

* Chapter → 14.

* Constitution and labour laws.

* Social Justice and industrial law :-

- Social and economic Justice are key part of welfare state aiming to give the poor better opportunities without making the rich poor.
- It means that social justice provides basic necessities to all so, that everyone can improve their lives.
- Both the state's and citizens have roles to play in achieving this ideal -

The state through laws and citizens through moral responsibilities.

- * Industrial laws are socio-economic justice oriented.
- Industrial laws in India are designed with socio-economic justice at their core, aiming to reduce disparities between employer and worker.

- These laws are based on principle of Socio-economic equality found in Constitution and directive principles of State Policy.
- The goal is to promote peace harmony and progress ensuring that both sides are treated justly and equitably.

CASE LAW

→ Article 14

* In Air India v. Nargesh Meerza.

- Supreme Court challenge regulation 46 and 47 of Indian airlines, which stated that Air hostess had to retire at age 35 or upon marriage within 4 years of service or after their 1st pregnancy, whichever came first.
- The Court struck down these regulations as unconstitutional, particularly criticizing the clause that force retirement due to pregnancy, saying it was unreasonable and arbitrary violating article 14.

Article -

* In D.S. Nakara Vs. Union of India.

- Supreme Court found rule 34 of Central Services Pension rules unconstitutional.
- The rule unfairly classified pensioners on based on their retirement date without a rational basis.
- The discrimination was also arbitrary and violated article 14 of Constitution.

* In Case of Mewa Ram Kanojia V. AIIMS.

- Supreme Court explain principle of equal pay for equal work—
 - it doesn't mean that everyone get same pay regardless their job instead it applies when employees are doing same job under same conditions.
- The Court clarified that it's ok for the state to have different pay scale for different jobs based on qualifications, duties or responsibility.
- As long as classification is reasonable and connected to job objective's state can prescribe different pay scales however,

if classification is unfair or unreasonable
it violater article 14 & 16.

* Article 19(1)(c) :-

* In all india bank employee v. national industrial tribunal.

- The Court linked the right to form Union with Collective bargaining and strikes allowing the industrial dispute act as an alternative to strike's i effective.

* In damyanti Naranga v. Union of india.

- The Court emphasize that this rights includes not just forming an association but also continuing it without interference in its Composition.

* Article 38(1) emphasize State's responsibility to secure Justice Social economic and Political

* Article 38(2) focuses on reducing income in equalities. and eliminating disparities in Status, Opportunities and facilities among individuals and groups.

- Supreme Court Observed in the Case Srinivasan theatre and Govt. of Tamilnadu and Consumer education and research Center. that socio-economic rights such as health for workers are fundamental for ensuring dignity and equality in society.

* Article 39 of Indian Constitution directs the State to ensure :-

- (i) Equal rights to a means of livelihood for all citizens regardless of gender.
- (ii) fair distribution of resources for the common good.
- (iii) preventing concentration of wealth
- (iv) Equal pay for equal work for both man & women.
- (v) protecting workers health and ensuring

Childrens are not Exploited.

(vi) Ensuring children's rights to a healthy and dignified childhood.

CASE LAW :-

* NCC - CL Vs. Union of India

- In this Case Petition was filed for non-implementation of building and other Construction workers act and Cess act for Construction workers Welfare.
- S.c emphasize that these laws are Social Justice legislations aiming at protecting Construction worker's health, dignity and working Conditions.
- The Court highlighted that state must respect right to life with dignity. Under article 21. and laws must be enforced for welfare of worker.
- The rule of law and worker's human rights should be upheld

* In Bandhua Mukti Morcha Vs. Union of India.

- The Court directed progressive elimination of child labour in hazardous industries.
- It mandated that govt. provide Compulsory education, health checkups and nutritional support for child workers.
- Regular progress reports were required for implementation.

Lecture → 03

14/oct/24.

* Social Security Provisions :-

* Article 41

→ State is mandated to provide Social Security for workers in cases of unemployment, old age, sickness, disability.

- Laws like employees state insurance act, provident fund act, Maternity Benefit act, and payment of gratuity act support these rights.

* Working Conditions : -

→ Article 42

→ This provision emphasizes the need for Just and humane working Conditions including Maternity relief for female workers!

- The aim is to ensure that working environments are Conducive to dignity and well being of employees.
- Supreme Court interpreted this article in Connection with article 21 which is right to life but which includes right to live with human dignity.
- A substantial body of labour law has developed in India based on principles of article 42. focusing on fair working Conditions, Safety and protection of worker's

* Living wage : -

Article 43 →

- The state must secure a living wage for workers. which goes beyond bare essentials and includes education, health and social security

* Living wage Vs. Minimum wage : -

- Living wage : - it enables a worker to meet not only basic necessities but also essential need of decent life (Education, health care, social insurance and protection against misfortunes such as old age.)
- Minimum wage : - It only covers basic physical needs of food, clothing and shelter it is typically said lower than living wage

CASE LAW

* In Edward Mills Co. Vs. Ajmer.

- It was clarified that fixing a minimum wage is in public interest. and it doesn't infringe on right to carry on trade

* Worker's participation in management :-

Article 43(A)

→ Introduced by 42nd amendment, this article focuses on promoting worker participation & Management.

- The state is tasked with ensuring that there must be participation of workers in management decisions. This is achieved by creating more inclusive and democratic work places.