



# LEGAL RIGHTS OF EMPLOYEE/WORKPLACE RIGHTS YOU NEED TO KNOW!

## Introduction:

The employer is under a legal obligation to make the workplace comfortable, safe, and employee-friendly. All **employees** are entitled to certain rights and duties during their period of employment; the **Employment Law** states that the rights of employees are directly proportional to the employer's; these rights ensure employee protection from unwarranted discrimination based on gender, age, race, caste, or religion.



It is eminent to **learn about employee rights** as it assures the prevention of discrimination. The employment laws in India have laid down multiple provisions to safeguard the employee's interest. Employees are entitled to the right to privacy, fair remuneration, paid leaves, and financial perquisites. The legal rights of an employee are comprehensively explained as follows.

## 1) Employment Agreement

Under the **Employment Law**, all employees are entitled to get an employment agreement specifying the date they should join the company. The employment agreement aims to clarify the designation of the employee, the number of hours he's supposed to work, expectations the employer has of the employee, what constitutes as conflict or dispute, what needs to be done

when a dispute arises, the financial perquisites employee is entitled to get during his course of employment and the various leaves employee can take.

The purpose of the employment law is to safeguard both employer and employee interest by specifying the obligations and duties of the former and the latter to prevent any conflict in the future regarding liabilities. The agreement's purpose is to clarify the employer and the **employee** about their contractual obligations, duties towards each other, remedies if one fails to fulfil his duty, legal consequences on the omission of duties, etc. It is essential to secure the said agreement throughout the employment and even later if a conflict, dispute, or claim arises.

## 2) Basic Rights

To learn about employee rights, it is essential to first learn about relevant acts that ensure your basic rights. According to the [Factories Act, 1948](#), all employees are entitled to a get basic rights to health and safety at the workplace as part of a sound and viable working environment, no matter what kind of work it is. The employer is responsible for ensuring his employees get basic amenities. In workplaces like construction or mining sites, proper safety measures must be taken, hazardous equipment to be used under expert's supervision, no children under 14 must be allowed to work.

Failure to provide a safe and healthy environment because an employee suffers injury would make the employer liable to pay compensation as regulated under the Employees Compensation Act, 1923. The employers' basic amenities are supposed to provide their employees to include a hygienic work environment, clean drinking water, proper disposal of waste, sanitized restrooms, room for ventilation, sufficient lighting, etc.

## 3) Minimum Wage

According to the Minimum Wages Act, 1948, every employee is entitled to get a minimum wage sufficient to allow the person to sustain his lifestyle, availing the essential amenities. Wages given below the minimum wage are a blatant violation of Article 23 of the Constitution. Any person forced by his employer to work under the minimum wage comes under forced labour employer is liable for legal consequences. According to the official document for The Minimum

***Wages Act, 1948, different minimum wages are fixed for:***

- 1) Different kinds of employment
- 2) Different classes of work under the same kind of employment
- 3) Adults/ adolescents/ children, and apprentices
- 4) Different localities

**Central and state governments can fix the minimum wage according to the following factors:**

- a) Region
- b) Cost of living
- c) Type of work
- d) Working hours
- e) How much the employer can pay

## 4) Regular Salary and Bonus

There has to be equal pay for equal work irrespective of one's gender according to the Equal Remuneration Act, 1976. According to the Payment of Wages Act, 1936, an employee must be paid his remuneration in a timely fashion. On failure of payment, the employee can file a civil suit or approach the Labour Commissioner. The Payment of Bonus Act, 1965 states that any factory or organization which is five years old and employs 20 or more employees in any accounting year is legally obligated to pay a bonus to its employees. Any employee who gets a salary of Rs. 21,000/- or less per month and who has worked more than 30 days in any accounting year is eligible to get a bonus.

**There are two criteria by which an employee can get a bonus:**

- 1) Profit made by the company that year
- 2) There's an agreement between the employer and employee regarding payment of bonus dependent upon employee's productivity.

## 5) Leaves

The leave policy has to be framed in accordance with the State legislation and rules. Generally, each state provides at least seven holidays for national and state festivals. It is mandatory to grant leave to employees on the three national holidays of the country, which are Republic Day (Jan 26), Independence Day (Aug 15), and Gandhi Jayanti (Oct 2). Other national and festival holidays are at the sole discretion of the company.

***Apart from national leaves, employees are entitled to get other leaves which include:***

### 1) Casual leave

These leaves are saved for unforeseen circumstances/events when an employee may have to attend to some exigent matter. Usually, a company grants up to 3 days of casual leaves per month.

### 2) Privilege leaves

These leaves are carried over from the previous years and enjoyed by the employee in the current or upcoming years. Privilege leaves can be extended up to three years. These can also be redeemed in place of sick leaves if an employee has used all of his sick leaves. If an employee has balance privilege leaves left while leaving the job, then these leaves can be encashed.

### 3) Compensatory leave

These leaves can be taken by the employee if he/she works on official off days.

### 4) Leave without pay

If an employee does not have any leaves left in his balance, then he can take a leave, but his wages for that day will be deducted from the monthly salary. A paid leave can be granted to the employee at the discretion of the management authority.

### 5) Maternity leave

A female employee has a right to get maternity/pregnancy leave for 26 weeks. This leave can be availed during pregnancy and/or after the delivery. Maternity leave can also be taken if complications arise during pregnancy, premature birth, miscarriage, or medical termination of pregnancy.

### 6) Gratuity and Provident Fund

The Payment of Gratuity Act, 1972 explains gratuity as a retirement benefit paid to an employee at the time of retirement, termination, resignation, or employee's death. It is paid to employees who have completed at least five years of continuous service. If the employer refuses to pay the gratuity amount to the employee, he can consult [employment lawyers](#) to take legal action.

On the other hand, the provident fund is a retirement and savings scheme. The Employees Provident Fund Organization of India (EPFO) manages provident funds for all employees, ensuring they receive a salary in India. According to the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, employees have the option to keep a part of their salary invested in EPF, which the employer transfers straight into their PF accounts.

### 7) Protection from Sexual Harassment

Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 safeguards women from sexual harassment at the workplace. The Act specifies that if an organization has ten or more employees, there has to be an Internal Complaints Committee established to address cases of sexual harassment.

***This committee is mandatory to be made at all branches and units of an organization, and the committee should include:***

- 1) A Woman who is employed at the senior level as Presiding Officer.
- 2) Not more than two other employees who have appropriate legal and/or social knowledge for the cause of women's safety.
- 3) A person belonging to a non-governmental organization (NGO) committed to the cause of women or familiar with sexual harassment issues.

***The list of the offences as described in the official document of 'Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013' include:***

- a) Physical contact and advance
- b) A demand or request for sexual favours
- c) Making unsolicited sexually coloured remarks
- d) Showing pornography by coercion
- e) Any other unwarranted physical, verbal, or non-verbal conduct of sexual nature

According to Section 354 of Indian Penal Code 1860, if an accused of sexual harassment is convicted, he is punishable with up to three years of imprisonment with or without a fine. In this manner, the employees are entitled to certain rights, which are also the employer's duties.

Apart from the aforementioned rights, the employees are also entitled to get prior notice before termination, probation rights, adequate payment on overtime, etc.

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