

**COMPANY SECRETARY**

**SBILL CHAPTER 18 (CODE ON WAGES 2019)  
HANDWRITTEN NOTES**

**BY CS MENTOR**

PART-B:  
Chapter:- 18.

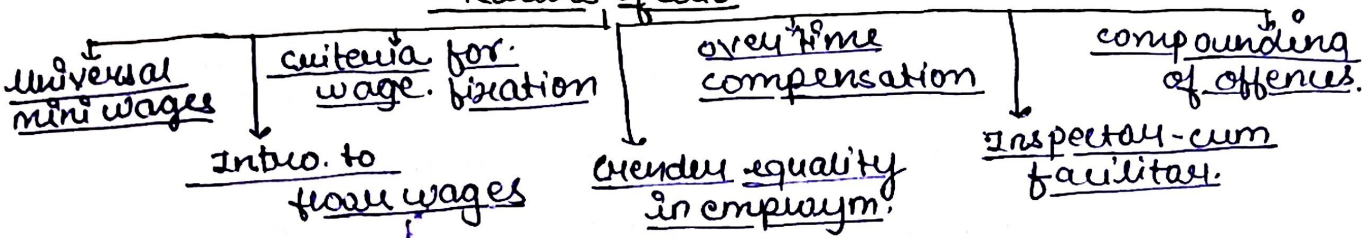
Code on wages, 2019.

Act. to amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental.

Code on wages covers.

1. Payment of wages act 1936
2. Minimum wages act.
3. The payment of Bonus act 1965
4. Equal remuneration act 1976.

features of code.



Chapter- I :- Preliminary.

Act:- code on wages 2019 → extend to whole India  
come into force:- 21 day of Nov → 2025.

Prohibition of discrimination on ground of Gender.

Section-3: Same work of same nature, in same establi. by same employer so no discrimination on basis of gender.

safeguarded against wages reduction Bias: No employer shall

- 1) reduce the rate of wages of any employee
- 2) make any discrimination on ground of sex while recruiting any employee for the same work.

Section-4 Decision as to disputes. → Disputes regards with same or similar nature of work shall be decided by authorities notified by Govt.

What is same work or work of a similar nature. sec-2(v)  
skill, effort, experience, and response required. are the same, if all these is differentiation so no practical imp in terms and condition of employment.

Chapter:- II :- minimum wages.

Payment of mini rate of wages.

Sec:- 5 → every employer to pay to any employee wages at least equal to minimum rate of wages notified by Govt.

fixation of minimum wages.

Sec-6:- fixation of mini rate of wages:- fixed by app Govt but with provision of sec-9 floor wages

- ② Type: → ① at time of work.  
② for piece work.

③ minimum rate of wages for piece work based employees  
Employees are employed on piece work → app. govt. shall fix a min. rate of wages for securing such employees a min. rate of wages on a time work basis.

④ Basis of fixation of time work basis employees  
→ by the hour, → by the day - by the month.

⑤ manner of calculating wages - fixed by hour/day/month.

⑥ criteria for fixation of min. wages:-

- ① Sabke jaye aag aag wages laga by deciding on basis of skill, unskilled - semi skilled.
- ② Ardhousness of work → isse bhi decide hoga → humidity - temp. etc.

⑦ minimization of wages categories

↳ Govt. ko sidha kaurgi ki wages categ. kam ho.

### Procedure for fixing and revising min. wages sec-8 important

① Modes of Action by app. govt. :- 2 method hai joga

1) committee method :- govt. appoint committee to examine inquiry for factors and give report to C. I.

2) Notification method.

↳ Govt. directly publish notifi. to fix the rate of min. wages → if anybody have objection so give obj within 2 month.

2) Tidrauthi const of committee: Every committee appoint by app. govt. shall consist of persons

- ① representing employees
- ② representing employers → equal to employer rep.
- ③ Ekta 3rd indep. person.

3) Notifi. of min. rates of wages.

↳ app. govt. by notifi. fix or revise min. rate of wages.

↳ Enforce:  
date in notifi → 3 month from issue.

4) periodic review or revision: → max → 5 years.

### Power of govt to fix floor wage sec-9.

1) fixation of floor wage: - C. I. shall fix floor wages.

C. I. also fix different fw for different geo. area.

2) Floor wage to meet threshold of min. wages.

the min. wages fixed by app. govt. shall not be less than floor wage

3) Advisory and consultation procedure: - Before fixing the fw C. I. obtain advice from central advisory board, consult with state govt.

wages of employees who work for less than normal working day.  
sec-10. adhe din bed kam kya to bed full day wages milige.

exception - failure to work is caused by his unwillingness to work.

wages for two or more classes of work. sec-11.

proportionate basis per hora.

eg - skilled  $\rightarrow$  700 per day unskilled 400 p/d.  
5 hours  $\rightarrow$  skilled  
3 hours  $\rightarrow$  unskilled

$\rightarrow 700 \times 3/8 = 437.5$      $400 \times 3/8 = 150$     total min wage  $\rightarrow 588$  p/day

mini time rate wages for piece work. sec-12.

piece work ki mini wage time work se kam nahi hogi.

fixing hours of work for normal working days. sec-13.

Power of app. Govt :- to fix working hours.

- $\rightarrow$  No. of hours :- fix the no. of hours.
- $\rightarrow$  Rest period :- 1 day in 7 days.
- $\rightarrow$  Over time rate :- prescribed.

Modification and extent of appl of above provisions in specific class of work.

- 1) Employees engaged in any emergency.
- 2) employees engaged in work of the nature of preparato
- 3) employees whose employment is essentially intermittent
- 4) Employees engaged in any work which for technical reason has to be completed before the duty is over
- 5) employees engaged in work irregular action of nature forces.

wages for overtime work  $\rightarrow$  sec-14.  
twice the normal rate of wages.

Components of minimum wages. sec-7.

min wages may consist of.

- Basic + cost of living allowance :- Basic wages + allowance to adjust for inflation.
- Basic + cash value of concession :- Basic wages + value of essential commodities supplied at concessional rate.
- Inclusive rate  $\rightarrow$  Bw + COLA + cash value of concessional.

## Chapter: - III Payment of wages. Section 15.

→ acceptance modes of wage payment, ensuring transparency, accountability.

Permissible mode:- current cash or currency / cheque / cr. to bank or electronic.

Online mode of payment mandatory:- App. Govt. can make compulsory payment of wages through electronic mode.

### Fixation of wage period, Sec-16.

- on daily, weekly, 2 week, monthly.
- no wage period of any employee shall be more than a month.

### Time limit for payment of wages, Sec-17.

Time frames for payment:-

- 1) daily basis:- at end of shift.
- 2) weekly basis:- at last working day of week, before the weekly holiday.
- 3) 2 weekly basis:- 2 days after 2 weeks ends.
- 4) monthly basis → 7 days from month end.

### Payment of wages on removal.

- 1) removed or dismissed.
  - 2) subpoenaed or has resigned.
- the wages payable to him shall be paid within 2 working days.

### Deduction which may be made from wages, Sec-18.

Deduction from wages → employer cannot deduct anything from wages except those specifically allowed under the law.

- 1) any payment made by employer to employer or his agent is treated as deduction from wages.
- 2) if done properly and as per govt. notif., following are not treated as deduction.
  - Increment or promotion
  - Reduction to lower post or demotion.
  - Suspension

### Permissible deductions:-

- 1) fines imposed on him.
- 2) deduction for his absence from duty.
- 3) deduction for damages to or loss of goods.
- 4) deduction for house accommodations by supplier.
- 5) Amenities [electricity, water].
- 6) reversal of loans & advance like salary advance, travel.
- 7) Statutory deduction like income tax, court order deduction.

① co-operative society payments.

- Total deduction in any wage period shall not exceed 50% of wages. If deduction exceeds 50% shall be recovered in piecemeal manner.
- Excess beyond 50% cannot be deducted in same wage period usually it may be recovered in subsequent wage period.
- If employer deducts but fails to deposit it in account of trust or Govt fund, the employer shall not be responsible for such default.

### Section - 19 Fines

- 1) Mandatory approval before imposing fine:- First take approval from app. Govt or any appo. authority.
- 2) Display of notice:- A notice specifying such act and omissions shall be exhibited.
- 3) Reasonable app. of being heard:- No fine until employee has been given ROOBH.
- 4) Maximum ceiling on fine → 3% of wages payable.
- 5) Age bar fine:- No fine until age of 15 years.
- 6) Time period and time recovery of fine:- 90 days in the recovery. का. 90 दि. की लम्पसुम.
- 7) Enforcement of fine:- Every fine shall be deemed to have been imposed on the day of omission.
- 8) Register of fine & utilization of fine → maintain reg. of fine & fine utilize for benefit of employee.

### Deductions for absence from duty. Section 20.

+ Ground for deduction:- deduction can be made only when employee is absent from the place where he is required to work.

+ Proportionate deduction.

↳ deduction must be propo. to period of absence.

+ Collective absenteeism:- If 10 or more employees act in concert and absent themselves without due notice without reasonable cause, deduction may include wages upto 8 days.

+ Stay in strike. काम पर अया सहित refuse to work.

### Deductions for damage at work sec - 21.

Limitations on deductions:- shall not exceed actual amount of damages at work.

Procedure to be followed before deductions - No deduction until employee has been given ROOBH.

+ Recording of deductions and realisations → maintain a register. फाइल.

• Deductions for services rendered, sec-27  
• Deductions from wages in respect of house accom. & amenities,  
all services provided by the employer.

• Deductions for recovery of loans section 18

• Section 18(2)(g) which permits recovery of loans granted  
for house building or other approved purposes.

• Chapter not to apply to Govt establishments sec-25  
this chap. not apply to Govt establishments.

### Chapter IV → Payment of Bonus :

Eligibility of bonus etc. → sec-26 :

→ Every employee fulfilling following twin cond. for bonus  
① Ex limit salary tax limit monthly change.  
② at least worked for 30 days.

→ minimum bonus payable 8.33% of wages earned by  
employee or 100 → higher.

→ Bonus for higher wage employees - determined by app. Govt

• Maxd. bonus → 20% of such wages.

→ Amount to be set off in computing available surplus  
as per. sec-36.

→ in first five accounting year.

→ Bonus shall payable only in respect of accounting  
year if employer & earn profit from such estab.

• set off / set on not apply in first 5 year.

→ for the sixth and seventh accounting years the  
provision of sec-36 shall apply subject to the

when all profits deemed to be derived.

→ an employer shall not deemed to have derived  
profit in any accounting year, unless

• he has made profit for dep.

• amount of such dep. & losses.

Proportionate reduction in bonus in certain cases.

sec-27

① min. bonus shall propor. reduced.

② the provision proportionate reduction is appl. only  
if such bonus is higher than 8.33%.

Computation of no. of working days.

① He has been laid off.

② He has been on leave with salary.

③ He has been absent due to temporary disablement  
caused during course of his employment.

(4) Maternity leave with salary.

• Disqualification for bonus. sec-28.

he is dismissed from services.

↓  
fines. violent behaviour in establish. theft, misapprop. conviction for sexual harass.

→ calculation of bonus.

step ①:- Gross profit calculate → as per sec-32.  
• Banking co. → manner prescribed by CBI.  
• In other cases ——— " ———.

step ②:- calculate → available surplus.

(A). Cal. C.I.P.

(B) less :- Deprec. as per section-32.  
Direct tax  
Sum prescribed by CBI.

(C) plus: Profit tax in respect of C.I.P. for immediate preceding accounting year — direct tax in respect of such C.I.P. as reduced by amt of bonus for I. per. an. year.

step ③:- allocable surplus.

• for banking company:- av. surp → 60% of avail. surp  
• for other estab:- 67% of avail. surplus

calculation part.

• Allocable surplus :-  $< \text{min. bonus.}$   
min → 8.33% or 100 [w.e.H].

• Allocable surplus :-  $> \text{maxi. bonus.}$   
maxi :- 20%.

every year av. surplus is calculated and if there is set on found previous year it is added and if there is set off from previous year it is deducted.

setoff and seton of allocable surplus. sec-36 → Important.

Set on:- If in a year av. surplus is more than maxi bonus payable, the extra amount is set on.

carry forward :- 4. accounting year for paying bonus

carry for. maxi :- 20% of total wages / salaries of employees that year.

Purpose :- To reward to reward employees. later when sur surplus is sufficient.

setoff :- If in a year there is no surplus and it is less than min. bonus the short fall is set off. [Next year  $\oplus \ominus$  hoga. av. surplus].

carry forward :- ——— " ——— same

purpose :- ensure employees still get mini bonus using future surplus.

## Adjustment of customary or interim bonus.

Sec-37

① Employer shall be entitled to deduct the amt. of bonus so paid from the amt of bonus payable by him to the employee.

- has paid any puja bonus
- Interim bonus.

## Deduction of certain amounts from bonus payable.

Sec-38.

an employer is found guilty of misconduct causing financial loss to the employer. then it shall be lawful for the employer to deduct the amt of loss from the amt of bonus payable by him to employee.

## Time limit for payment of bonus Imp.

Sec-39.

• The employer shall pay all amt payable to an employee by way of bonus under this code by crediting in bank acc. of the employee within 8 months.

• app. govt may extend 8 month period but that not exceeds 2 year.

## Time limit for payment of disputed bonus :-

- bonus shall be paid within a period of one month from award.
- dispute not to none do but atleast mini bonus do.

## Application of this chapter to establishment in public sector.

Imp. Sec-40

This chapter is appl. to public sector employee only if.

- Ⓐ PSU competes with pvt sector busi.
- Ⓑ Revenue from sale services  $\rightarrow > 20\%$  of PSU Gross Income

This chapter is not appl. to PSU primarily providing public services or not meeting above conditions.

## Non applicability of this chapter.

Sec-41.

• Employers of :-

- ① LIC
- ② Govt employees
- ③ RBI.
- ④ Indian Red Cross Society
- ⑤ Universities and other educational instt
- ⑥ Institutions.

- employees registered under the dock workers act
- employees employed by inland water transport establi. 1948.

## Chapter V - Advisory Board.

Sec-42.

### Central advisory board.

→ appointing authority and constitution. → const. a CAB.

- ① Representing employers
- ② Representing employees. equal in no. to the members
- ③ Independent persons, not exceeding one third of total members
- ④ five resp. of state govt.

### women representative and chairperson.

one third of total members referred above shall be women.

→ advisory role of central advisory board:

1. fixation or revision of minimum wages
- 2) providing increasing employment opp. for women.
- 3) extent to which women may be employed in establishments

→ directions by central government.

on such advice C.G. may issue directions to S.G.

→ appointing authority and constitution of state advisory Board.

↳ same as central.

→ composition of SAB. same as central.

→ women representative & chairperson. → same as central.

→ factors to be considered in advisory role:

- the no. of women employed in concerned establishment
- nature of work.
- hours of work.
- suitability of women for employment
- other may prescribed.

→ issue of directions by state government.

S.G. may after considering the advice rendered by SAB.

→ Regulation of procedure. regulate their own procedure.

## Chapter VI payment of dues, claims and audit.

→ responsibility for payment of various dues.

Sec-43

→ Every employer shall pay an amount required to be paid under this code to every employee employed by him.

If employer fails to make such payment in acc. to this code, company, or firm or asst. who is the proprietor of the establish.

Payment of various undischarged dues in cases of death of employee.

Sec-44 to whom payment is to be made.

- ① person nominated by him.
- ② where no such nomination is made. the sum amt

deal with the suit

### Discharge of employer.

- when in accord with above provision of the section, all amt payable to an employee.
- all paid by employer to the person nominated by employee
- all deposited by the employer with authority.
- then employer shall be discharged of his liability to pay.

### Claims under code and procedure there of.

Sec-45

Appointment of authorities :- The app. Govt may, by notified, appoint one or more authorities, not below the rank of a gazetted officer, to hear and determine the claims which arise.

### Compensation and time limit

- max compensation may extend to 10 times the claim determined.
- the authority decide the claim within a period of 3 months.

### Recovery mechanism.

- if an employer fails to pay the claim determined and compensation or demands to be paid, the authority appoint certificate of recovery to the collector.
- collector shall recover as arrears of land revenue.

### Who can file appl. for claim.

- ① employee concerned.
- ② any trade union registered.
- ③ Inspector - cum - facilitator.

### single appl. for collective claims

- Limitation period for filing application.
  - 3 year (+) suff. cause.

### Powers of civil court.

- take evidence
- enforcing the attendance of witnesses
- compelling the production of documents.

### Reference of disputes under this code, section - 46.

not with standing anything contained in this code, where any dispute arises b/w an employer and his employees.

- ① fixation of bonus or eligibility for payment of bonus.
- ② appl. of this code, in respect of bonus.

that then such dispute shall be deemed to be an industrial dispute within the meaning of the industrial disputes act, 1947.

Presumption about accuracy of balance sheet and profit and loss account of corpo. & companies. sec - 44.

→ submit any dispute under sec 45/46/49 the b/s, P/L of companies are presumed to -

- authorities viz 45
- appellate authority
- Tribunal.

When it may presume by the b/s, P/L are accurate if they are

- audited by CA/CI.
- qualified auditors.

- If authority satisfied the statement are not accurate so they can take necessary steps to find out accuracy
- an application can also made by Trade union or employees to appel. Tribunal, arbitrator for clarification.
- audit of account of employees are not being corporations

sec - 48

The authority or tribunal may order employer to get his acc. audited when.

- If find that the acc of such employer is not audited.
- or opinion of authority.

Employer shall get the account audited in specified time. If fail so authority themselves appoint a auditor. Expenses of audit bear by employer.

Appeal sec - 49

→ any person aggrieved by order passed by authority viz 45 so make an appeal to appellate authority within 90 days

⊕ sufficient cause

- The App. authority shall be appointed from app. most holding post at least one rank higher than the authority.
- Disposal of Appeals: by issuing the certificate of recovery in the manner specified.

Section 50 records, returns and notices.

- Maintenance of register by employers: → maintain a register containing the details with regard to persons employed, muster roll, wages.
- Display of notice: Every employer shall display a notice on the notice board at a prominent place of establish.
- Issue of wages slip: Every employer shall issue wages slips to the employees.
- Exemption for small employers: The above provision of shall not apply in respect of employees to the extent he employs not more than five persons for agn.

## Chapter VII :- Inspector-cum-facilitator.

### Sec-51. Appointment of Inspector-cum-facilitator and their powers

- App. Govt may appoint ICF.
- He shall exercise the power throughout the state or sub region district or more establishment.
- Inspection scheme :- The app. Govt, lay down an inspection scheme which may also provide for.
  - generation of a web based inspection
  - calling of info. relating to inspection.
- app. Govt may do randomised selection of inspection
- They are deemed to be public servant.
- Role of the ICF.
  - ↳ advise employers and workers.
  - ↳ inspect the establishments as assigned to him.

### → Powers

- examine any person who is found in any premises.
- require any person to give any info.
- search, seize, or take copies of such registers.
- give notice to app. Govt defects or abuses.
- other may prescribed.

### → Offences by companies.

#### Sec-55

1. If the company committed any offence, every person who at the time the offence was committed shall be deemed to be guilty.

→ Defense for officer in charge :- offence was committed without his knowledge.

- he exercised all due diligence to prevent commission.

### Liability for consent or negligence

1. officer in charge, the director, manager, secretary shall also be deemed to be guilty.

### → Composition of offences.

Sec-56 → an appl. may be made for compounding of any offence punishable with ~~with~~ but not for :- imprisonment, with jail & fine.

→ max fine compounded 50%.

compounding not permissible :- not less than 5 year.

consequences :- case stant hua to dobara nahi hoga.  
or stant nahi hua to stant nahi hoga.

punishment for failure :- punishable with a sum equivalent to 20% of max fine.