

## **REPORT ON THE WORKING OF THE MATERNITY BENEFIT ACT, 1961 DURING THE YEAR 2009**

### **1. Scope and Objective**

1.1 The Maternity Benefit Act, 1961 extends to the whole of the Indian Union and applies to every factory, mine, plantation and circus industry including any such establishments belonging to government but excluding all the establishments covered under the provisions of the Employees State Insurance Act, 1948. The State Governments are, however, empowered to extend the provisions of the Act to any other establishment subject to the prior approval of the Central Government. The Act also applies to Shops and Commercial Establishments in which 10 or more persons are employed or were employed on any day of the preceding 12 months, and establishments wherein persons are employed for the exhibition of equestrian, acrobatic and other performances. Every woman entitled to the payment of maternity benefit under the Act shall, notwithstanding the application of the Employees State Insurance Act, 1948 to the factory or other establishments in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under Section 50 of the Act. There is no wage limit for coverage under the Maternity Benefit Act provided a woman is not covered under the Employees State Insurance Act, 1948.

### **2. Main Provisions**

2.1 The Act regulates the payment of maternity benefits to women employees in certain establishments for certain specified periods before and after the child birth and prescribes for the payment of maternity benefits to them at the rate of average daily wage for the period of their actual absence from duty. The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks, that is to say, six weeks up to and including the day of her delivery and six weeks immediately following that day. The Act was last amended by the Maternity Benefit (Amendment) Act, 1988 which came into force from 10<sup>th</sup> January, 1989. The amended Act provides, inter-alia, for extension of its provisions to Shops and other Commercial Establishments employing 10 or more persons. The qualifying period of service for the entitlement of maternity benefit under the Act has been reduced from 160 days to 80 days of actual work in the preceding twelve months and the rate of medical bonus payable to women employees has been enhanced from Rs. 250 to Rs. 2500 if the employer does not provide pre-natal confinement and post-natal care free of charge. The average daily wage of a woman worker

for this purpose is to be calculated on the basis of wage earned by her for the days on which she worked during the period of three calendar months immediately preceding the date of her absence on account of maternity and the rate of maternity benefit would be fixed at the average daily wages for three calendar months or minimum wages fixed or revised under the Minimum Wages Act, 1948 or Rs. 10 per day, whichever is higher.

2.2 A provision has also been made for filing of complaints, if any, with the competent court by the aggrieved women workers, or office bearers of a registered trade union of which such women workers are members or a voluntary organisation, or an inspector notified under the Act. The complaints can be filed only with the prior approval of the Inspector. These provisions of the amended Act were brought into force with effect from 10.1.1989. Under the Act, there are also provisions for certain other benefits in case of miscarriage, premature birth or illness arising out of pregnancy.

### **3. Administration of the Act**

3.1 The Central Government is responsible for administration of the provisions of the Act in Mines and in Circus Industry, while the concerned State Governments are responsible for the enforcement of the Act in factories, plantations and other establishments. The Central Government has entrusted the responsibility of administration of the Act to the Chief Labour Commissioner (Central) in respect of Circus Industry.

### **4. Working of the Act during the year 2009**

4.1 In the factory sector, out of 45,499 factories /establishments covered by the Act, 32.87 per cent submitted annual returns (Table-1). The average daily employment of women workers in these establishments was 4,70,692, of which only 2508 (0.53 per cent) claimed maternity benefit during the year 2009. However, 922 claims involving an amount of Rs. 3, 90, 23,418 including special bonus to the tune of Rs. 20, 08,168 were accepted and settled.

4.2 In Plantation Sector, out of 2,456 plantations, 58.35 per cent submitted returns where in 7,39,393 women workers were employed daily. Of the average daily employment of 7,39,393 women workers, 27491 (3.72 per cent) claimed maternity benefit during the year. However, 26,880 claims involving an amount of Rs. 3, 79, 16,626 including special bonus to the tune of

Rs. 7, 17,087 were accepted and settled.

4.3 In other establishments, out of 20,681 establishments, only 10.63 per cent submitted returns, in which the average daily employment of women workers was 1, 90,963. Of the average daily employment of 1, 90,963 women workers, 684(0.36 per cent) claimed maternity benefit. However, only 6 claims involving an amount of Rs. 19, 33,095 including special bonus to the tune of Rs. 68,969 were accepted and paid.

4.4 The number of claims made per 100 women workers employed in factories, plantations and other establishment along with the average amount of maternity benefits paid in respect of the units submitting returns are presented in Table 2. While the percentage reflects the incidence of claims per hundred women workers employed, the average amount of maternity benefits paid per accepted claim indicates the extent of incidence of monetary impact per case. The percentage of women workers claiming maternity benefits to the total number of women workers employed in factories was the highest at 22.43 in Uttarakhand, followed by 5.88 in Goa and 3.7 in Rajasthan. In plantations, the highest percentage was in Tripura i.e. 4.37 followed by Assam (3.83) and Kerala (3.16). So far as the other establishments are concerned the aforesaid percentage i.e. 9.84 relates to the state of Himachal Pradesh only. The table also reveals that the highest average amount of maternity benefits paid was Rs. 1,35,179 in Uttar Pradesh in the factory sector and Rs. 15,701 in Tamil Nadu in the plantation sector. In case of other establishments an average amount of Rs. 11,495 was paid as maternity benefits to the women workers in Himachal Pradesh.

4.5 The details relating to the number of complaints received, number of complaints investigated, number of prosecutions launched, number of convictions obtained and the amount of fine levied in factories, plantations and other establishments are given in Table 3. In the factory sector, 2 prosecutions were launched and convictions obtained in Himachal Pradesh. In the plantation sector, 3 complaints were received and investigated in Kerala but no prosecution was launched. In case of other establishments, 9 cases were investigated in Tamil Nadu but no prosecution was launched.

4.6 The statistics pertaining to maternity benefits paid under the Employees' State Insurance Act, 1948 during the year 2008-09 are presented in Table 4. The extent of coverage under the

Act varied from State to State. The number of women workers who claimed maternity benefit under this Act was the highest in Karnataka 5474 (24.46 per cent) followed by Tamil Nadu 5459 (24.40 per cent), Kerala 3151 (14.08 per cent) and Maharashtra 3040 (13.59). The amount of maternity benefit paid was highest in Tamil Nadu State (Rs.7,31,02,213) followed by Karnataka (Rs. 6,89,97,764), Maharashtra (Rs. 5,45,46,734) and Kerala (Rs. 3,66,99,535) during 2008-09. In all, 22,376 women workers claimed the maternity benefit and Rs. 31,09,74,784 was paid to them as maternity benefit under the ESI Act, 1948.

4.7 Since women workers can claim maternity benefits either under the Maternity Benefit Act, 1961 or under the Employees' State Insurance Act, 1948, the total of the respective figures under these Acts is expected to reflect the progress in the extension of the particular benefit to eligible women workers. The total number of claims paid under the Maternity Benefit Act, 1961 and the Employees' State Insurance Act, 1948 was 50,184 and the total amount paid as maternity benefits under both these statutes comes to Rs. 38,98,47,923 during the year, 2009.

## **5. Limitations of statistics:**

The report is based on the information received from 20 States and 4 Union Territories whereas the Act extends to whole of India. There are States/UTs, such as Arunachal Pradesh, Gujarat, Jammu and Kashmir, Madhya Pradesh, Maharashtra, Manipur, West Bengal, Union Territories of Andaman and Nicobar Islands, Daman & Diu and Puducherry which have not submitted the returns for the year 2009. In view of this, the report may not be truly representative in nature. Similarly, all-India figures in the report may not be truly comparable over the years as the responding States/UTs vary from year to year.

**Table-1**

State-wise maternity benefits paid in Factories , Plantations and Other establishments during the year 2009

State/Union Territory	Number of establishments covered by the Maternity Benefit Act	Number of establishments submitting returns	Response Rate (%)	Average No. of women workers employed daily in establishments submitting returns	No. of women who claimed maternity benefit during the year
1	2	3	4	5	6
<b>I. FACTORIES</b>					
1 Andhra Pradesh	13054	4307	32.99	59091	110(0.19)
2 Assam	-	-	-	-	-
3 Bihar	11	11	100.00	50	-
4 Chhattisgarh	3065	385	12.56	1105	3(0.27)
5 Delhi	8014	1622	20.24	4862	7(0.14)
6 Goa	30	28	93.33	153	9(5.88)
7 Haryana	653	639	97.86	12932	111(0.86)
8 Himachal Pradesh	1323	471	35.60	2474	16(0.65)
9 Jharkhand	314	314	100.00	5353	9(0.17)
10 Karnataka	12504	6078	48.61	333126	555(0.17)
11 Kerala	2311	667	28.86	43329	1580(3.65)
12 Meghalaya	76	56	73.68	10	-
13 Orissa	658	18	2.74	928	14(1.51)
14 Punjab	540	55	10.19	509	-
15 Rajasthan	1777	11	0.62	297	11(3.70)
16 Tamil Nadu	-	-	-	-	-
17 Tripura	459	160	34.86	3760	1(0.03)
18 Uttarakhand	218	17	7.80	214	48(22.43)
19 Uttar Pradesh	492	118	23.98	2499	34(1.36)
20 Chandigarh	-	-	-	-	-
21 Dadra & Nagar Haveli	-	-	-	-	-
22 Mizoram	-	-	-	-	-
23 Nagaland	-	-	-	-	-
24 Lakshadweep	-	-	-	-	-
<b>Total</b>	<b>45499</b>	<b>14957</b>	<b>32.87</b>	<b>470692</b>	<b>2508(0.53)</b>
<b>II. PLANTATIONS</b>					
1 Assam	767	540	70.40	666694	25516(3.83)
2 Himachal Pradesh	17	13	78.48	112	-
3 Karnataka	-	-	-	-	-
4 Kerala	620	378	60.97	27982	883(3.16)
5 Tamil Nadu	941	435	48.23	37036	767(2.07)
6 Tripura	106	62	58.49	7442	325(4.37)
7 Uttarakhand	5	5	100.00	127	-
<b>Total</b>	<b>2456</b>	<b>1433</b>	<b>58.35</b>	<b>739393</b>	<b>27491(3.72)</b>
<b>III. Other Establishments</b>					
1 Himachal Pradesh	-	2	-	61	6(9.84)
2 Rajasthan	15718	8	0.05	4	-
3 Tamil Nadu	4906	2189	44.62	190898	678(0.36)
4 Uttarakhand	57	-	-	-	-
<b>Total</b>	<b>20681</b>	<b>2199</b>	<b>10.63</b>	<b>190963</b>	<b>684(0.36)</b>

- = Nil.

Note Figures in brackets in col. 6 are percentages with reference to column 5.

Table-1-Concl'd.

	State/Union Territory	No. of claims accepted and paid either fully or partially		Number of cases in which special bonus was paid	Total amount of maternity benefits paid (in Rs.).	Amount of Bonus (included under Col. 10) (in Rs)
		Total	From Current year Claims			
	1	7	8	9	10	11
<b>I.</b>	<b>FACTORIES</b>					
1	Andhra Pradesh	110	92	11	10534428	44525
2	Assam	-	-	-	-	-
3	Bihar	-	-	-	-	-
4	Chhattisgarh	3	3	3	197296	27874
5	Delhi	7	-	-	492179	18562
6	Goa	15	-	5	263213	38120
7	Haryana	111	111	97	4034241	24250
8	Himachal Pradesh	16	-	16	306617	-
9	Jharkhand	9	9	-	425960	-
10	Karnataka	555	475	258	19272165	423253
11	Kerala	5	1	-	199521	11100
12	Meghalaya	-	-	-	-	-
13	Orissa	14	-	-	280469	-
14	Punjab	-	-	-	-	-
15	Rajasthan	11	-	-	-	-
16	Tamil Nadu	-	-	-	-	-
17	Tripura	1	1	1	3780	-
18	Uttarakhand	46	-	-	445153	-
19	Uttar Pradesh	19	13	292	2568396	1420484
20	Chandigarh	-	-	-	-	-
21	Dadra & Nagar Haveli	-	-	-	-	-
22	Mizoram	-	-	-	-	-
23	Nagaland	-	-	-	-	-
24	Lakshadweep	-	-	-	-	-
	<b>TOTAL</b>	<b>922</b>	<b>705</b>	<b>683</b>	<b>39023418</b>	<b>2008168</b>
<b>II.</b>	<b>PLANTATIONS</b>					
1	Assam	25516	2035	921	32368496	717087
2	Himachal Pradesh	-	-	-	-	-
3	Karnataka	-	-	-	-	-
4	Kerala	883	883	-	2159779	-
5	Tamil Nadu	156	241	13	2449333	-
6	Tripura	325	325	325	939018	-
7	Uttarakhand	-	-	-	-	-
	<b>TOTAL</b>	<b>26880</b>	<b>3484</b>	<b>1259</b>	<b>37916626</b>	<b>717087</b>
<b>III.</b>	<b>OTHER ESTABLISHMENTS</b>					
1	Himachal Pradesh	6	-	4	68969	68969
2	Rajasthan	-	-	-	-	-
3	Tamil Nadu	-	-	-	1864126	-
4	Uttarakhand	-	-	-	-	-
	<b>Total</b>	<b>6</b>	<b>-</b>	<b>4</b>	<b>1933095</b>	<b>68969</b>

- = Nil.

Note Figures in brackets are percentage of column 5.

**Table-2**

Percentage of claims made and the average amount of maternity benefits paid in Factories, Plantations and Others (By States) during the year 2009

State/Union Territory	Claims made and Benefits paid	
	No. of claims made per 100 women workers employed (%)	Average amount of maternity benefits paid per accepted claim (in Rs.)
1	2	3
<b><u>I. FACTORIES</u></b>		
1 Andhra Pradesh	0.19	95768
2 Assam	-	-
3 Bihar	-	-
4 Chhattisgarh	0.27	65765
5 Delhi	0.14	70311
6 Goa	9.80	17548
7 Haryana	0.86	36345
8 Himachal Pradesh	0.65	19164
9 Jharkhand	0.17	47329
10 Karnataka	0.17	34725
11 Kerala	0.01	39904
12 Meghalaya	-	-
13 Orissa	1.51	20034
14 Punjab	-	-
15 Rajasthan	3.70	-
16 Tamil Nadu	-	-
17 Tripura	0.03	3780
18 Uttarakhand	21.50	9677
19 Uttar Pradesh	0.76	135179
20 Chandigarh	-	-
21 Dadra & Nagar Haveli	-	-
22 Mizoram	-	-
23 Nagaland	-	-
24 Lakshadweep	-	-
<b>Total</b>	<b>0.20</b>	<b>42836</b>
<b><u>II. PLANTATIONS</u></b>		
1 Assam	3.83	1269
2 Himachal Pradesh	-	-
3 Karnataka	-	-
4 Kerala	3.16	2446
5 Tamil Nadu	0.42	15701
6 Tripura	4.37	2889
7 Uttarakhand	-	-
<b>Total</b>	<b>3.64</b>	<b>1411</b>
<b><u>III. OTHER ESTABLISHMENTS</u></b>		
1 Himachal Pradesh	9.84	11495
2 Rajasthan	-	-
3 Tamil Nadu	-	-
4 Uttarakhand	-	-
<b>Total</b>	<b>9.84</b>	<b>11495</b>

- = Nil.

**TABLE - 3**  
Number of complaints received and prosecutions launched in Plantations (By States)  
during the year 2009

State/Union Territory	No. of complaints received	No. of complaints investigated	No. of prosecutions launched	No. of convictions obtained	Amount of fine levied (Rs.)
<b><u>FACTORIES</u></b>					
1 Andhra Pradesh	-	-	-	-	-
2 Assam	-	-	-	-	-
3 Bihar	-	-	-	-	-
4 Chhattisgarh	-	-	-	-	-
5 Delhi	-	-	-	-	-
6 Goa	-	-	-	-	-
7 Haryana	-	-	-	-	-
8 Himachal Pradesh	-	-	2	2	3000
9 Jharkhand	-	-	-	-	-
10 Karnataka	-	-	-	-	-
11 Kerala	-	-	-	-	-
12 Meghalaya	-	-	-	-	-
13 Orissa	-	-	-	-	-
14 Punjab	-	-	-	-	-
15 Rajasthan	-	-	-	-	-
16 Tamil Nadu	-	-	-	-	-
17 Tripura	-	-	-	-	-
18 Uttarakhand	-	-	-	-	-
19 Uttar Pradesh	-	-	-	-	-
20 Chandigarh	-	-	-	-	-
21 Dadra & Nagar Haveli	-	-	-	-	-
22 Mizoram	-	-	-	-	-
23 Nagaland	-	-	-	-	-
24 Lakshadweep	-	-	-	-	-
<b>Total</b>	-	-	2	2	3000
<b><u>II PLANTATIONS</u></b>					
1 Assam	-	-	-	-	-
2 Himachal Pradesh	-	-	-	-	-
3 Karnataka	-	-	-	-	-
4 Kerala	3	3	-	-	-
5 Tamil Nadu	-	-	-	-	-
6 Tripura	-	-	-	-	-
7 Uttarakhand	-	-	-	-	-
<b>Total</b>	3	3	-	-	-
<b><u>III OTHER ESTABLISHMENTS</u></b>					
1 Himachal Pradesh	-	-	-	-	-
2 Rajasthan	-	-	-	-	-
3 Tamil Nadu	5	9	-	6	5750
4 Uttarakhand	-	-	-	-	-
<b>Total</b>	5	9	-	6	5750

- = Nil



**TABLE-4**

Maternity benefits paid under the Employees' State Insurance Act, 1948 during the financial year 2008-2009

	State/Union Territory	No. of insured women as on 31.3.2009	Number of maternity benefit case (confinement) during the year 2008-2009	Amount paid during the year 2008-2009
1	2	3	4	5
1	Andhra Pradesh	150707	1102(4.92)	18124284
2	Assam, Meghalaya & Tripura	5551	67(0.30)	753308
3	Bihar	2722	13(0.06)	253432
4	Chhattisgarh	2199	1(0.01)	43806
5	Delhi	67390	442(1.98)	8970867
6	Goa	20317	333(1.49)	5986529
7	Gujarat	57194	436(1.95)	5643352
8	Haryana	25955	443(1.98)	7033557
9	Himachal Pradesh	23479	166(0.74)	1996890
10	Jammu & Kashmir	11753	35(0.16)	422671
11	Jharkhand	13239	36(0.16)	442932
12	Karnataka	402410	5474(24.46)	68997764
13	Kerala	129225	3151(14.08)	36699535
14	Madhya Pradesh	19837	161(0.72)	2126978
15	Maharashtra	253207	3040(13.59)	54546734
16	Orissa	12732	124(0.55)	1103297
17	Punjab	95437	265(1.18)	3235227
18	Rajasthan	35441	287(1.28)	3260100
19	Tamil Nadu	438797	5459(24.40)	73102213
20	Uttar Pradesh	31555	652(2.91)	8285882
21	Uttarakhand	2042	29(0.13)	429289
22	West Bengal	47317	181(0.81)	2835523
23	Chandigarh	15875	104(0.46)	1728096
24	Puducherry	20121	375(1.68)	4952518
	<b>All Industries</b>	<b>1884502</b>	<b>22376(100.00)</b>	<b>310974784</b>

Source: The Employees' State Insurance Corporation New Delhi

Note. Figures in brackets in col. 4 are percentages the all-India