

* Chapter 18 *
* Unit - III : Payment of
Bonus Act, 1965 *

The main object of this act is to provide the payment of bonus to employees and for matter connected with that.

* APPLICATION OF THE ACT

Section 1 - The act applies to all over India where, every factor or other establishment in which 20 or more persons employed in any day of financial years.

* ACT NOT TO APPLY TO CERTAIN CLASSES OF EMPLOYEES.

Section 32 - The Act shall not apply to following classes of employees.

i) Employees employed by any insurer on general insurance business & employees employed by life insurance corporation of India.

ii) Seamen defined in Merchant Shipping Act, 1958

- iii) Those employees which are registered under or listed under any scheme or Dock Workers Act, 1948.
- iv) Employees employed by establishment engaged in any industry called on by or under authority of any government.
- v) Employees employed by Indian Red cross Society, universities & other educational institutions, hospitals, chambers of commerce & social welfare institutions.
- vi) & vii) (Omitted)
- viii) Employees employed by Reserve Bank of India.
- ix) Employees employed by Industrial finance Corporation of India, Finance Corporation, Deposit Insurance Corporation, Unit trust of India, NABARD, Industrial development bank of India, SIDBI, National housing bank, etc.
- x) Employees Employed by inland water transport establishments.

* CALCULATION OF AMOUNT PAYABLE AS BONUS

1) Computation of Gross Profit.

Section 4 - In case of banking company G.P shall be calculated in that manner as prescribed in schedule I.

- In any other case G.P should be calculate in that manner specified in II schedule.

2) Deduction from Gross Profit.

i] Any amount of Depreciation should be deducted

ii] Any amount of development rebate, investment allowance or development allowance should be deducted.

iii] Employer is liable to pay Direct tax, it should be deducted

iv] And any other sums specified in Third schedule.

3) Calculation of Direct tax payable by employer.

Section 7 -

i] In calculating such tax no account shall be taken of -

- any loss incurred by employer in previous year & carried forward related to DT.

- any arrears or depreciation which employer is entitled to add to amount of depreciation.

- any exemption conferred on employer or any deduction which he is entitled to pay.

iii] When employer is religious or charitable then whole or part of its income is exempt from tax under Income tax Act. And institution shall be treated as if it were company in which public is interested.

iv] When employer is a individual or Hindu undivided family tax payable shall be calculated on basis of income derived from institution is his only income.

4) Computation of Surplus

i] The gross profit should be calculated after deducting those sums which are referred in Sec. 6.

ii] And an amount equal to the difference between G.P of employer for preceding year and G.P of employer for preceding year after deducting amount of bonus he had paid or he has to pay.

* ELIGIBILITY FOR BONUS

i] Eligibility :- Every employee is entitled to get bonus from his employer where he has worked for 30 days in accounting year.

2) Disqualification :- An employee should be disqualified by from getting bonus if he has committed -

- any fraud,
- violent behaviour on premises or establishment,
- theft,
- misappropriation,
- or destroyed any property of establishment.

3) Payment of minimum bonus :-

Section 10 :- Every employer is bound to pay minimum bonus, which shall be 8.33% of salary or wage of employee, to the employee or one hundred rupees whichever is higher.

Employer is liable to pay bonus whether he has surplus or not.

4) Maximum Bonus :- When allocable surplus exceeds amount of minimum bonus then employer be bound to pay every employee in proportion to their salary/wages, in lieu of such minimum bonus.

Employer is bound to pay maximum bonus of 20% of salary/wages of an employee in accounting year.

- 5) Proportionate reduction in bonus :- When an employee has not worked for all working days in a year then if bonus is higher than 8.33% of his salary/wage should be proportionately reduced.
- 6) Computation of number of working days :- Employee shall be considered as he has worked in establishment on days on which -
- he has been laid off under an agreement or as permitted by standing order under any law applicable to establishment
 - he has been on leave with salary/wage
 - he was absent due to temporary disablement
 - employee has been on maternity leave.
- 7) Set on and set off allocable surplus :-

i] Set on :- If in accounting year allocable surplus exceeds the amount of maximum bonus payable to establishment's employees then excess upto 20% of salary of employees shall be carried forward for set on in succeeding accounting years upto an inclusive of 4th accounting year for purpose of payment of bonus.

ii] Set off :- If in accounting year allocable surplus falls short of minimum bonus payable to employees of establishment and there is no amount or sufficient amount or amount carried forward for set on preceding year the deficiency shall be

shall be carried forward for set off in succeeding years upto an inclusive of 4th year

8) Adjustment of customary or interim bonus :-

If in any accounting year, employer has paid any puja bonus or other customary bonus or employer has already paid part of bonus amount before the date on which it becomes payable, then employer shall deduct the amount of bonus which he has already paid from bonus payable by him to employee.

9) Time limit for payment of bonus

i] If any employee found guilty of misconduct or causing loss to employer, then employer shall deduct amount of loss from bonus.

ii] If there is dispute regarding pending bonus then all amount payable to employee shall be paid by employer within one from which the award becomes enforceable.

iii] In normal cases, bonus should be paid within 8 months from closure of accounting year, but total period shall not exceed 2 years.

* RECOVERY OF SET ON & SET OFF ALLOWABLE SURPLUS

i] In case of death of employee, his assignee or heirs may make application to appropriate Govt.

ii) Appropriate Govt. may specify, money which shall be due and should issue certificate to collector to recover amount.

* POWER OF EXEMPTION

If the appropriate Govt. having regard to financial position & other circumstances of any establishment, is opinion that it will not be in public interest to apply provisions of this Act, then Govt. may exempt it for period as may be specified.

* PENALTIES

If any person contravenes any provision of the Act, he shall be punishable with imprisonment of 6 months, or fine of ₹1,000/- or both.

* OFFENCES BY COMPANIES

If a person is committing offence is a company, every person who is in charge of company at the time of offence should be responsible as well as company, deemed to be guilty of offence shall be liable.