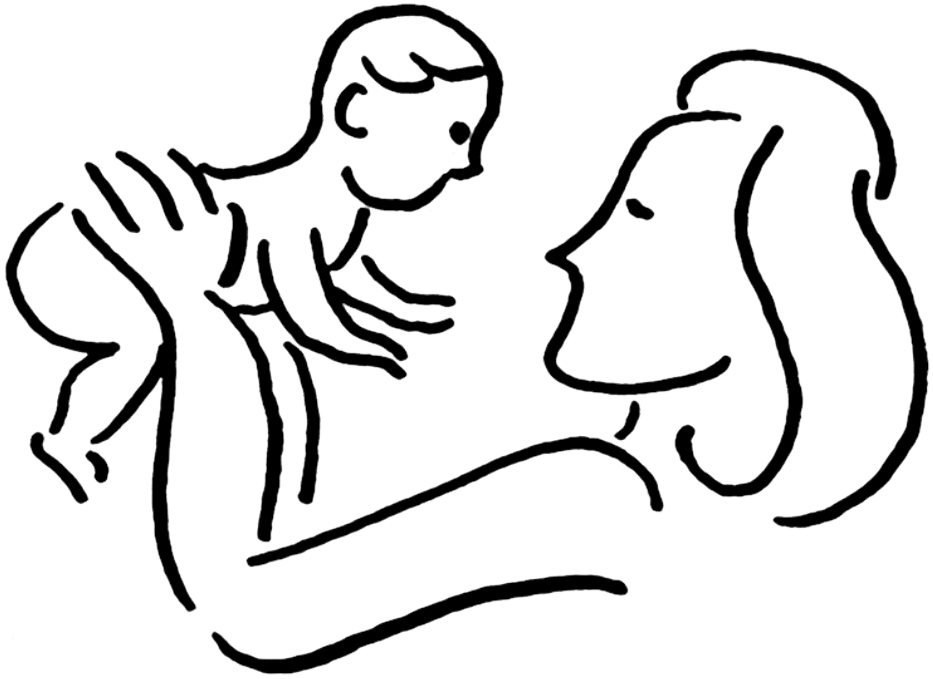

The Maternity Benefits Act, 1961

By Megha.C.Iyer

Objective

- **Maternity Leave and benefit**

To protect the dignity of Motherhood by providing complete & healthy care to women and her child when she is unable to perform her duty due to health condition.

Maternity Act 1961 : Gives her the assurance that her rights will be looked after while she is at home to care for her child.

Applicability

- The Act extends to whole to India.

- Every factory, mine or plantation (including those belonging to Government) and to every shop or establishment wherein 10 or more persons are employed on any day preceding 12 months.

Eligible for Maternity Benefit?

- Must work in the establishment for 80 days in 12 months before her date of Delivery.

- Women earning less than 15,000 may be offered ESI scheme by her employer and will not be eligible for maternity benefit and but will receive the maternity benefit under ESI scheme.

Duties of Employee for Maternity Benefit

- Ten weeks before the expected delivery date she may ask employer to give her light work.[Produce certificate of pregnancy]

- Should intimate the employer Seven Weeks before her delivery date about the leave period.

- Name the person to whom the payment will be made in case she cannot take herself.

Municipal Corpn. Of Delhi vs. Female Workers (2000)SCC224

- Union of Female Workers who were not on regular rolls, but were treated as temporary workers and employed on Muster roll, claimed that they should also get maternity benefit like regular workers.

- **Held:** Provisions of the Act entitle maternity leave even to women engaged on casual basis or on muster roll basis on daily wages and not only those in regular employment, are wholly in consonance with the Directive Principles of State Policy contained in Art. 19, 42 and 43 of the Constitution of India.

Cash Benefits

- 84 Days Leave with pay before/after delivery.
- A medical bonus of Rs. 1,000/-
- Take the pay for 6 weeks after/before child birth within 48 hrs of request
- An additional leave with pay up to one month [Proof of illness]
- In case of miscarriage Six weeks leave with average pay.
- **Tubectomy operation :** Leave with wages @ of maternity benefit for a period of 2 weeks.

Non Cash Benefits

- Light work for 10 weeks (6 weeks plus 1 month) before delivery.
- 2 Nursing breaks of 15 Minutes until the child is 15 months old.
- No discharge or dismissal while on maternity leave.
- No charge to her disadvantage in any conditions of her employment while on maternity leave.
- Pregnant women discharged or dismissed may still claim maternity benefit from employer.

Legal Obligation under Maternity Act

- No employer can unknowingly employ a woman in establishment during 6 weeks following date of delivery or miscarriage.

- No woman shall work in any establishment during the 6 weeks immediately the day following her delivery.

- Shall be Unlawful for her employer to discharge or dismiss her on account of such absence.

- In case of Gross misconduct the employer in writing can communicate about depriving such benefit.

- Within 60 days from date of deprivation of maternity benefit, any Women can appeal to the authority prescribed by law.

Duties and Penalty for Employer

- **Record Management:** Every employer need to prepare records or registers.

- **Penalty for Contravention of Act**

  Imprisonment with minimum period of 3 months to maximum 01 year.

  Fine from Rupees Two Thousand to Rupees Five Thousand.

Sacked while pregnant, lady sues company[2012 case]

- Indrani filed a criminal case against company for violating the Maternity Benefit Act, 1961, which forbids an employer from terminating the services of a pregnant woman unless there are complaints of "gross misconduct" against her.

- On July 26, Indrani won Rs 7.5 lakh as settlement money from the company on orders from Delhi High Court.

Thank
You
Blingee