

THE PAYMENT OF GRATUITY ACT, 1972

➤ **General:-**

An employee expects & deserves, as a matter of a right, some reward when he retires after a long period of service. The Gratuity Act fulfilled this expectation of an employee.

➤ **Object:-**

The object of the Act is to provide a uniform scheme for payment of Gratuity to employees throughout the country.

➤ **Applicability:-**

The Act is applicable to

A. Every Factory, mine, oilfield, plantation, port & Railway Company.

B. Every Shop or establishment/Factory in which 10 or more persons are employed.

➤ **Eligibility:-**

Any employee who has completed minimum 5 years of continues service is entitled for Gratuity.

However in the case of death or disablement of the employee Gratuity is payable, even employee has rendered less than 5 years of service.

➤ **Calculation of Gratuity:-**

Gratuity shall be paid at the rate of 15 days wages for every completed year of service or part thereof in excess of six months based on the rate of his last drawn wages. In the case of monthly rated employees, the rate of one day's wages is to be computed by dividing the monthly wages by 26 working days.

"Wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him and includes basic & dearness allowance but does not include any bonus, commission, HRA, OT or any other similar allowances.

➤ **Maximum amount of Gratuity:-**

As per the Act, the maximum amount of Gratuity is rupees 10 Lacs.

However employer can pay Gratuity at higher rate or of higher than the minimum amount as compared to that prescribed limit, if there is any award, agreement or contract between employer & employee to that effect.

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➤ **Forfeiture of Gratuity:-**

The employer can forfeit wholly or partially Gratuity amount payable to the employee in the case of

1. For his riotous or disorderly conduct or any other Act of violence on his part
2. For any Act which constitutes an offence involving moral turpitude (it means anything done contrary to justice, honesty, modesty or good morals).
3. Willful omission or negligence, causing any damage or loss to or destruction of property belonging to the employer to the extent of damage or loss caused.

➤ **Nominee:-**

If the employee has a family, he must nominate one or more members of the family and none other.

If the employee has no family, he can nominate any person or persons of his choice. However, if the employee acquired a family after nominating any person or persons of his choice, such nomination becomes invalid and the employee has to make a fresh nomination. (Form No. F)

➤ **Claim of Gratuity:-**

1. As soon as Gratuity is payable the employer has to pay the Gratuity within 30 days.
2. If the employer receives an application & accepts his claim the employer has to pay the Gratuity within 15 days of the receipt of the application (Form No.L)
3. If the employer does not accept the claim of Gratuity he has to inform the employee showing reason why claim is not accepted by him within 15 days of the receipt of the application (Form No.M)
4. The Gratuity shall be payable by cheque or demand draft if the amount is less than Rs.1000/- may be made by postal Money order or by cash.

➤ **Interest on delayed payment :-**

If the Gratuity is not paid within 30 days from the date it becomes payable, the employer is required to pay simple interest on the amount due to the employee. At present the rate of simple interest declared by Central govt. is 10% p.a.

➤ **Procedure of claiming Gratuity:-**

The employee has to make application in Form No. I within 30 days from the date of Gratuity become payable.

If the employer does not take the Action the employee has to apply to the Controlling Authority in Form No.N within 90 days for issuing necessary direction to employer for making payment of Gratuity.

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If the employee aggrieved by the order of the Controlling Authority he can prefer an appeal to the Appellate Authority within 60 days from the date of receipt of the order.

In spite of above orders of the Authority the employer fails to pay the Gratuity amount the employee has to apply to the controlling Authority in Form No.T for recovery thereof through the Collector as arrears.

➤ **Protection of Gratuity:-**

Gratuity payable under the Act cannot be attached in execution of any decree or order of any civil, revenue or criminal court.

➤ **Punishment under the Act:-**

If any person, for the purpose of avoiding any payment to be made under the Act, knowingly makes or causes to be made any false statements or false representation he would be punished with imprisonment up to 6 months, or with fine up to Rs.10,000/- or both.

1. If any employer contravenes, or makes default in complying with any provisions of the Act or any rule or order made there under he would be punished with imprisonment up to 1 year or with fine up to Rs.20,000/- or with both.

➤ **Display of abstract of the Act:-**

Every employer must display an abstract of the Act and the Rules made there under in English and in the language understood by the majority of the employees at a conspicuous place at or near the main entrance of the establishment.

➤ **Records to be maintained:-**

1. Copy of Form No.A (Notice of opening of establishment)
2. Abstract of the Act to be displayed
3. Nomination Form in Form No.F
4. Change of nomination in Form No.G
5. Application for Gratuity by a nominee Form No.J
6. Application for Gratuity by Legal heir Form No.K
7. Notice of Change of address/Constitution in Form No.B (If applicable)
8. Notice of closure of establishment in Form No.D

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EMPLOYEES' PENSION SCHEME, 1995

➤ **Applicability:-**

It is automatically applicable to all the establishment / factories covered under E.P.F. scheme 1952.

The Act is applicable to all types of employees i.e. whether they are Monthly rated, Part-Time employees, daily rated or piece rated employees, casual, temporary, permanent or contractual employees.

➤ **Eligibility:-**

It is automatically applicable to all employees covered under E.P.F. scheme 1952.

However, w.e.f. 01.09.2014 if employees Basic salary is above Rs.15000/- and not a member of Pension Fund with previous company is not entitled for Pension Fund.

➤ **Rate of contribution:-**

Employee's contribution: NIL

Employer's contribution: 8.33% on salary / wages up to Rs15000/- p.m.

(Employer's contribution is inclusive of 12% contribution of PF)

➤ **Benefits:-**

Various types of pension are available under the scheme.

- a) **Survivor Pension** – if death occurs during service period.
- b) **Old age pension** – after attaining the age of 58 years.
- c) **Permanent disability pension** – in the event of member suffering permanent disability while in service.
- d) **Reduced Pension** – in the event of member retires and not in any employments between the age 50 and 58 years.
- e) **Scheme certificate** – if member has completed more than 10 years of membership and not completed superannuation age is entitled for Scheme certificate for claiming pension at the time of attaining superannuation age.
- f) **Withdrawal benefit** – if member has not completed 10 years of membership and ceased to be employment is entitled for withdrawal of his contribution.

➤ **Amount of Pension:-**

Minimum amount of pension is Rs.1000/- p.m.

Maximum amount of pension is Rs.5000/-p.m.

➤ **Formula of Pension:-**

Pensionable Salary (Last 60 months average) X Pensionable service

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