

6.1 The social security schemes in India cover only a small segment of the organized work-force, which may be defined as workers who are having a direct regular employer–employee relationship within an organization. The social security legislations in India derives their strength and spirit from the Directive Principles of the State Policy as contained in the Constitution of India. These provide for mandatory social security benefits either solely at the cost of the employers or on the basis of joint contribution of the employers and the employees. While protective entitlements accrue to the employees, the responsibilities for compliance largely rest with the employers.

Social Security Laws

6.2 The principal social security laws enacted for the organised sector in India are :

- **The Employees' State Insurance Act, 1948;**
- **The Employees' Provident Funds & Miscellaneous Provisions Act, 1952** (Separate provident fund legislations exist for workers employed in Coal mines and tea plantations in the state of Assam and for seamen);
- **The Workmen's Compensation Act, 1923;**
- **The Maternity Benefit Act, 1961;**
- **The Payment of Gratuity Act, 1972**

Administration of Social Security Acts

6.3 The provisions of the Workmen's Compensation Act, 1923 are being administered exclusively by the State Governments. Cash benefits under the Employees' State Insurance Act, 1948 are administered by the Central Government through the Employees' State Insurance

Corporation (ESIC), whereas the State Governments and Union Territory Administrations are administering medical care alongwith ESIC under the Employees' State Insurance Act, 1948. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is administered by the Government of India through the Employees' Provident Fund Organisation (EPFO). In mines and circus industry, the provisions of the Maternity Benefit Act, 1961 are being administered by the Central Government through the Chief Labour Commissioner (Central) and by the State Governments in factories, plantations and other establishments. The Payment of Gratuity Act, 1972 is administered by the Central Government in establishments under its control, establishments having branches in more than one State, major ports, mines, oil-fields and railway companies and by the State Governments and Union Territory Administrations in all other cases. This Act applies to factories and other establishments.

The Employees' Compensation Act, 1923

6.4 The main objective of the Act is to impose an obligation upon the employers to pay compensation to workers for accidents arising out of and in the course of employment.

6.5 The Act applies to the persons employed in factories, mines, plantations, mechanically propelled vehicles, construction works and certain other hazardous occupations. The Act provides for payment of compensation to the employees and their dependents in case of injury and accident (including certain occupational diseases) arising out of and in the course of employment and resulting in disablement or death.

Entitlement

6.6 In order to be an "employee" within the meaning of section 2(1) (dd) of the Employees' Compensation Act, firstly, a person should be employed for the purposes of the employer's trade or business; and lastly, the capacity in which he works should be one set out in the list in Schedule II of the Act.

Benefits

6.7 The rate of compensation in case of death is an amount equal to fifty per cent of the monthly wages of the deceased workman multiplied by the relevant factor or an amount of Rs.1,20,000/-, whichever is more. Where permanent total disablement results from the injury, the compensation will be an amount equal to sixty per cent of the monthly wages of the injured workman multiplied by the relevant factor or an amount of Rs.1,40,000/-, whichever is more.

Administration

6.8 The State Governments administer the provisions of this Act through the Commissioners appointed for specified areas. The State Governments also make rules for ensuring that the provisions of the Act are complied with.

6.9 Keeping in view the recommendation of the Second National Commission on Labour and suggestions received from the related Ministries / Departments, certain amendments in the Workmen's Compensation Act, 1923 have been carried out in December, 2009.

The Employees State Insurance Act, 1948

Coverage

6.10 The Employees' State Insurance Act, 1948 applies to factories employing 10 or more persons. The provisions of the Act are being brought into force area-wise in stages. The Act contains an

enabling provision under which the "appropriate government" is empowered to extend the provisions of the Act to other classes of establishments industrial, commercial agricultural or otherwise. Under these provisions, the State Governments have extended the provisions of the Act to shops, hotels, restaurants, cinemas including preview theatres, road motor transport undertakings, newspaper establishments, educational and medical institutions employing 10 or more employees. Employees of factories and establishments covered under the Act drawing monthly wages upto Rs.15,000/- per month and Rs.25,000/- per month for persons with disabilities are covered under the Scheme. The ESI Scheme is now operated in 830 centres situated in 31 States/Union Territories. As on 31.03.2015, 2.03 crore insured persons and about 7.89 crore beneficiaries are covered under the Scheme. The number of factories and establishments covered by the end of the year had gone up to about 7.24 lakh.

Administration

6.11 The ESI Scheme is administered by a statutory body called the Employees' State Insurance Corporation (ESIC), which has members representing Employers, Employees, Central and State Governments, Medical Profession and the Parliament. The Union Minister for Labour & Employment is the Chairman. A Standing Committee, constituted from among the members of the Corporation, acts as the executive body for administration of the Scheme and is chaired by the Secretary, Ministry of Labour & Employment. There are 24 Regional Boards and 241 Local Committees in existence as on 31.12.2015. The Director General is the Chief Executive Officer of the Corporation and is also an ex-officio member of the Corporation as well as its Standing Committee. The Hqs. of the ESI Corporation is located at Delhi. The Corporation has 63 field offices- 23 Regional Offices, 37 Sub-Regional Offices, 01 Divisional Offices, 2 Camp Offices throughout the country.

Besides, there are 628 Branch Offices and 185 Pay Offices for administration of cash benefits to Insured Persons. Besides above, there are 3 Liaison Offices. For inspection and coverage of new factories/Establishment, 428 Inspection Offices have also been set up across the Country.

Funding and Operation of the Scheme

6.12 The ESI Scheme is mainly financed by contributions from the employers and employees. The rates of the employers' and the employees' share of contribution are 4.75% and 1.75%, respectively. The Corporation has prescribed a ceiling on reimbursement of Medical Care Expenditure to State Govt. at present the prescribed ceiling is Rs.2000/- per Insured Person Family Unit per annum (i.e. w.e.f.01.04.2014) with additional of Rs.150/- per IP per annum w.e.f. 01.04.2015. The expenditure on Medical Care is shared between ESI Corporation and State Government in the ratio of 7:1 with the ceiling. All capital expenditure on construction of ESI Hospitals and other buildings including their maintenance is borne exclusively by the Corporation.

Investment

6.13 All contributions received under the ESI Act and all other money belonging to the fund which are not immediately required for defraying day to day expenses are invested in the manner prescribed under ESI (Central) Rules. As on 31.12.2015, the total investment of fund was Rs. 46,742.47 crore. Out of this, an amount of Rs. 11,527.69 crore was invested in the Special Deposit Account with Central Government and the balance amount of Rs.35,214.78 crore was invested in fixed deposits with nationalized banks.

Arrears of ESI dues

6.14 A sum of Rs. 2013.12 crore was in arrears as on 31.03.2015 on account of default by the

employers of covered factories/establishments. Out of this, an amount of Rs. 1203.02 crore was not recoverable, for the present due to various reasons, such as factories having gone into liquidation, whereabouts of employers not known, recovery having been disputed in Courts, etc. The balance, amounting to Rs. 810.10 crore, represents recoverable arrears. The Corporation has been taking necessary recovery action through Recovery Machinery, Legal and penal actions, under various provisions of the Employees' State Insurance Act, 1948 and under Indian Penal Code for recovery of ESI dues.

Health & Cash Benefits under ESI Scheme

6.15 Besides from medical care, the beneficiaries under ESI Scheme are also provided an array of cash benefits. It is payable in times of physical distress due to sickness, temporary or permanent disablement resulting in loss of earning capacity, confinement in respect of insured women etc. Dependents of insured persons who die of employment injury caused by accident or occupational disease are entitled to monthly payments called the dependent benefits.

6.16 Cash benefits payments are made at the Branch Offices and Pay Offices set up by the Corporation in areas where the Scheme is in operation. The list of Cash Benefits provided under the ESI Scheme are as following:

➤ Sickness benefit

- ✓ Sickness Benefit
- ✓ Enhanced Sickness Benefit
- ✓ Extended Sickness Benefit
- ✓ Benefit

➤ Disablement benefit

- ✓ Temporary Disablement Benefit
- ✓ Permanent Disablement

- Dependant's Benefit
- Maternity Benefit
- Medical Benefit
- Other Benefit
 - ✓ Confinement Expenses
 - ✓ Funeral Expenses
 - ✓ Vocational Rehabilitation
 - ✓ Physical Rehabilitation
 - ✓ Unemployment Allowances (RGSKY)
 - ✓ Skill Upgradation Training under RGSKY

Medical Care

6.17 The Scheme provides reasonable medical facilities from primary health care to super speciality treatment in respect of the insured persons and their family members. The medical care under the scheme is administered by the State Governments, except in Delhi. The Corporation also directly runs 36 Hospitals as on 31.03.2015 including 5 ODC Hospitals in various states as per details given in **Table 6.1**

Employees' Provident Funds and Miscellaneous Provisions Act, 1952

6.18 The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is a welfare legislation enacted for the purpose of instituting provident funds, pension fund and deposit linked insurance fund for employees working in factories and other establishments. The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress and/or unable to meet family and social obligations and to protect them in old age, disablement, early death of the bread winner and in some other contingencies.

6.19 Presently, the following three Schemes are in operation under the Act through the Employees' Provident Fund Organization (EPFO):

- **Employees' Provident Funds Scheme, 1952**
- **Employees' Deposit Linked Insurance Scheme, 1976**
- **Employees' Pension Scheme, 1995**

Coverage of Establishments and Members

6.20 Presently, the Act is applicable to 187 specified industries/classes of establishments as is specified in Schedule I of the Act or any activity notified by the Central Government in the Official Gazette and employing twenty or more persons. Apart from the provision for compulsory coverage, provision also exists under section 1(4) of the Act for voluntary coverage. As on 31.03.2015, there were 8,61,123 establishments and factories covered under the Act with a membership of 1584.70 lakh under EPF Scheme, both in the Exempted and Un-exempted sectors. With effect from 01.09.2014, an employee, on joining the employment in a covered establishment and getting wages upto Rs.15,000/- is required to become a member of the fund.

Arrear Management

6.21 The arrears under all the schemes as on 31.03.2015 were of the order of Rs. 5211.23 crore. Out of this 54.82% pertains to not immediately realizable category being the amount locked in courts and where stay has been granted by the courts. In order to recover the arrears, the EPF Organisation takes various actions under the provisions of Section 8 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. It takes steps to get the stay orders vacated to recover arrears under the not realizable category. It also launches prosecution against the defaulting employers under Section 14 of the Act and

prosecutes employers under section 406/409 of the Indian Penal Code in case they deduct employee's share of contribution but do not remit the same to the Fund. During the year 2014-15, arrears amounting to Rs.2944.61 crore were realized out of a total workload of 8155.84 crore under both unexempted and exempted sector of establishments.

Service to Members

6.22 A member of the Employees Provident Fund Scheme is entitled to withdraw the amount lying in his account together with interest on quitting service. During the year 2014-15, 60.72 lakh EPF claims were settled. The scheme also provides for partial withdrawals from the Provident Fund Account to meet contingencies like illness, invalidation and also to provide financial assistance to discharge their social responsibilities like marriage of self, children or higher education of children and construction of dwelling house. At the end of a financial year a member is also entitled to receive annual statement of account indicating his balances. During the year 2014-15, 1465.38 lakh annual statement of accounts were issued. At the end of the year 119.32 lakh (pending annual accounts of PF exempted establishment -75.84 lakh; PF Unexempted establishments- 43.48 lakh) annual statement of accounts remained pending for issue.

Employees Deposit Linked Insurance Scheme, 1976

6.23 Employees Deposit-Linked Insurance Scheme, 1976 (EDLI) is applicable to all factories / establishments with effect from 1st August, 1976. All the employees, who are members of the Employees' Provident Fund Scheme, are required to become members of this Scheme. Employers are required to pay contributions to the Insurance Fund at the rate of 0.5 per cent of pay i.e., basic wages, dearness allowance including cash value of

food concession and retaining allowance, if any. The benefit under para 22 of this Scheme on the death of an employee has been further increased by 20% in addition to the benefits already provided therein. During the year 2014-15, a sum of Rs. 936.12 crore comprising of employers' contribution was deposited. During the year 2014-15, 30,218 EDLI claims were settled. At the end of 2014-15, the EPFO had cumulative investments of Rs. 15722.99 crore under this Scheme.

The Employees' Pension Scheme, 1995

6.24 The Employees' Pension Scheme, 1995 has been introduced w.e.f. 16.11.1995. With the introduction of the Pension Scheme, the erstwhile Employees' Family Pension Scheme, 1971, has ceased to operate. However, the pensioners who were drawing benefits under the erstwhile Employees' Family Pension Scheme, 1971 will continue to draw Family Pension under the Employees' Pension Scheme, 1995.

Benefits under the Scheme

6.25 The Employees' Pension Scheme, 1995 provides the following benefits to the members and their families:

- Monthly member pension
- Disablement pension
- Widow/ widower pension
- Children pension
- Orphan pension
- Disabled Children/Orphan Pension
- Nominee pension
- Pension to dependent parents
- Withdrawal benefit

6.26 The category-wise break up of pension claims (all benefits) settled by the Employees' Provident Fund Organisation during the year 2014-15 is indicated in the following Table:

Category of Claims	Number of Claims Settled
Monthly Pension Benefits(10A+10D)	3.82 lakh
Other than Monthly Pension(10B+10C)	52.83 lakh
Retirement-cum-withdrawal benefit	

Contribution to Pension Fund

6.27 The Scheme is financed by transferring 8.33% of the Provident Fund contributions from employers' share and by contribution @ 1.16% of basic wages of employees by the Central Government. All accumulations in the ceased Employees' Family Pension Fund constitute the corpus of the Pension Fund. During the year 2014-15, Rs. 24,251.50 crore were received as Pension Fund Contributions out of which Rs. 21,951.70 crore were collected from employers' share and Rs. 2299.80 crore were contributed by the Central Government. At the end of 2014-15, the EPFO had cumulative investments of Rs.2,38,831.84 crore under the EPS Scheme.

Pension beneficiaries

6.28 The beneficiaries of the ceased Employees' Family Pension Scheme, 1971 continue to get benefits under the new employees' Pension Scheme, 1995. As on 31.03.2015, there were 35,66,857 members, 8,90,527 spouses, 19,884 parents, 5,86,935 children, 30,115 orphans and 10,069 nominees receiving pension under the Scheme. Total amount disbursed among the pensioners during the year was Rs. 7212.53 crore through the nationalized banks and post offices.

The Maternity Benefit Act, 1961

6.29 The Act was passed in September, 1961 and received its assent on 12th December, 1961.

The Act regulates the employment of women in factories, mines, the circus industry, plantation units and shops or establishments employing 10 or more persons except the employees covered under the Employees State Insurance (ESI) Act, 1948 for certain periods before and after birth and provides for maternity and other benefits. It extends to the whole of India, except the State of Sikkim. It also provides for maternity leave and payment of certain monetary benefits to women workers subject to fulfilment of certain conditions during the period when they are out of employment on account of pregnancy. The services of a woman worker cannot be terminated during the period of her absence on account of pregnancy except for gross misconduct. Maximum period for which a woman can get maternity benefit is twelve weeks. The Act has been amended in 2008. A medical bonus of Rs.3,500/- is being provided from 19.12.2011 under the Act.

The Payment of Gratuity Act, 1972

Objective

6.30 The Payment of Gratuity Act, 1972 provides for a scheme of compulsory payment of gratuity to employees engaged in factories, mines, oil-fields, plantations, ports, railway companies, motor transport undertakings, shops or other establishments on the termination of his employment after he has rendered continuous service for not less than five years on his superannuation, or on his retirement or resignation, or on his death or disablement due to accident or disease. Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employees is due to death or disablement. Payment of Gratuity is an employer's liability under the extant provisions of the PG Act.

Coverage

- Every factory, mine, oil-field, plantation, port and railway company.

- Every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed or were employed on any day of the preceding twelve months.
- Every motor transport undertaking in which ten or more were employed on any day of the preceding twelve months.
- Such other establishments or class of establishments in which ten or more employees are employed or were employed on any day of the preceding twelve months as the Central government may, by notification, specify in this behalf.

6.31 A shop or establishment once covered shall continue to be covered notwithstanding that the number of persons employed therein at any time falls below ten.

Entitlement

6.32 Every employee, other than apprentice irrespective of his wages is entitled to receive gratuity after he has rendered continuous service for five years or more. Gratuity is payable at the time of termination of his service either (i) on superannuation or (ii) on retirement or resignation or (iii) on death or disablement due to accident or disease. Termination of services includes retrenchment. However, the condition of five years' continuous service is not necessary if services are terminated due to death or disablement. In case of death of the employee, the gratuity payable to him is to be paid to his nominee, and if no nomination has been made, then to his heirs.

Calculation of Benefits

6.33 For every completed year of service or part thereof in excess of six months, the employer pays

gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn. As per section 4(3) of the Act, the amount of the gratuity payable to an employee shall not exceed Rs.10,00,000/-.

Administration

6.34 The Act is enforced both by the Central and State Governments. Section 3 authorizes the appropriate government to appoint any officer as a controlling authority for the administration of the Act. Mines, major ports, oilfields, railway companies and establishment owned or controlled by the Central Government and establishment having branches in more than one State are controlled by the Central Government. The remaining factories and/ establishments are looked after by the State Governments.

6.35 The Central/State Governments appoint the Controlling Authorities and Inspectors for different areas, to ensure that the provisions of the Act are complied with. The Central/State Governments also frame rules for administration of the Act. In Maharashtra, the labour courts in different localities are notified as Controlling Authority for the administration of the Act. In pursuance to a judgment of Hon'ble Supreme Court, the Payment of Gratuity (Amendment) Bill, 2008 to amend the definition of 'employee' under section 2 (e) of the act in order to cover the teachers in educational institutions retrospectively i.e. with effect from 3rd April, 1997, i.e. the date of notifying the educational institutions under the Act, has been notified on 31.12.2009. Also, in order to enhance the ceiling on amount of gratuity from Rs.3.50 lakh to Rs.10 lakh, amendment in the Payment of Gratuity Act, 1972 has been made w.e.f. 24.05.2010.

Table 6.1

Sl. No.	State	Place
1.	Assam	Beltola
2.	Bihar	Phulwarisharif, Patna
3.	Chandigarh UT	Ramadarbar, Chandigarh
4.	Delhi	Basaidarapur
5.	Delhi	Jhilmil
6.	Delhi	Okhla
7.	Delhi	Rohini
8.	Gujarat	Bapu Nagar, Ahmedabad
9.	Gujarat	Naroda
10.	Gujarat	Vapi
11.	Haryana	Gurgaon
12.	Haryana	Manesar
13.	Haryana	Faridabad
14.	Himachal Pradesh	Baddi
15.	Jammu & Kashmir	Bari Brahmana, Jammu
16.	Jharkhand	Namkum, Ranchi
17.	Jharkhand	Adityapur
18.	Karnataka	Rajajinagar, Bangalore
19.	Karnataka	Peenya
20.	Kerala	Asramam, Kollam
21.	Kerala	Udyogmandal
22.	Kerala	Ezhukone
23.	Kerala	Paripally
24.	Madhya Pradesh	Nanda Nagar, Indore
25.	Maharashtra	Andheri, Mumbai
26.	Odisha	Rourkela
27.	Punjab	Ludhiana
28.	Rajasthan	Jaipur
29.	Rajasthan	Bhiwadi
30.	Tamil Nadu	Coimbatore
31.	Tamil Nadu	KK Nagar, Chennai
32.	Tamil Nadu	Tirunelveli
33.	Telangana	Nacharam, Hyderabad
34.	Telangana	S.S. Sanathnagar, Hyderabad
35.	Uttar Pradesh	Noida
36.	West Bengal	Joka, Kolkata

ESI Medical Infrastructure (As on 31.03.2015)	
ESI Hospitals (Nos.)	151
Beds available in ESI Hospitals (Nos.) (including annexes/reserved beds)	22522
Reserve Beds in State Government Hospitals	2805
Medical Officers including Specialist	7683
ESI Dispensaries/ISM Units	1459/188
Panel Clinics	954

