

**SOCIAL SECURITY LAWS FOR ORGANISED SECTOR IN INDIA: AN
OVERVIEW**

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ABSTRACT

Social security is a government program designed to provide for basic economic security and welfare of individuals and their dependants. The concept of social security is based on human dignity and ideals of socio-economic justice. The primary object of the international labour organization is promoting social justice and improving the living and working conditions of workers throughout the world. It emphasized the importance of comprehensive social security measures in the preamble to its constitution, in which it promised, "protection of employment injury and disease and workers against stress, the protection of children, young person and women, provision for old age and injury. The major aims of social security are: Compensation, Restoration, and Prevention. Social security is of two types, Social Assistance and Social Insurance. The organized sector includes workers employed by the government, state-owned enterprises and private sector enterprises. Based on the survey carried out by the National Sample Survey Organization (NSSO) in the year 2011-12, the total employment in both organized and unorganised sector in the country was of the order of 47 crores. Out of this, about 8 crore were in the organized sector and the balance of 39 crore in the unorganized sector. The present study tries to put lights on how the social security schemes have been started, what are the different laws available to the workers of this sector. Descriptive study methodology has been adopted and the relevant secondary data have been gathered.

Key words: Social Security, organized sector, Schemes and Employment.

INTRODUCTION

The concept of social security has been playing a significant role in developed as well as developing economies. Like other countries, India also has enacted different types of social security measures for the benefit of its citizens. Several studies have been conducted on social security measures in India and abroad. Social security is a government program designed to provide for basic economic security and welfare of individuals and their dependants. The concept of social security is based on human dignity and ideals of socio-economic justice. The primary object of the international labour organisation is promoting

social justice and improving the living and working conditions of workers throughout the world. It emphasized the importance of comprehensive social security measures in the preamble to its constitution, in which it promised, “protection of employment injury and disease and workers against stress, the protection of children, young person and women, provision for old age and injury. The major aims of social security are:1) Compensation, which takes care of income during emergency or old age. It provides for upkeep of worker and his family to protect redoubles loss. 2) Restoration, which enables the workers to get back to normalcy so as to lead a normal working and private life.3) Prevention, which tackles obsolescence as well as further loss of capability.

Social security is of two types 1. **Social Assistance:** A method to provide benefits to persons usually for the vulnerable groups of community (Children, mothers, disabled, old age people etc.) from general revenues of the state, it is non-contributory.2. **Social Insurance:** a method to provide benefits to person through contributions of beneficiaries with contribution/subsidies from employer and state. The primary object of the international labour organisation is promoting social justice and improving the living and working conditions of workers throughout the world. It emphasized the importance of comprehensive social security measures in the preamble to its constitution, in which it promised, “protection of employment injury and disease and workers against stress, the protection of children, young person and women, provision for old age and injury.

METHODOLOGY OF THE STUDY.

The present study tries to put lights on how the social security schemes have been started, what are the different schemes available to the workers of this sector. Descriptive study methodology has been adopted and the relevant secondary data have been gathered from various books, journals, and reports of Government agencies, commission and Non-governmental organizations.

OBJECTIVES OF THE STUDY

- a) To understand the concept, historical background and changing trend of Social security and unorganised sector.
- b) To analyze the social security measures prevailed to organized workers of India.

A BRIEF LITERATURE REVIEW

Some research work has been done in this area from various perspectives. “Social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner”.⁽¹⁾ Social security is the

protection furnished by society to its members through a series of public measures against social and economic distresses such as unemployment, under employment, destitution, social disability, old age, employment injury, sickness, maternity and so on.

“Social security is a programme of protection provided society against those contingencies of modern life- sickness, unemployment, old age dependency, Industrial accidents and invalidism against which the individual can't be expected to protect oneself and family by his/her own ability or foresight.”⁽²⁾ Social security may be defined as any mandatory arrangement that provides individuals with a degree of income security when faced with the contingencies of old age, survivorship, incapacity, disability, unemployment or rearing child. It may also offer access to curative or preventive medical care.

According to Saxena (1974), social security was a dynamic conception, considered in all advanced countries of the world as an indispensable chapter of the national programme to strike at the root of poverty, unemployment and disease.

The organized sector includes workers employed by the government, state-owned enterprises and private sector enterprises.⁽³⁾

HISTORICAL BACKGROUND OF SOCIAL SECURITY

History of social security is divided into two phases namely, during colonial India and Independent India. After the establishment of Cotton Mills in 1851 and Jute Mills in 1855 the government felt the need for social security to the working class due to the prevalence of unhuman working environment in factories due to more working hours, neglect of welfare, lack of holidays and absence of medical care. The lack of safety provisions at workplace, increased accidents to result in labour unrest. The Fatal Accidents Act, 1855 enacted by the British Government was inadequate restricting dependents like brother, sisters from claiming compensation and awarding inadequate rate of compensation.

(a) First Phase (1919-1941): After First World War, the world turned to peace by ending hostility. The policy of reconstruction established International Labour Organisation (ILO) by adopting 17 Conventions which was later increased to 28. The Minimum Standard of Social Security (Convention No. 102) is a comprehensive instrument covering many branch of social security against contingencies of sickness, unemployment, oldage, death, employment injury, invalidity etc. Government of India ratified Workmen's Compensation (Accident) Convention 1925 (No 17), Workmen's Compensation (Occupational Disease) Convention 1925 (No. 18), Workmen's Compensation (Occupational Disease) Convention (Revised) 1934 (No 42), Equality of Treatment (Accident) Convention 1925 (No. 19) and in 1962, The equality of Treatment (Social Security) Convention.

(b) Second Phase (After 1920): Trade Unionism emerged in India when workers started organizing themselves to redress their grievances as per Trade Union Act 1926. The Workmen's Compensation Act, 1923 eliminate the hardship of employees due to accidents by ensuring benefits with minimum legal formality. The government of India enacted the Provident Fund Act, 1925 for Railways and Government Industrial Establishments. In 1929, Royal Commission on Labour investigated the working conditions of Industrial labours recommending Maternity, welfare and old age benefits. Upon its recommendation, The Government of Bombay adopted The Maternity Benefit Act in 1929 and The Central Provinces Act in 1930. The following provincial legislations relating to Maternity Benefit was passed in Ajmer Merwar (1934), Delhi (1937), Madras and United Province (1938) and central legislation for Mines Maternity Benefit Act (1941). By abrogating the doctrine of common employment Employers Liability Act was passed in 1938. It also reviewed the process of Payment of Gratuity to Railway Employees by modifying 15 years of service which was the eligibility for the gratuity on retirement or resignation. It also recommended including voluntary withdrawal from service with previous notice.

(c) Third Phase (After 1942): The Beveridge Report of British Social Insurance and Allied Services in England, Wagnur-Murray, Dional Bill in USA and Marsh Plan (Report on Social Security) in Canada compelled colonial Indian Government to enact meaningful legislative measures for social security. Agarwala A. N. (1960) in India Social Security started with the third Labour Ministers conference 1942 proposing schemes for sickness insurance through the advancement of loan to run the schemes in cotton, jute, textile and heavy engineering industries. In 1943, The Government of India appointed a committee presided by Prof. Adarkar B.P to formulate a scheme of health insurance for Industrial workers. This scheme was examined and endorsed by experts of International Labour Organisation Mr. Mistach and R.Rao in 1945 with the modification of separation of administration of medical and cash benefits, integration of maternity benefits with workmen's compensation and extension of the scheme in all perennial factories to cover non manual workers.

(d) Fourth Phase (Free India after 1946): India became independent on 15th August, 1947. The interim government formulated five year programme for the welfare of the labour class including Health Insurance scheme for factory workers, Revision of Workmen's compensation act, a central law for maternity benefits which is based on the report of National Commission on Labour (1969) and extension of right to sickness allowance to other

class of workers within specific limits. The enactment of Industrial Disputes Act, 1947 entitled the industrial workers to gratuity as a legal right.

(e) Fifth Phase (After 1950's): After India became republic on 26th Jan, 1950 it emphasized upon various provisions to stress socio economic security through Indian Constitution. Indian constitution being the law of the land aims towards Justice, Equality, Liberty and Fraternity to all. It emphasized social security of the people by granting the right to equality before law under (Article 14) as a Fundamental Rights. It also ensured that the state should direct its policy towards securing the right of adequate means of livelihood (Article 39(a)), Equal pay for equal work (Article 39(d)), secure public assistance in case of unemployment, old-age, sickness, disablement and other cases of undeserved wants (Art 41), securing just and humane conditions of work and for maternity relief (Article 42), secure all workers with living wage, conditions of work and decent standard of life (Art 43). The Five Year Plans emphasized a better standard of life and social justice to all. Under Third Five Year Plan special welfare funds has been constituted for financing welfare measures⁽⁴⁾

Table.1 Work force distribution in India

Year	% in Organized Sector	% in un-organized Sector
1971	9.6	90.4
1981	9.3	90.7
1993	8.7	91.3
2001	7.5	92.5
2011	17.3	82.7

Majority of the worker of unorganized sector engaged in agriculture sector where as one fourth of the total work force are engaged in non – agricultural sector

(NSS Survey,

2011-12) and Figures are in per cent share.

Table 1, Trends in Formal- Informal Employment

2004-05			
	Organised	Unorganised	Total
Formal	32.06 (52)	1.3 (0.3)	33.41 (7.3)
Informal	29.54 (48)	396.66 (99.7)	426.20 (92.7)
Total	61.61 (13)	398.01 (87)	459.61 (100)
2011-12			
	Organised	Unorganised	Total
Formal	37.18 (45.4)	1.39 (0.4)	38.56 (8.1)
Informal	44.74 (54.6)	390.92 (99.6)	435.66 (91.9)
Total	81.92 (17.3)	392.31 (82.7)	474.23 (100)

Figures in Million and Percent share

The composition of employment in the organised vs un-organised sector was in the proportion 13:87 in 2004-05 and 17:83 in 2011-12 (Table-1) indicating an increase in organised sector employment from 13 per cent in 2004-05 to 17 per cent in 2011-12. But this increase in organised sector employment was informal in nature (48 per cent in 2004-05 increased to 55 per cent in 2011-12) while the share of organised formal employment decreased (52 per cent in 2004-05 decreased to 45 per cent in 2011-12). But in the unorganised sector the share of formal employment marginally increased from 0.3 to 0.4 per cent and that of informal employment declined marginally from 99.7 to 99.6 per cent. On the whole the number of formally employed increased from 33.41 million in 2004-05 to 38.56 million in 2011-12 , while informally employed increased from 426.20 million to 435.66 million during this period.

Table-2 : Broad Sectoral Distribution of Formal-Informal Employment
(in percent share)

2004-05	Organised Sector		Unorganised Sector		Total
	Formal	Informal	Formal	Informal	
Agriculture	0.76	0.99	0.00	56.75	58.50
Manufacturing	1.21	2.10	0.10	8.33	11.73
Non-manufacturing	0.53	1.45	0.00	4.42	6.41
Services	4.48	1.89	0.19	16.80	23.36
Total	6.98	6.43	0.29	86.30	100.00
2011-12	Organised Sector		Unorganised Sector		Total
	Formal	Informal	Formal	Informal	
Agriculture	0.06	0.16	0.00	48.69	48.90
Manufacturing	1.48	2.79	0.06	8.28	12.60
Non-manufacturing	0.69	3.77	0.01	7.18	11.65
Services	5.62	2.72	0.22	18.29	26.84
Total	7.84	9.43	0.29	82.43	100.00

Source: Computed using unit level data of NSSO various rounds

In agriculture sector, which is a main contributor of employment, nearly 97 per cent of the employment is informal in nature (Table-2). But the share of agriculture in total employment has decreased from 58.50 per cent in 2004-05 to 48.90 per cent in 2011-12 which is indicative of the structural transformation of the sector. In manufacturing sector the increase in share of employment was accounted for by the organised sector which showed an increase in both formal and informal employment. In non-manufacturing which comprises of the construction sector there was an increase in employment across both the organised and unorganised sector as well as in the formal and informal sector, though the share of informal employment was higher. The same trend was observed in the services sector also.

SOCIAL SECURITY MEASURES IN INDIA

Given the importance and the size of the work force both in organized and unorganized sector, the government has notified/enacted several schemes to provide social security for the workers and deliberate importance is given to the unorganized sector. These schemes are discussed below.

THE PRINCIPAL SOCIAL SECURITY LAWS FOR ORGANIZED SECTOR

The Employees' Compensation Act, 1923

In case of death 50% of the monthly wages multiplied by the relevant factor or an amount of Rs.1,20,000/-, whichever is more is paid. In case of permanent total disablement 60% of the monthly wages multiplied by the relevant factor or an amount of Rs.1,40,000/-, whichever is more is paid lifelong. A sum of Rs. 5000/- is paid as funeral expenses. ⁽⁵⁾

Employees State Insurance Act, 1948

The Employees' State Insurance Act, 1948 applies to factories employing 10 or more persons. State Governments have extended the provisions of the Act to shops, hotels, restaurants, cinemas including preview theatres, road motor transport undertakings, and newspaper establishments, educational and medical institutions employing 10 or more employees. Employees in receipt of daily average wage upto rate Rs. 70/- are exempted from contributions. The benefits provided under this act are Sickness benefit, extended sickness benefit, and enhanced sickness benefit. Disablement benefit, Dependants' benefit Maternity benefit, medical benefit, Confinement expenses, Funeral expenses, vocational rehabilitation, Physical rehabilitation, Unemployment allowance. ⁽⁶⁾

The Employees' Provident funds & Miscellaneous Provisions Act, 1952

Presently, the Act is applicable to 187 specified industries/classes of establishments in which 20 or more person are employed, cinema and theatres 5 or more. There are 3 schemes under this act Employees' Provident Fund Scheme, Employees Deposit Linked Insurance Scheme, 1976 (EDLI), Employees' Pension Scheme.

The Maternity Benefit Act, 1961

The Act regulates the employment of women in factories, mines, the circus industry, plantation units and shops or establishments employing 10 or more persons except the employees covered under the Employees State Insurance (ESI) Act, 1948 T. Maximum period for which a woman can get maternity benefit is 12 weeks. A medical bonus of Rs.3,500/- is being provided from 19.12.2011 under the Act. ⁽⁷⁾

The Payment of Gratuity Act, 1972

Under this act after completion of min. 5 yrs of service, for every completed year of service or part thereof in excess of six months, the employer pays gratuity to an employee at the rate of 15 days' wages based on the rate of wages last drawn⁽⁸⁾

Conclusively, the government and other agencies have made genuine efforts to provide various Social Security benefits to workers. The concept of Social Security has arrived in India practically and its need has been fully realized. However, in spite of massive efforts, there exists a lacuna in the intentions and their fulfillment which should enable the workers in unorganized sector to leave a decent life. The idea is also to enable them reap the fruits of social and economic development while protecting them from the contingencies of modern life.

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