

Chapter 3

Rules and Regulations Related to Working Conditions

3.1 Introduction

In this chapter an attempt has been made to give a brief overview of industrial and labour laws, which are important for an industrial establishment. This chapter also presents results of the analysis of various aspects of industrial and labour laws in various industries conducted by various scholars. Further, these laws are considered as reference in the present study to evaluate the working and living conditions of labours at Alang ship breaking yard.

After independence and particularly, in the light of acceptance of socialistic pattern of society, there has been great emphasis on the role of the state as the protector of the working class. For industries to succeed in an underdeveloped economy like India, workers need to provide with such amenities that inspire them to devote their physical energy, intelligence, skill and enthusiasm to their work. To fulfill these objectives, the Government of India has passed various industrial and labour legislations, during the post independence period.

From the recorded history it is noted that a constant struggle has been going on between labour class and capitalist class. In fact, the history of labour struggle is nothing but a continuous demand for fair return to labour expressed in different forms, e.g. (a) increase in wages (b) resistance to decrease in wages (c) grant of allowances and other benefits (d) provision of better working conditions. The conflict between employer and the employees over the question of adequacy of their respective shares in the social produce constitute the crux of the labour problem. Capitalists have been exploiting the labour class for their own benefit. They have better economic footing and power and are in better position to dictate their terms. In this regard Karl Marx theory of capitalism suggest that the capitalist try to increase their profit by way of exploiting labour in terms of increasing length of working day, reducing real wage and increasing productivity.

With the emergence of new problems arising out of industrial revolutions, the new ideas of social philosophy, national economy and social justice have taken the roots in industrial order. During 19th century with the increase in cost of living and countrywide political upsurges found its way in economic discontent among the masses in industries. The industrial unrest and economic discontent led to a number of strikes and labour troubles. Labour problems constituted as serious problem to the society and needed solution so that wheel of industry may be kept moving. Employers' main attention was to the maintenance of machines and improvement of the technical know-how but neglected workers employed. Workers were generally illiterate, poor and unconscious of their rights. The employer did not care for socio-economic status of workers. As such, the workers were at disadvantage in negotiating with the employers for employment, wages and other benefits. The employers dictated their terms and conditions with regard to wages, hours of work, leave etc, and the workers being in weaker position were left with no choice but to accept such terms, for their sole means to earn their livelihood and to feed the family.

Neither the Government nor the labour departments were found to be concerned too much about these labour problems arising in the country as they believed in the policy of non-interference in employer and employees relation. The situation with lapse of time became so worse and the society was so much adversely affected that the Government was forced to take some measures to solve working problems. Workers started to form their own organisation to fight against the exploitation at the hands of industrialists and public opinion was also mobilized in support of their view. In the beginning labour efforts were not very successful due to their weak bargaining power and lack of resources on which they could depend upon in time of emergency. Over time the situation improved in all European nations and this had positive impact on rest of the world.

In the post-independence period the national Government of India paid attention to the improvement of labour conditions in industry as the prosperity of the country lies

upon the development of industrial growth. No industry could flourish unless there is industrial peace and co-operation. Industrial peace is possible only with the co-operation of labour and capitalist classes. Thus there were two basic foundations on which the labour legislation was framed:

- A. The wage earner is a partner in the production and should be allowed to have his due share of the profits in production.
- B. The community as a whole as well as the individual employer is under obligation to protect the well-being of the workers and to secure their due role in the economic development and growth.

The present chapter is divided into ten sections. Second section focuses on the need of the labour legislation in Indian industries. This section also highlights the major laws related to working and living conditions. Section three analyses the structure and composition of the Indian labour market. This section highlights the organised and unorganized labour in Indian economy. Section four focuses on the work done by various scholars on the various industrial and labour laws which are applicable to Indian industries. Section five analyses the laws relating to working conditions such as Factories Act, 1948. Sixth section analyses the various acts related to wages and amenities provided to workers in industries. This section includes Payment of Wages Act, 1936, Minimum Wages Act, 1948; Employees' State Insurance Act, 1948, Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and Workmen's Compensation Act, 1923. Seventh section is related to workers disputes and unions in established industries. This section analyses the laws related to Trade Unions Act, 1926, Industrial Disputes Act, 1947. Eighth section highlights the laws related to the weaker section of the society such as Inter-State Migrant Workmen Act, 1979; Contract Labour Act 1971. Ninth section of the chapter discusses the laws related to the Environmental conditions. This chapter includes the laws which are applicable to organised as well as unorganized sector industries and also to ship breaking industry of Alang.

3.2 Need for Labour Legislation

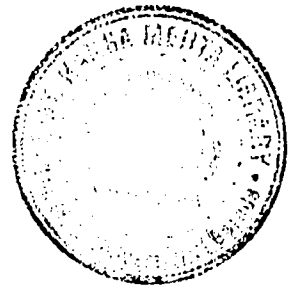
A large proportion of workforce in India was engaged in unorganised or informal sector (93 percent) as compared to organised sector (7 percent). The organised sector labours are more or less protected by various labour legislations in terms of working conditions, wages and social securities as compared to labour engaged in unorganised sector. Moreover, many labour rights, benefits and practices which were already provided in organised sector are still lacking in unorganised sector. Therefore, it is necessary for the labour legislation to protect the rights of the workers in unorganised sector. The labour legislation is necessary for following reasons.

- i. The workers were financially weak and had little bargaining power. The wages paid to workers were quite inadequate to meet their primary needs.
- ii. Workers were exposed to various accidents because machines were not properly screened and the workers who were the unfortunate victims of accidents lost their employment and had no right to compensation.
- iii. The employment of factory workers was not secured. A worker could be discharged, suspended or dismissed at any time without assigning any reason.
- iv. Work in the industries was hazardous with long hours of duty, no rest and no recreation. The workers had to live in slums and under unsanitary conditions which had its effect on health and morality of the workers.
- v. Children and women were working even in hazardous conditions of work and also during odd hours.

There are various legislations formulated by the Government of India to protect the basic rights and interests of the major sections of the population, especially labours. These legislation are implemented properly in organised sectors but lacking in unorganised sector. Some of the major laws related to organised sector such as ship breaking industry are enlisted.

- I. The Workmen's Compensation Act, 1923
- II. The Payment of Wages Act, 1936
- III. The Industrial Disputes Act, 1947

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- IV. The Factories Act, 1948
- V. The Minimum Wages Act, 1948
- VI. The Employees State Insurance Act, 1948
- VII. The Employees Provident Fund and Miscellaneous Provision Act, 1952
- VIII. The Contract Labour (Regulation and Abolition) Act, 1971
- IX. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- X. The Environment Protection Act, 1986

These laws are applicable to organised as well as unorganised industries. Therefore, it is important to focus on the labour market in India. In the next section an attempt is made to show the percentage of workforce engaged in organised and unorganised sectors.

3.3 Indian Labour Market

The twentieth century in the Indian economy in terms of its labour force can be divided into three phases: (i) the colonial period (till 1947), (ii) Post-independence period (1947-1991), and (iii) economic liberalization (1991 onwards).

At the time of independence, India had an industrial base, which was substantially diversified. Government's heavy industrialization strategy during planning era, particularly from the mid 1950s to end of the 1960s lead to growth of heavy industries. During this period public sector played a dominant role in the growth of the economy. Several East Asian and Southeast Asian countries pursued export-oriented industrialization strategies during this period. Domestic industry was protected both in product market and labour market.

After 1991, the measures of economic Liberalization, Privatization and Globalization have resulted in a drastic change in the labour management and Government. Organized labour became protected by both State and Central Governments. Though labour laws have not changed but the attitude of the bureaucracy and the judiciary has changed. The rate of economic growth particularly in the industrial and service sectors has picked up but employment in organized sector has stagnated. With economic liberalization both labour and capital feel less protected or unprotected

(Venkata Ratnam, 1997). After brief discussion about the history of the Indian economy and its labour force, it is important to examine the structure and composition of Indian labour market.

3.3.1 Labour Market in India: Structure and Composition

A large proportion of labour force in the Indian economy is employed in the unorganised sector. Almost, all employment in agriculture and allied activities is part of informal sector. A greater proportion of urban activities too is classified as informal sector. A number of studies have indicated that the urban informal sector is the fastest growing sector in the Indian economy. It is quite surprising to know that only 7-8 percent of the labour force work in organised sector which largely consists of Government sector, which include administration, defence, railways, banking, insurance, judiciary and factory sector which is private in nature.

Table 3.1 shows the employment trends for the organized and unorganised sector for the year 1983, 1987-88, 1993-94 and 1999-2000. It is evident from the table that large portion of workforce in India is found to be employed in unorganised sector. Out of 399 million workers in 1999-2000, it is estimated that 371.2 million workers (nearly 93 percent) are employed in the unorganised sector of the economy whereas only 27.8 million workers (7 percent) are engaged in the organized sector (Satpathy, 2004).

The share of unorganised sector in terms of employment played an important role over the years. The share of informal sector employment increases from 92 percent in 1982 to 93 percent in the year 1999-2000. It is clear from the table that employment opportunity in the organized sector has more or less stagnant, showing only little increase from 24 million in 1983 to 27.8 million in 1999-2000.

Table 3.1: Workforce in Organised and Unorganised Sector

Year	Organised (in million)	Unorganised (in million)	Total Workforce (in millions)	Organised (in percent)	unorganised (in percent)
1983	24.0	275.6	299.6	8.0	92.0
1987-88	25.4	301.9	327.3	7.8	92.2
1993-94	27.4	348.8	376.2	7.3	92.7
1999-2000	27.8	371.2	399.0	7.0	93.0

Source: Annual Reports (1983 and 1988) and Quarterly Employment Review (1994 and 2000), DGE & T and NSSO 55th round (1999-2000).

Further it is found from table 3.2 that out of 90.87 percent workforce in rural and urban unorganized sectors 95 percent of female workers and 89 percent male labours are engaged in the unorganised sector in India. The nature of farm and non-farm activities in rural areas drives the trend of unorganised sector. Thus, nearly 95 percent of rural workforce is employed in unorganised activities whereas only 5 percent of rural workers are found in formal sector. On the basis of gender it is found that roughly 97 percent and 94 percent of male and female rural workers are found in unorganised sector. On the other hand, 76 percent of urban labours are engaged in unorganised sector and rest is engaged in organised sector. Therefore it can be concluded that majority of the rural and urban workers are found in unorganised sector and this sector has great significance in the Indian economy (Sakhivel and Joddar, 2006: 2107-2113).

Table 3.2: Share of Organised and Unorganised Workforce in India, 1999-2000

Sector	Organised Workforce			Unorganised Workforce		
	Male	Female	Total	Male	Female	Total
Overall Workforce						
Rural India	6.39	3.11	5.23	93.60	96.89	94.77
Urban India	24.23	19.57	23.30	75.77	80.43	76.70
All-India	10.91	5.28	9.10	89.07	94.67	90.87
Non-Farm Workforce						
Rural India	16.15	9.49	14.72	83.95	90.51	85.28
Urban India	25.66	23.30	25.24	74.34	76.70	74.76
All-India	21.14	15.91	20.12	78.86	84.09	79.88

Source: NSSO 55th round, 1999-2000.

India's bulk of the workforce is found in unorganised sector; therefore it is important to highlight the role of trade unions in the country. Today there are over a dozen of trade unions in the country with five of them having a membership of over 500,000 in at least four states and four industries or sectors. The official record of members under registered unions is around 50,000 against the actual number exceeding to 100,000. In the non-farm sector the density of trade union are relatively very high. Only 4 to 6 percent of the total labour force in the country may be unionized. In public sector undertakings it could be over 80 percent. The main problem in the trade union is inter-union rivalry due to multiplicity (Bhattacharjee, 2001:447-474).

Collective bargaining takes place at national, sectoral and enterprise level. In organised sector there is good coordination among the unions at national level with centralized bargaining as the rule. In organised sector government has been the sole or the major employer and in this sector the trade unions are strong. In these sectors the wages are fixed by wage boards and labour is protected against inflation through dearness allowance. There exist the norms for working conditions which protect the labour and have little or no exploitation is observed. But in unorganised sector collective bargaining is usually at the enterprise level wherein the unionism is weak. In a number of situations

unions don't exist at all. However, various norms have been established by the Government for minimum wages and working conditions. It is a wide spread belief that due to lack of trade unions in unorganised segment of the economy workers are exploited by the employers.

3.4 Industrial and Labour laws in Various Industries

In this section, an attempt is made to review various studies undertaken by scholars analyzing industrial and labour laws and the working and living conditions of the workers in these industries.

A.L. Anand (1982) studied the lock making industry of Aligarh and found that about 3000 units both in the organised and unorganised were manufacturing the assembling locks and their components. However, there were only five or six units in the large sector, the rest were in the small scale sector. Out of the total units the small-scale sector about 150 units were registered and remaining were run by artisans as household and cottage industry. The lock industry of Aligarh employs child labour accounting between 7000-10,000 and the age of the children is below fourteen years. Industry comes under the preview of Factories Act 1948 and Child labour (Prohibition and Regulation) Act, 1986. But the implementation of these acts are lacking. According to Factories Act, the children below the age of fourteen years are prohibited from working in a factory and under Child labour Act, 1986 children's are not allowed to work in processes which involve the use of certain chemicals. But these national laws were violated in this industry (Anand, 1982).

The study conducted on Seasonal Migration in Tribal Village of Gujarat conclude that workers employed in construction industries were working under unclear employer-employee relationship and workers do not work under a single employer for a longer time. Therefore none of the basic labour laws like Minimum Wages Act, Equal Remuneration Act and Inter-state Migrant Workmen Act are implemented. Some labour laws are enacted to protect construction labours such as the Minimum Wages Act,

Contract Labour Act, Equal Remuneration Act, Inter-state Migrants Workmen Act, but none of them are properly implemented. Social security laws such as the ESI Act, EPF Act and Payment of Gratuity Act are lacking due to continuity of employment (Rani and Shylendra, 2003: 356-357).

The provision of the Inter-State Migrant Workmen Act provides that the wage rates, holidays, hours of work and other conditions of work of migrant workers will be the same as those of the local workers employed in the same establishment and doing similar kind of job, unless provided otherwise by the appropriate Government. In the state of Punjab more than 15 lakhs workers from other states are employed in industrial, agriculture and informal sectors. The workers face various problems such as low wages; lack of social security, long hours of work, bonded labour, lack of compensation, lack of accommodation etc. But the provision of Inter-State Migrant Workmen Act which protect the rights of the migrant workers are not implemented properly which cause workers to exploit by the employers (Sharma, 2003: 438-446).

Barik's study on Unorganised Migrant Labour in the Textile Industry of Surat found non-existence of trade unionism and gross violation of labour laws on the issue of wages, working hours, different benefits like bonus, holidays, medical facility and maternity leave. On the other hand, the paucity of funds, non-availability of legal-aid, the frequent threat of retrenchment and very often closure of production units, intimidation by the employer and their musclemen and frequent brutal incidents of oppression by the police keep these labours under constant panic and fear. These textile workers are exploited in various ways by employers, contractors and even by Government. The laws which are created for the protection of labour are not implemented properly in the textile industry of Surat (Barik, 1987).

A. D. Saramma undertook a study on Child Labour in Diamond Cutting and Polishing units of Gujarat and found that despite of many legislative measures taken by Government the child labour have been growing and are being exploited. The study also found that child labour is exploited in many ways viz, economically, exploitation in terms

of health, education etc. The exploitation of child labour in diamond cutting and polishing units are reflected in terms of long working hours, low wages, casual nature of work, absence of holidays, absence of social security, poor working environment etc (Saramma, 2000: 248-260).

A study conducted on Brick industry in Nandyal came to conclusion that the work environment of brick industries is not proper. Majority of child labour belongs to backward caste and scheduled caste. Study also found that though there are numerous constitutional provisions and number of laws enacted especially for child labour all these constitutional provisions, legislations and Government policies remain as the paper tiger (Kumar and Prasad, 2000: 264-266).

The studies discussed above conclude that across industries laws are violated. A number of laws have been enacted for various purposes from time to time but the implementation of these laws is not being done in the right earnest. In the Government sector and organised factory sector and in large private sector corporations the implementation is proper. However, in the unorganised sector which consists of household industries, small scale industries and tiny sector and unregistered occupations/activities wherein the union activities don't exist or are put down with heavy hand the legislation exist only on paper. The following section discusses various laws relating to working and living conditions.

3.5 Laws Relating to Working Conditions

The laws related to the working conditions of labours in different establishments in terms of working hours, leaves, working environment, social security etc are enlisted.

3.5.1 The Factories Act, 1948

It was in 1881 when the State regulation on the working conditions in factories in India came into existence. State policy towards labour was non-interference prior to 1881. The Factories Act, 1881 recognized for the first time the right of the Government

to safeguard the interests of the workers. These acts were amended several times such as 1891, 1911, 1922, 1923, 1926 and in 1931 and many important provisions were thereby added from time to time. For example, the implementation of the Act to industries where 20 or more workers were employed, fixation of daily hours of work for employment of children, employment of full time inspectors, prohibition of night work for women in factories, etc. On the basis of recommendations of Royal Commission several important amendments were made in the Factories Act of 1931. As a result of this the Factories Act, 1934 came into existence. It was a comprehensive Act and covered all manufacturing establishments employing 20 or more persons and using power. A distinction was made between seasonal and perennial factories, the former working for 180 days or less in a year. The maximum hours of work for adults in perennial factories were fixed at ten per day and 56 per week. In seasonal factories were fixed at 11 hours per day and 60 hours per week. The principle of "spreading over" was introduced for the first time and the numbers of consecutive time hours of work were fixed at 13 for adult and 7 ½ per children.

The Act of the 1934 was subsequently amended in 1935, 1940, 1944, 1945 and in 1946 to incorporate among other things ten annual paid holidays for adults and 14 for children, reduce the hours of work in perennial factories to 48 per week and nine per day.

After independence, the first National Government announced a far-reaching legislative programme for workers. For the immediate implementation of the programme an overhauling of the existing factories legislation was undertaken. Accordingly, a bill was designed on the subject in 1947, which with certain modifications, became law with effect from 23rd of September, 1948. It came into effect from 1st April, 1949, under the nomenclature "The Indian Factories Act, 1948". This Act aims at securing a fair deal for the workers.

The main objective of this Act is to regulate conditions of work in manufacturing establishments and to ensure adequate health, safety welfare measures, hours of work, leave with wage and weekly holiday for workmen employed.

Main Provision of the Act

The brief explanation of the main provision of the Act has been given below:

1. Under health provisions, following facilities are to be provided by employer.
 - a) Cleanliness
 - b) Ventilation and Temperature
 - c) Artificial Humidification
 - d) Lighting
 - e) Drinking Water
2. Under welfare facilities every factory should provide first-aid facility and if 250 or more workers are employed in an establishment canteen, shelter and rest room facility should be provided by the employers.
3. The Act provides that every factory should follow certain safety norms such as fencing and covering of dangerous parts of machines, cleaning and lubricating dangerous machines, periodical examinations of appliances such as hoists, goggles, safety hats and gloves and prevention of fire and risks.
4. The Act provides that the maximum number of hours for an adult worker is 48. The first day of the week shall be weekly holiday. Compensatory holidays will be allowed if the weekly holidays are lost. Daily working hours shall not be more than nine. The worker shall be allowed interval after every six hours of continuous work. The period of spread over shall not exceed 10 ½ hours a day. The leave with wages is allowed to those workers who have worked for atleast 240 days in a preceding calendar year. Earned leave is allowed at the rate of one day for every 20 days of work. Earned leave that can be accumulated and carried forward to the next calendar year is not to be more than 30 days.

This act provides broad base for the labours in relation to working conditions and act is applicable to unorganised, small and cottage industries registered under the act.

3.6 Laws Relating to Wages & Amenities, etc.

These laws are related to wages and the various amenities provided by the employers and Government.

3.6.1 The Payment of Wages Act, 1936

Wages perform several cardinal functions in an economy. They are recompense for work as a factor of production; they provide means for allocation of human resources among skills, industries, occupations and regions. Wage also performs efficiency function. Productivity related earning tends to increase efficiency of a worker and motivate him to contribute his best in achieving organizational goals. Moreover, wages also influence the distribution of national income. Therefore, effective wage administration assumes a greater importance in an industrial economy.

The history of wages legislation in India dated back to the year 1929, when the Government of India announced the appointment of Royal Commission of Indian labour to enquire into the question of delay in payment of wages, the imposition of fines, deductions and fixation of wage period.

During the British rule in India, the Payment of Wages Act, 1936 was the most advanced piece of social legislation. The question of delayed wages and fines in industries received considerable attention of the Royal Commission on Labour. Prior to this, an attempt to enforce the general adoption of weekly payments to employees in 1925, when a private bill was introduced in the legislative assembly, proved abortive. The bill was withdrawn on the assurance of the Government that the question of delay in the payment of wages would be investigated. The Government was of the opinion that there was no need to reduce the period of payment.

Main Provisions of the Act

The brief explanation of the main provisions is as under:

1. Every employer in any factor employing less than 100 workers should pay wages before the expiry of the 7th day to the employees.
2. The deduction from wages of the workers can be made according to the provision of the Act. The areas of deduction are absence from duty, damage, income tax, provident fund etc.
3. In every factory employer should maintain registers with full detail of workers performance, wages and other type of deduction.

3.6.2 The Minimum Wages Act, 1948

In a developing economy like India where the problem of unemployment is assuming large proportions and the bargaining capacity of the labour is poor, there are chances that labour may offer to work even below the subsistence level. The primary object of the Act is to prevent exploitation of the workers and for this purpose aims at fixation of minimum wages which the employer must pay. The objective of the Act is to secure the welfare of employed person in a competitive market by fixing the minimum rates of wages in certain employments.

Main Provision of the Act

The brief explanation of the main provisions is as under:

1. The appropriate Government shall fix the minimum rates of wages payable to employees employed in specified employment. It is obligatory, under the Act, for every employer to pay to every employee engaged in a schedule employment under him the minimum rates of wages as fixed by Government without any deduction except authorized ones. According to the provisions of the Act, the minimum rates of wages are required to be revised within a period of five years.
2. The employer shall observe all directions in regard to the mode of payments, overtime rates etc as prescribed by the appropriate Government. The appropriate Government may fix:
 - a) Minimum rates of wages for time work

- b) A minimum rates of wages for piece work
- c) A minimum rate of remunerations to apply in the case of employees employed on piece work for the purpose of securing to such employee a minimum rate of wages on a time, work basis referred to as a guaranteed time rate, and
- d) A minimum rate to apply in substitution for the minimum rate which would otherwise be applicable in respect of overtime work by employees.

Minimum rates of wages may be fixed by any one or more of the following wage period, namely:

- i. By the hour,
- ii. By the day,
- iii. By the month, and
- iv. By such other longer wage period as may be prescribed.

It is obligatory for every employer: (i) to maintain records and registers as required by the Government showing particulars of employees, work performed by them, wage paid to them and receipt given to them, and (ii) issue wage books or slips to employees in respect of minimum rates of wages if required by the Government and make authentic entries in such wage books or wage steps. The State Government is responsible for enactment of the Act in the employment, falling within their purview. The officers of the State Labour Department are looking after this work in addition to the enforcement of other labour laws.

3.6.3 The Employees' State Insurance Act, 1948

The long search for social security and freedom from want and distress has been a consistent urge of the man throughout the ages. This urge has assumed varied shapes on the basis of the needs of different groups and their level of social consciousness on the one hand, and the advancement of technology and the pace of economic development on the other. With the modest beginning in the early decades of the current century in some countries, social security has now become a reality of life for millions of people throughout the world. Social security measures have introduced an element of stability

and protection in the midst of stress and strains of modern life. Today, it is major aspect of public policy and the extent of its prevalence is a measure of the progress made by a country towards the ideal of a welfare state.

In every society its member are exposed to certain risks, such as, the risk of unemployment, retirement, death of the family bread winner and permanent/temporary disability. Social security envisages the protection of the members of the society by collective action against such risks resulting in undue hardships for individual of small means cannot effectively support his family by his own ability or his foresightedness or by taking financial assistance from his colleagues.

The underlying idea behind providing social security to the members of the society is that those who have contributed or are likely to contribute to their country's welfare should be given adequate protection against certain risks. Article 41 of the Indian Constitution also provides that the state has to make effective provision for securing public assistance in cases of unemployment, old age, sickness and disablement and in the cases of underserved want. The introduction of Employees' State Insurance Act is a vital measure in this regard so far as it provides protection against certain hazards of life to the work force in the country.

Benefits under the Act

Six types of benefits are provided to workmen under the Act, of these five are offered in cash and sixth one is in kind. The cash benefits include:

- a) Sickness benefit;
- b) Maternity benefit;
- c) Disablement benefit;
- d) Dependent benefit;
- e) Funeral benefit; and
- f) Medical benefit (Non-cash benefit).

These benefits are provided to workers during the period of unemployment, sickness, death, temporary and permanent disablement etc.

3.6.4 The Employees' Provident Fund and Miscellaneous Provisions Act, 1952

Man enters the world of dependency, leaves it in dependency and may spend some of the intervening time in dependency than he would wish. To mitigate the problems of dependency, the institution of family gradually developed. Unfortunately, its capacity to protect the member against certain contingencies of life such as sickness, accident, unemployment and old-age were extremely limited. The limiting factors were paucity of resources, rapid industrialization and the resultant disintegration of joint family system and surmounting unemployment.

With the advent of political consciousness and growth of democratic institutions, people became increasingly aware of the affliction of industrial workers and particularly the miserable conditions in which they were to live after retiring from the job during pre-independence days. There was no protection and security to the family in case of premature death of the bread winner. With the above objective The Employees' Provident Funds and Miscellaneous Provisions Act institute a compulsory contributory fund for the future of the employee after his retirement or for his dependents in case of early death.

Employees' Pension Scheme, 1995

Government has framed the Employees' Pension Scheme, 1995. The existing Employee's Family Pension Scheme has been merged under the new scheme. The new scheme envisages providing monthly pension to employees on superannuation, pensioning to widows on death after superannuation, monthly pension for children of the subscribers, monthly pension to members on account of permanent total disablement during service etc.

The employer is required to contribute the following amounts:

1. Towards Employees' Provident Fund and Pension Fund:

- a) In case of establishments employing less than 20 persons or a sick industrial (BIFR) company or sick establishments or any establishment in the jute, beedi, brick, coir or gaur gum industry. 10% of the basic wages, dearness allowance and retaining allowance.
- b) In case of all other establishments employing 20 or more persons 12% of the wages, D.A., etc.

2. Towards Deposit-Linked Insurance Fund:

0.5% of the wages, D.A., etc.

Under Family Pension Fund Scheme

- a) Family Pension: If a member dies during the period of reckonable service, before the age of 60 years, family pension is payable at the specified rate, provided he has contributed to the fund for atleast three months.
- b) Enhanced Family Pension: If a person had been a member of the fund for 7 years or more, family pension is payable at enhanced rates.
- c) Life Assurance Benefit: A lump-sum of Rs. 5,000 is payable on the death of a member who has contributed to the fund for atleast three months, to the eligible member of his family.
- d) Refund: In case of death or cessation of membership before contributing to the fund for a minimum period of three months, member's own share together with interest at 8.5% p.a. is refundable to him/his family.
- e) Retirement-cum-withdrawal Benefit: When a member attains the age of 60 years or ceases to be a member for reasons other than death, amount ranging from Rs. 110 to Rs. 9000 is payable.

Under Deposit Linked Insurance Fund Scheme

Assurance Benefit: On the death of a member while in service, an amount equal to the average balance in his Provident Fund Account during the preceding 12 months or

during the period of his membership, whichever is less, except where the average balance exceeds Rs. 25,000 the amount payable shall be Rs. 25,000 plus 25% of the amount in excess at Rs. 25,000, subject to a maximum of Rs. 35,000 is payable to the eligible member of his family.

3.6.5 The Workmen's Compensation Act, 1923

A beginning of social security in India was made with the passing of the Workmen's Compensation Act in 1923. Prior to 1923, it was almost impossible for an injured workman to recover damages or compensation for any injury sustained by him in the ordinary course of employment. The dependents of the deceased workmen could in rare cases claim damages under the Indian Fatal Accident Act, 1885, if the accident has due to a wrongful act, neglect or fault of the person who caused the death. In 1921 the Government formulated some proposals for the grant of compensation and circulated them for opinion. The proposal received general supports. As a result, the Workmen's Compensation Act was passed in March 1923.

Main Provisions of the Act

Under the Workmen's Compensation Act, the following benefits have been provided to the workmen.

a) Disablement Benefit

Compensation is payable in case of injury caused by the accident arising out of and in the course of employment. Amount of compensation depends upon nature of injury multiplied by the relevant factor. (The relevant factor being directly related to the age of the workman at the time he or she becomes eligible for compensation).

b) Dependent Benefit

Compensation is payable to the dependents of persons who dies as a result of an employment injury. Compensation in the case of death is 40 percent of monthly wages multiplied by the relevant factor.

Laws are implemented to protect the interest of the workers and if these laws are not implemented properly by concerned authority during the period of disablement, death, injury and also after retirement which will effect the dependents of the workers.

3.7 Laws Relating to Association of Workers & Disputes

These laws are related to the industrial and workers disputes in an establishment and the various types of union at the establishment.

3.7.1 The Trade Unions Act, 1926

The Trade Unions Act was the result of the Trade Union movement all over the world, as a result of the growing complexities of economic structure, growth of class consciousness and attainment of common objective among the working class.

A trade union simply understood as an association of the working people in a trade or an industry. The importance of the trade unions lies in the fact that they regulate the relations between the workers and the employers and the workers and the state in the matters of mutual concern, such as the terms and conditions of employment, regulation of wages and other allied matters including social welfare schemes, etc. The trade unions also facilitate collective bargaining, negotiations and conciliation in order to augment welfare of its members and the trade.

In India, the trade unions are governed by the Trade Unions Act, 1926, which was enacted with the object of protecting the unions and its office bearers for the act done by them in furtherance of the legitimate cause of the trade union activities by providing for the registration of the trade unions and other matters incidental thereto. The right to formation of trade unions is in fact emphatically in order to provide for the fundamental right to form association guaranteed under Article 19(1) (c) of the constitution of India. The Act extends to the whole of India and it applies to all kinds of unions of workers and associations of employers which aim at regularizing the labour management relations.

Salient Provisions

There are various provisions under the Act.

1. In an establishment minimum seven workers can form trade union and apply to the register for its registration. The registration form contains name and addresses of the members.
2. Any person, who has attained the age of 15 years, is eligible to be a member of a registered trade union, subject to the rules of the union.
3. A trade union has a right to demonstrate. A trade union has a right to appeal against an order of the Registrar either refusing or canceling registration, to the civil court/High court, within the prescribed time.

The association of trade union is to provide fair deal with employers and increasing the bargaining power of the labour.

3.7.2 The Industrial Disputes Act, 1947

In post-independence period, there was a tremendous progress in industrial sphere by which relations between labour and capitalist came into great importance. For development of industry, it is necessary that there shall be continuous and growing production which is only possible if there are no interruptions and stoppages in production, due to absence of disputes. The various agencies of production are satisfied and are in a harmonious mood to work. In other words, industrial peace is very necessary for prosperity of industry.

All interruptions in production arising out of industrial disputes are really caused by the dissatisfaction of labour with their existing labour conditions. The whole history of labour struggle is nothing but a continuous struggle of demand for fair return to labour.

Viewed in the above background, the Industrial Disputes Act, 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The main object of all labour

legislation is to ensure fair wages to workers and to prevent disputes so that production may not be adversely affected.

The object to the Act is to make provisions for the investigation of settlement of industrial disputes and for certain other purposes. The main aim is to ensure industrial peace through voluntary negotiations and compulsory adjudication. It lays down the procedure for settling disputes between employers and workmen. Every person employed in an establishment for hire or reward, (including contract labour, apprentices and part-time employees) to do any manual, clerical, skilled, unskilled, technical, operational or supervisory work, is covered by the Act.

Salient Provisions

Under the act there are various provisions.

1. The employer should not make any change in the conditions of service such as payment and amount of wages and allowances, contribution to pension and provident fund, hours of work, rest intervals, leaves, holidays, timings of shifts, classification or grades etc, without giving atleast 21 days notice.
2. Any industrial establishment wherein 100 or more workmen are employed on any day during the preceding 12 months may be required by the Government to constitute a Works Committee comprising of equal number of representatives of labour and management. The main functions of the Works Committee are to preserve amity and establish cordial relations between workers and employers and to resolve differences of opinion in matters of common interest through negotiations.
3. The workmen shall be entitled to wages for the period of strike where it is found that the strike is neither illegal nor unjustified. A strike is legal if it does not violate any provision of the law.
4. An employee is said to have been laid-off on any day if the employer fails, refuse or is unable to provide him employment on that day within two hours of his presenting himself for work at the normal appointed time on account of shortage

of coal, power or raw materials, or accumulation of stocks or break-down of machinery or natural calamity or for any such other reason. Any establishment (excluding seasonal establishment), employing atleast 50 but less than 100 workmen on an average per working day is required to pay compensation to the workmen being laid-off. The compensation shall be payable at the rate of 50% of basic wages and dearness allowance, for all days of lay-off except weekly holidays.

5. Retrenchment means termination by the employer of the service of a workman for any reason whatsoever. Termination of service can be brought about in diverse ways by an employer, but every termination is not retrenchment as for example, termination of service by way of punishment for proved misconduct.
6. Closure means the permanent closing down of a place of employment or part thereof. Thus, an undertaking or establishment may be closed down wholly or partly but the closure must be permanent.
7. In case of closure of an undertaking wherein atleast 50 workmen are employed or were employed on an average per working day in the preceding 12 months, every employee who has been in continuous service for atleast one year. The employer have to give atleast one months notice of intended closure or paid wages for the notice-period; and paid compensation equal to 15 days average pay for every completed year of continuous service or any part thereof in excess of 6 months (as provided for in case of retrenchment).

3.8 Laws Relating to Weaker Classes

The concept of weaker section was first used prior to 1950. After independence, a number of schemes have been introduced by the Government for a socio-economic change in the economy. Most of the schemes are introduced for betterment of the poor conditions of the rural masses. These rural masses are referred by economists as those who live below poverty line. Later work on this category as those do not have minimum clothing, shelter, do not have access to education, legal and organizational rights to fight for the rights and are socially not accepted. These are the sections that are deprived and exploited. Further constitution of India define the weaker section of the society as the

scheduled caste, scheduled tribes, socially and educationally backward class, children, women and physically handicapped are always considered to be the weakest of all in terms of resources. Therefore, Government has formulated various laws to protect the rights of the weaker section of the society.

3.8.1 The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The Inter-State migrant labour is predominant in several states in India and refers to recruitment by contractors or agents in one state for work on projects outside the state. This system has inherent abuses. The innocent workers are exploited by the contractors and have to work under extremely hard working conditions for fraction of wages they were actively promised while migrating from their native state.

Therefore Government of India enacted the Inter-State Migrant Workmen (Regulation of Employment and conditions of service) Act in 1979 with the aim to regulate the employment of inter-state migrant workmen and to provide for their conditions of service and for matters connected therewith. All Inter-State Migrant Workmen as defined in the Act, who are employed by any establishment or contractor to whom this Act is applicable are covered by the provisions of this Act.

Under the Act there are various provisions with regard to employers and contractors. These are:

1. Every establishment covered under the Act has to get registered to appropriate Government.
2. Every contractor to whom this Act applies has to obtain a license from concerned licensing officer before recruiting any person in a State for the purpose of employing in any establishment situated in another State, or before he actually employs any migrant workmen in any establishment in any State.
3. Duties of Contractors

It shall be the duty of every contractor:

- i. To furnish such particulars and in such form as may be prescribed, to the specified authority in the state from which an inter-state migrant workman is employed.
- ii. To issue to every inter-state migrant workman, a pass book affixed with a passport size photograph of the workman and indicating in Hindi and English languages. The pass book contains detail of work, place of establishment, period of employment, rate and mode of payment, return fare etc.
- iii. To maintain the aforesaid pass book up-to-date and cause it to be retained with the inter-state migrant workmen concerned;

4. Other Duties

- a) To ensure regular payment of wages to such workman;
- b) To ensure equal pay for equal work irrespective of sex;
- c) To ensure suitable conditions of work to such workmen having regard to this fact that they are required to work in a state different from their own state;
- d) To provide and maintain suitable residential accommodation to such workmen during the period of their employment;
- e) To provide the prescribed medical facilities to the workmen, free of charge;
- f) To provide such protective clothing to the workmen as may be prescribed; and
- g) In case of fatal accident or serious bodily injury to any such workman, to report to the specified authorities of both the States and also the next of kin of workman.

5. In regard to wages, if contractor fails to make payment of wages then the principle employer should pay the full wages to workers.

3.8.2 The Contract Labour (Regulation & Abolition) Act, 1971

The system of employment of contract labour is a universal phenomenon. It constitutes a large section of the vast multitude of unorganised labour. Considered by some as an inevitable economic necessity, the system has been criticized by many on the

ground that it leads to malpractices of various kinds and exploitation of labour. The criticism is not without substance.

The Act was last amended in 1986. There is some good news for employers soon they will be able to engage workers on contract basis and will not be required to give them regular employment.

Obligations of Employers/Contractors

The obligations of the principal employer of an establishment and/ or the contractor are as under:

1. The principal employer should apply for registration of his establishment with the Registering Officer, in the prescribed Form along with the prescribe fee.
2. A contractor should apply for license for employing contract labour, to the licensing officer, in the prescribed form containing particulars such as location of the establishment, nature of process, operation or work etc.

Welfare and Health Amenities for Contract Labour

The contractor is required to provide following amenities for the welfare of the contract labour:

- i. One or more canteens for the use of contract labour, where the number of contract labour ordinarily employed is 100 or more;
- ii. Sufficiently lighted, ventilation, clean and comfortable rest rooms, where the contract labour is required to halt at night in connection with their work;
- iii. Supply of wholesome drinking water at convenient places, provision for latrines, urinals and washing facilities; and
- iv. Fully equipped first-aid boxes readily accessible during all working hours.

If a contractor fails to provide these amenities, the principal employer shall be liable to provide the same and recover the expenses involved from the contractor.

Payment of Wages

The contractor is liable to make regular and timely payment of wages to the contract labour, in presence of an authorized representative of the principal employer. If, however the contractor fails to make the payment in time or makes short-payment, the principal employer should make payment of wages in full or the unpaid balance.

These laws are related to inter-state migrant worker employed on contract basis and exploited by employer or contractor. Government has enacted these laws for the welfare of the migrant labour.

3.9 Laws Relating to Environment

These laws are related to the environmental pollution and other type of pollution which affect the environment.

3.9.1 The Environment Protection Act, 1986

An Act provide for the protection and improvement of environment and for matters connected therewith. Concern over the state of environment has grown world over since the sixties. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food chains, growing risks of environmental accidents and threats to life support system. The world community's resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations conference on the Human Environment held in Stockholm in June, 1972. Government of India participated in the conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the conference, the need for a general

legislation further to implement the decisions of the conference has become increasingly evident.

Although there are existing laws dealing directly or indirectly, with several environmental matters, it is necessary to have a general legislation for environmental protection. Existing laws generally focus on specific types of population or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety, control mechanisms to guard against slow, insidious build up of hazards substances especially new chemicals in the environment are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long-term requirements of environmental safety and to give direction to and co-ordinate a system of speedy and adequate response to emergency situations threatening environment.

There was an urgent need for the enactment of a general legislation on environmental protection which enabled co-ordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate power for environmental protection, regulation of discharge of environment pollutants and handling of hazardous substances, speedy response in the event of accidents, threatening environment and deterrent punishment to those who endanger human environment, safety and health.

Rules to regulate environmental pollution

1. Section 6 of the Act provides:

- a) The standards of quality of air, water or soil for various areas and purposes;

- b) The maximum allowable limits of concentration or various environmental pollutants (including noise) for different areas;
 - c) The procedures and safeguards for the handling of hazardous substances;
 - d) The prohibition and restrictions on the location of industries and the carrying on of processes and operations in different area;
 - e) The procedures and safeguards for the prevention of accidents which may cause environment pollution and for the providing for remedial measures for such accidents.
2. Under the provision the person in charge of the employer should send the sample for the analysis without delay to concern authority.
3. In a case where the occupier, his agent or person willfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample.

In short, it is concluded that government enacted environmental laws to protect the environment pollution that cause many disease over a period of time.

3.10 Conclusion

A large proportion of workforce in India is engaged in unorganised or informal sector (93 percent) as compared to organised sector (7 percent). The organised sector labours are more or less protected by various labour legislations in terms of working conditions, wages and social securities as compared to labour engaged in unorganised sector. Moreover, many labour rights, benefits and practices which were already provided in organised sector are still lacking in unorganised sector.

Central and State Governments have formulated rules and regulations to protect the interests of working class. If when these rules and regulations are not properly implemented it leads to exploitative situation. These laws are related to over crowding, sanitation, working conditions, recreational facilities, leave facilities and exposures to fatal accidents are some of the factors which affect the labour. These factors affect labour productivity, industrial relations and growth of the industry. Therefore, labour legislation is regarded as an important instrument in the hands of state to bring out improvement in working conditions of labourers.

In India, there are various laws which fairly, progressively intended protect the labour rights. These laws are also applicable to Alang ship breaking yard. The survey of industries in India found that the conditions of workers are unsatisfactory in many industries. There are various industrial as well as labour laws which are applicable to organised industry and hence applicable to Alang ship breaking yard. These laws are used as the reference point to evaluate the condition of workers in Alang ship breaking yard.

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