



## *Learning Series*

The knowledge that every HR & IR professional in India should have

### **Q1 Is the Principal Employer liable for the payment of wages to the Contract Labour?**

Yes.

In case, the contractor fails to make payment of wages to its employees, then the principal employer is liable for the payment of wages to the Contract Labour.

As per the Section 21 (4) of the Contract Labour (Regulation & Abolition) Act, 1970, in case the Contractor fails to make payment of wages or makes short payment to its employees, then the Principal Employer shall be liable to make the same to concerned contractor's employees.

The Principal Employer, however, may recover the same from the contractor on the basis of his agreement with the contractor.

### **Q2 Is the Principal Employer liable for the payment of EPF Contribution to the Contract Labour?**

Yes.

In case, if the Contractor has not been having/allotted independent Provident Fund Contribution Code Number, in such case the Contributions in respect of Contractor's employees shall have to be paid at the first instance by the Principal Employer. And, later recover the same from the Contractor.

In case if the contractors is having an independent code number under EPF Act, 1952, in such case the Principal employer is not liable to pay the EPF contribution in respect of employees of contractor.

### **Q3 Do Contract Employees become employees of the Principal Employer in case EPF Contribution remitted by the Principal Employer?**

No.

On the basis of EPF Contribution, the contract labour shall not become the employees of the Principal Employer.



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Merely that the principal employer has been depositing the provident fund contributions for the employees of the Contractor, it would not mean that they have become the employees of the principal employer under the Industrial Disputes Act, 1947, since the Employees Provident Fund & Miscellaneous Act, 1952 only casts the liability of payment of the provident fund contributions on the principal employer.

### **Q4 Is the Principal Employer liable for the payment of Statutory Bonus to the Contract Labour?**

No.

The concerned contractor is liable to pay Statutory Bonus as per the Payment of Bonus Act, 1965 to the Contract Labour employed by him.

The Payment of Bonus Act, 1965 is applicable to all private establishments and establishments set up by the State Government, who employ 20 or more workers on any day during an accounting year.

Minimum bonus payable is 8.33% of the basic and dearness allowance paid to the employees. Bonus is payable within 8 months of the close of the accounting year.

All contractor establishments are covered under Bonus Act provided they employ 20 or more workers on any day during the accounting year.

It is the statutory responsibility of the contractor to pay such bonus to contract employees, as they are the employers for such contract employees.

### **Q5 Are contract employees eligible for the Maternity Benefits under the Maternity Benefit Act, 1961?**

Yes, as the Maternity Benefits Act doesn't delineate rights based on how employees are classified or engaged.

The Maternity Benefit Act, 1961 is a legislation that protects the employment of women at the time of her maternity.



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The firm of the contractor is an establishment in accordance with section 3 (e) of the Maternity Benefit Act, 1961. And, the important provision is Article 21 of the Constitution of India. The article provides that no person can be denied his or her life and personal liberty except in accordance with the procedure of the law.

If an establishment is covered under the ESI Act, then the Maternity Benefits Act will not apply. However, contractor employees are entitled to benefits under the ESI Act.

**Q6 Are contract employees eligible for gratuity under the Payment of Gratuity Act, 1972?**

Yes, as per section 4 (1) of the Payment of Gratuity Act, 1972.

The Payment of Gratuity Act, 1972 is applicable for the firm/establishment of a contractor as per section 1 (3) (b).

As per section 21 (4) of the Contract Labour (Regulation & Abolition) Act, 1970, the contractor is responsible to make the payment of gratuity to eligible employee. In case the contractor fails to pay gratuity to the contract labour, the principal employer is liable to pay the same and can recover the same from the contractor.

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The content of “Be Great – Learning Series” is for informational purposes only. The answers provided here are based on my reading, understanding and interpretation. Please consult your legal expert or advocate for detailed interpretations and case laws.

Share your answers and questions, if any to include in the upcoming Learning Series.

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