CONTENTS

Page No

Certificate	11
Declaration	
Acknowledgement	iv
Contents	vi
Abbreviations	xxiii
Chapter I to VII	1-564
Annexure	xxiv
List of Tables	lxx
Bibliography	lxxviii
Table of Cases	lxxxix

CHAPTER I

INTRODUCTION		1-31
1.1	Introduction	3
1.2	The Scope and Objectives of the Study	8
1.3	Rational of the Study	10
1.4	Hypothesis formulated.	11
1.5	Research Methodology	13
1.6	Research Design	15
1.6.1	Data Collected (Sample Design)	15
1.6.2	Interview Pattern	17
1.6.3	Interpretation of Data Collected	19

1.7	Major Concepts and Variables	19
1.7.1	Major Concepts	19
1.7.2	Variables	25
1.8	Review of Literatures	25
1.9	Scheme of the Study	27
1.10	Utility of the Study	30

CHAPTER II

SOCIAL	SECURITY	SCHEMES:	HISTORICAL
EVOLUTIO	ON AND DEVE	LOPMENT	32-167

2.1	Historical Background of Social	
	Security Schemes in India	37
2.1.1	Social Security during Ancient India	38
2.1.1.1	Joint Family Institutions	38
2.1.1.2	The Guilds or Sreni: The Mercantile	40
	Organizations	
2.1.1.3	Kautilya on Social Security	41
2.1.1.4	Shankaracharya on Social Security	42
2.1.1.5	Emperor Ashoka on Social Security	42
2.1.1.6	Chandra Gupta Maurya on Social Security	43
2.1.2.	Social Security during Medieval Period	44
2.1.2.1	Mohammed Shah on Social Security	45
2.1.2.2	Sikender Lodhi on Social Security	45
2.1.2.3	Sher Sah Suri on Social Security	46
2.1.2.4	Zakat as a Concept of Social Security	47
2.1.2.5	Great Marathas on Social Security	47
	,	

.

2.1.3	Development of Social Security concept in	
	Modern India	48
2.1.3.1	Social Security and Indian Constitution	55
2.1.3.2	Old Age Assistance: State Governments	
	Initiative	55
2.1.3.3	Appointment of the Study Group and National	
	Commission on Labour	56
2.1.3.4	The Committee on Perspective Planning	57
2.1.3.5	The Workmen's Compensation Act, 1923	59
2.1.3.6	The Employees State Insurance Act, 1948	60
2.1.3.7	The Employees Provident Fund and	
	Miscellaneous Provisions Act, 1952	62
2.1.3.8	The Maternity Benefits Act, 1961	63
2.1.3.9	The Payment of Gratuity Act, 1972	64
2.2	Reports of various Committees/	
	Commissions on Social Security	65
2.2.1	Prof BP Adarkar Commission Report, 1944	66
2.2.1.1	Structure of the Scheme	68
2.2.2	The Study Group Report, 1957-58	73
2.2.2.1	Recommendations of the Study Group	74
2.2.2.2	Integrated Social Security Scheme:	
	Its feasibility	79
2.2.2.3	The Integrated Scheme: Its Benefits	84
2.2.2.4	Contributions and Transitional Arrangements	89
2.2.2.5	Administrative Charges	90
2.2.3	The National Commissions on Labour: Their	
	Recommendations	91

2.2.3.1	The National Commission on Labour, 1969	91
2.2.3.2	The National Commission on Labour, 2002	96
2.3	Development of Social Security Schemes:	
	International Scenario	111
2.3.1	The International Labour Organization (ILO)	112
2.3.1.1	The General Conference	114
2.3.1.2	The Governing Body	115
2.3.1.3	The International Office	115
2.3.1.4	Promotion and Development of the Social	
	Security: Role of the ILO	116
2.3.1.5	Foundation for the Propagation and	,
	Promotion of the Social Security	121
2.3.1.6	Research and Studies conducted by the ILO	123
2.3.1.7	Technical Cooperation	125
2.3.2	International Social Security Association	129
2.3.2.1	The Role of the ISSA	129
2.3.2.2	The Activities of The ISSA	131
2.3.2.3	Official launching of the ISSA Initiatives	138
2.4	The Social Security Schemes in other	
	Countries	140
2.4.1	The United States of America	140
2.4.2	The United Kingdom	143
2.4.2.1	The Basic Features of William Beverigde	
	Plan	144
2.4.3	Japan	154

.

2.4.4	The Union of Soviet Socialist Republic	155
2.4.5	Federal Republic of Germany	158
2.4.6.	China	159
2.4.7	New Zealand	161
2.4.8	Sweden	162
2.4.9	Norway	163
2.4.10	A Bird's Eye view	164

CHAPTER III.

~

THE SOCIAL SECURITY SCHEMES UNDER VARIOUS STATUTES AND INTERNATIONAL INSTRUMENTS 168-254⁻

3.1	Nature and Concept of the Social Security	175	
3.2	Statutory Protection of the Social Security		
	Schemes: Indian Perspective	176	
3.2.1	Provisions under the Indian Constitution	176	
3.2.2	Provisions Under The Workmen's		
	Compensation Act, 1923	179	
3.2.2.1	Objective and Applicability of the Act	179	
3.2.2.2	Conditions for the Payment of		
	Workmen's Compensation	180	
3.2.2.3	Limitations on the Payment of		
	Workmen's Compensation by Employers 6	181	
3.2.2.4	Calculation of Amount of Compensation	182	

3.2.2.5	Administration of the Scheme	185
3.2.3	Provisions under the Employees	
	State Insurance Act, 1948	185
3.2.3.1	Object and Application of the Scheme	185
3.2.3.2	Benefits under the Scheme	186
3.2.3.3	Contributions under the Scheme	194
3.2.3.4	Administration of the Scheme	195
3.2.4.	Provisions under the Employees Provident	
	Fund & Miscellaneous Provisions	
	Act, 1952	195
3.2.4.1	Applicability of the Act	195
3.2.4.2	Rate of Contributions under the Scheme	196
3.2.4.3	Advance from the Statutory Fund	196
3.2.4.4	The Employees Deposit Linked	
	Insurance Scheme, 1976	197
3.2.4.5	The Employees Pension Scheme, 1995	198
3.2.4.6	Administration of Provident Fund Schemes	201
3.2.5.	Provisions under the Maternity Benefits Act,	
	1961	201
3.2.5.1	Application and Scope of the Scheme	201
3.2.5.2	Benefits under the Scheme	202
3.2.5.3	Administration of Scheme	203
3.2.6	Provisions under the Payment of	
	Gratuity Act, 1972	204
3.2.6.1	Purpose and Application of the Scheme	204
3.2.6.2	Benefits under the Scheme	205

3.3	International Instruments and	
	the Social Security Schemes	206
3.3.1	The Human Rights aspect related	
	to the Social Security	206
3.3.1.1	The Universal Declaration of Human Rights,	
	1948	206
3.3.1.2	The International Covenant on Economic,	
	Social, and Cultural Rights, 1966	208
3.3.1.3	International Covenant on Civil and	
	Political Rights, 1966	213
3.4	International Social Security Systems:	
	A comparative study of various	
	Countries	217
3.4.1	The United States of America	218
3.4.1.1	The Social Security Act, 1935	218
3.4.1.2	The Social Security Act, 1939	219
3.4.1.3	The Social Security Act, 1946	220
3.4.1.4	The Social Security (Amendment) Act, 1947	222
3.4.1.5	The Social Security (Amendment) Act, 1950	222
3.4.1.6	The Sickness and Maternity Benefits	
	Provisions 1965	222
3.4.1.7	The Social Security Act, 1965	223
3.4.1.8	The Employees Retirement Income	
	Security Act, 1974	223
3.4.1.9	The Social Security Program, 1977	224
3.4.1.10	The Omnibus Reconciliation Act, 1981	224
3.4.2	The United Kingdom	224

3.4.2.1	The Workmen's Compensation Act, 1897	225
3.4.2.2	The Old Age Pension Act, 1908	225
3.4.2.3	The National Insurance Act, 1911	226
3.4.2.4	The Sickness and Maternity Act, 1911	226
3.4.2.5	The Social Security and Housing	
	Benefit Act, 1982	226
3.4.3	Japan	227
3.4.3.1	The Health Insurance provisions 1922	227
3.4.3.2	The National Health Insurance Provisions,	
	1938	227
3.4.3.3	The Employees Pension Program, 1941	228
3.4.3.4	The Unemployment Benefit Program, 1947	228
3.4.3.5	The National Pension Program, 1959	228
3.4.3.6	The Family Allowances Scheme, 1971	229
3.4.4	Australia	229
3.4.4.1	The Old Age and Invalidity Pension Scheme,	
	1908	229
3.4.4.2	The Family Allowances Scheme, 1941	230
3.4.4.3	The Unemployment Benefits Scheme. 1944	230
3.4.4.4	The Sickness and Maternity Benefit Scheme,	
	1944	231
3.4.4.5	The Social Security Consolidation Act, 1947	231
3.4.5	Federal Republic of Germany	232
3.4.5.1	The Wage Earner's Sickness Insurance Act,	
	1883	232
3.4.5.2	The Accident Insurance Act, 1884	233

3.4.5.2	The Invalidity and Old Age Protection Act,	
	1889	233
3.4.5.4	The Unemployment Insurance Act, 1927	234
3.4.5.5	The Family Allowances Scheme, 1954	234
3.4.5.6	The Occupational Safety Act, 1974	234
3.4.5.7	The Rehabilitation Benefit Alignment Act,	
	1974	235
3.4.6	China	235
3.4.6.1	The Old Age, Invalidity and Survivor	
	Scheme, 1951	235
3.4.6.2	The Cash Sickness and Maternity Scheme,	
	1951	236
3.4.6.3	The Worker's Compensation Scheme, 1951	236
3.4.6.4	The Unemployment Benefit Scheme, 1986	237
3.4.7	New Zealand	237
3.4.7.1	The Old Age, Invalid and Death Act, 1898	238
3.4.7.2	The Comprehensive Accidents Program, 1908	238
3.4.7.3	The Family Allowances Scheme, 1926	239
3.4.7.4	The Unemployment Benefit Scheme, 1930	239
3.4.7.5	The Social Security Act, 1938	239
3.4.7.6	The Emergency Benefit Scheme, 1939	240
3.4.7.7	The Universal No-Fault Accident	
	Insurance Scheme, 1974	240
3.4.8	Sweden	241
3.4.8.1	The Sickness Insurance Scheme, 1880	241
3.4.8.2	The Sickness and Maternity Scheme, 1891	241

3.4.8.3	The Old Age, Invalidity and Death Scheme,	
	1913	242
3.4.8.4	The Unemployment (Union related) Benefit	
	Fund, 1934	242
3.4.8.5	The Family Allowances Scheme, 1947	242
3.4.8.6	The Unemployment Insurance Act, 1972	243
3.4.8.7	The Employment Injury Act, 1977	243
3.4.8.8	The Migration Benefit (Amendment) Act,	
	1979	243
3.4.9	A Bird's Eye View	244
3.4	The International Labour	
	organization's Conventions/Recommendation	on
	on the Social Security Schemes	246
3.5.1	Compliance of the ILO's Conventions	
~	in Indian Social Security Legislations	248
3.5.2	Implementation (Partial Ratification)	
	of the Conventions relating to the Social	
	Security in the Indian Social Security	
	Legislations	251
3.5.3	The ILO-Indian Relations on Social Security	252
3.5.4	A Bird's Eye View	254

CHAPTER IV

SOCIAL SECURITY ENFORCEMENT MACHINERIES: THEIR ROLE IN PROMOTION AND PROTECTION OF SOCIAL SECURITY SCHEMES 255-281

4.1	The Workmen's Compensation			
	Commissioner under the Workmen's			
	Compensation Act, 1923	259		
4.1.1	Powers of the Compensation Commissioners	260		
4.1.2	The Legal Status of the			
	Compensation Commissioners	263		
4.1.3	Jurisdiction of Civil Court Barred			
	under the Scheme	264		
4.1	The Employees State Insurance Court			
	Under the Employees State Insurance			
	Act, 1948	265		
4.2.1	Jurisdiction of the ESI Court	265		
4.2.2	Procedure of Benefit Claims	266		
4.2.3	Jurisdiction of Civil Court Barred			
	under the Scheme	267		
4.2.4	The Legal Status of the ESI Court	268		
4.2	The Provident Fund Commissioners			
	under the Provident Fund and			
4.3	Miscellaneous Provisions Act, 1952	269		
4.3.1	Jurisdiction of the Provident Fund			
	Commissioners	269		

4.3.2	Review of orders of the Provident	
	Fund Commissioners	271
4.3.3	Recovery of money due from the	
	employers and contractors	272
4.3.4	The Employees Provident Fund Appellate	
	Tribunal	274
4.3.4.1	Jurisdiction of the Appellate Tribunal	274
4.4	The Controlling Authorities	275
4.4.1	Under the Payment of Gratuity Act, 1972	275
4.4.1.1	Jurisdiction of the Controlling Authority	275
4.4.1.2	Determination of amount of Gratuity	276
4.4.1.3	Recovery of the Payment of Gratuity	277
4.4.1.4	Powers of the Controlling Authority	278
4.4.1.5	Appeal against the orders of the	
	Controlling Authority	279
4.4.2	The Controlling Authority under the	
	Maternity Benefits Act, 1961	280

CHAPTER V

SOCIAL	SECURITY	LEGISLATIONS:	THEIR
INTERPRE	TATION BY JU	JDICIARY	282-395

5.1	The Workmen's Compensation Act 1923	288
5.1.1	Views and Interpretation of the Supreme	
	Court on the Act	288
5.1.1.1	The Doctrine of Notional Extension of	
	employer's Premises	289

5.1.1.2	Employment Conditions: Arising	
	out of employment and in the course of	
	employment	293
5.1.1.3	Payment of Compensation and Penalty	
	for default of payment	296
5.1.1.4	Workman and Contractor: Distinguishing	300
5.1.1.5	Substantial question of law:	
	Interpretation of term	301
5.1.2	Views and Interpretation of the High	
	Courts on the Act	302
5.1.2.1	The Doctrine of Contributory Negligence	302
5.1.2.2	Disablement: Assessment and	
	payment of compensation	304
5.1.2.3	The Doctrine of Notional Extension of	
	employer's Premises	307
5.1.2.4	Employment Conditions: Arising	
	out of employment and in the	
	course of employment	310
5.1.2.5	Substantial question of law:	
	Interpretation of term	313
5.1.2.6	Personal Injury: Interpretation of term	316
5.1.2.7	Meaning of employment of casual nature	317
5.1.3	A Bird's Eye view	320
5.2	The Employees State Insurance Act, 1948	322
5.2.1	Views and Interpretation of the Supreme	
	Court on the Act	323
5.2.1.1	The Application of the Scheme	323

5.2.1.2	The Constitutionality of the Act	327
5.2.1.3	Employees: Interpretation of term	329
5.2.1.4	Contributions under the Scheme	332
5.2.2	Views and Interpretation of the High Courts	
	on the Act	334
5.2.2.1	The Application of the Scheme	334
5.2.2.2	The Constitutionality of Provisions the Act	337
5.2.2.3	Employees: Interpretation of term	338
5.2.2.4	The Doctrine of Notional Extension of	
	employer's premises	340
5.2.2.5	Substantial question of law:	
	Interpretation of term	342
5.2.3	A Bird's Eye view	344
5.3	The Employees Provident Fund	
	& Miscellaneous Provisions Act, 1952	346
5.3.1	Views and Interpretation of the Supreme	
	Court on the Act	346
5.3.1.1	The Constitutionality of Provisions the Act	347
5.3.1.2	Applicability of the Act	350
5.3.1.3	Infancy Period: Interpretation of term	352
5.3.1.4	Interpretation of Wages under the Scheme	354
5.3.2	Views and Interpretation of the High	
	Courts on the Act	357
5.3.2.1	Applicability of the Act	357
5.3.2.2	The Constitutionality of Provisions the Act	360
5.3.2.3	Infancy period: Meaning and Conditions	362
5.3.3	A Bird's Eye view	364

5.4	The Maternity Benefits Act, 1961	366
5.4.1	Views and Interpretation of the Supreme	
	Court on the Act	366
5.4.1.1	Employment Conditions of payment	
	of the under the Scheme	366
5.4.2	Views and Interpretation of the High Courts	
	on the Act	368
5.4.2.1	Issues related to Benefits under the Scheme	368
5.4.3	A Bird's Eye view	370
5.5	The Payment of Gratuity Act, 1972	371
5.5.1	Views and Interpretation of the Supreme	
	Court on the Act	371
5.5.1.1	Conditions for Payment of Gratuity	
	under the Scheme	372
5.5.1.2	Forfeiture of the Payment of Gratuity	375
5.5.2	Views and Interpretation of the High Courts	
	on the Act	377
5.5.2.1	Employees: Interpretation of term	377
5.5.2.2	Payment of Gratuity under the Scheme	379
5.5.2.3	Forfeiture of the Payment of Gratuity	381
5.5.3	A Bird's Eye view	384
5.6	Role of the Public Interest Litigation	
5.7	in promoting Social Security	386
5.6.1	The PIL and Social Security Protection Cases	388
5.6.2	A Bird's Eye view	393

CHAPTER VI

VIABILITY OF THE SOCIAL SECURITY SCHEMES: 396-464

-

6.1	Interpretations And Analysis Of		
	Collected Data (Table No 6.02 to 6.50)	400	

CHAPTER VII

MAJOR	FINDINGS,	CONCLUSIONS	AND
SUGGESTIC	ONS		465-564

7.1	Major Findings	468
7.1.1	Existing Social Security Provisions	
	(Legislations): Above Average	468
7.1.2	Ground Realities of the Social Security	
	Schemes: U- Turn from the Provisions	469
7.1.3	Overlapping provisions among the existing	
	Social Security Schemes	470
7.1.4	Prevalence of ignorance of the Social	
	Security Provisions among workers	470
7.1.5	Lack of coordination among different	
	Social Security Controlling Agencies	471
7.1.6	Lack of confidence among workers on the	
	Social Security Enforcement Mechanism	471
7.1.7	Complex and Prolonged Social Security	
	Benefit Claim Procedures: Need	
	for Simplification	472

7.1.8	Dispute Resolution: Labour Court First	*
	Choice	472
7.1.9	Incompetent Trade Unions to bargain on	
	Social Security Schemes	473
7.1.10	Limitations on Applicability of Social	
	Security Schemes	473
7.1.11	Social Security Schemes: Employer's	
	outlook Financial Burden	473
7.1.12	Need For Setting up of the Central Fund	474
7.1.13	Need For Setting up of Employees	
	Suraksha Courts	474
7.1.14	Comprehensive Social Security Scheme:	
	Need of the Hour	475
7.2	Conclusions	476
7.2.1	Evolution and development of Social	
	Security Protections: Charity to the	
	Duty of the Government	477
7.2.2	Progressive Social Security	
	Protections: Recognition of subject	
	at the National and International Platform	479
7.2.3	Liberal Interpretation of Social Security	
	Schemes by the Indian Judiciary	480
7.2.4	Fruitful Empirical Study	481
7.3	Suggestions	482
7.3.1	Model Bill on the Comprehensive	
	Social Security Scheme	490