

FAQs on Labour Codes

S. No.	Query	Reply
1.	Which rules will be applicable during the transition period?	<ul style="list-style-type: none">As per the provisions of Section 6 of General Clauses Act, 1897, old rules will remain in force till final notification of new rules under the Code, to the extent these are in line with Codes.
2.	What does the term “wages” mean?	<p>The definition of “Wages” covers:</p> <ul style="list-style-type: none">All remuneration whether by way of salaries, allowances or otherwise payable to a person employed. This includes: Basic pay, Dearness allowance, Retaining allowance, if anyIf the payments/allowances other than Basic pay, Dearness allowance and Retaining allowance exceed 50% or such percentage as notified of all remuneration, then amount exceeding 50% or such percentage as notified shall be added in the “Wages”.
3.	Definition of wages and the components it would cover.	<p>The definition of “Wages” covers:</p> <ul style="list-style-type: none">All remuneration whether by way of salary, allowances or otherwise. These include Basic pay, Dearness allowance and Retaining allowance, if any.If the allowances (except gratuity and retrenchment compensation) exceeds 50% of all remuneration, the excess amount shall be added back to wages.Performance based incentives, Employee Stock Option Plans (ESOPs), variable part of the component or reimbursement-based payments to the employee shall not be part of the wages.

4.	What is the 50% rule for allowances?	<ul style="list-style-type: none"> • If the allowances and benefits together (except gratuity and retrenchment compensation) exceed 50% of the all remuneration, the excess amount shall be added back to wages. • Such added amount shall be treated as wages for statutory purposes.
5.	Whether Leave Encashment be part of allowances?	<ul style="list-style-type: none"> • As mentioned in Section 2(y) of Code on Wages, 2019, leave encashment is not a part of allowances.
6.	Does this definition of wages apply to all labour laws?	<ul style="list-style-type: none"> • This single definition of wages applies across all four Labour Codes • The same definition applies uniformly for statutory calculations
7.	Explain the allowance rule with a clear illustration?	<ul style="list-style-type: none"> • Total remuneration: ₹76,000 per month • Basic Pay + Dearness Allowance: ₹20,000 • Allowances: ₹40,000 • Other components (Gratuity and retrenchment compensation): ₹16,000 • Total allowance paid: ₹56,000 • Max. allowance allowed for calculation of wages (50% of total remuneration): ₹38,000 • Excess allowance over 50% limit: ₹2000 • ₹2000 shall be added back to wages (Basic Pay + DA) for statutory compliances. • Statutory calculations shall be made on revised wages: ₹22,000
8.	Whether Gratuity calculation will be applicable prospectively or retrospectively.	<ul style="list-style-type: none"> • Gratuity will be applicable w.e.f. 21st Nov, 2025 i.e. date of enforcement of the Code.
9.	Clarification on gratuity calculation in view of many companies considering December month as year end.	<ul style="list-style-type: none"> • Gratuity will be applicable w.e.f. 21st Nov, 2025 i.e. date of enforcement of the Code. Establishments may make provision as per accounting norms.

10.	When gratuity is payable to an employee?	<p>Gratuity shall be payable on following events:</p> <ul style="list-style-type: none"> • On termination • On superannuation (retirement due to age) • On resignation • On death or disablement due to accident or disease • On expiration of a fixed-term employment contract • On any other event notified by the Central Government
11.	Are there any special provisions related to gratuity in certain cases?	<ul style="list-style-type: none"> • Completion of five years of continuous service is not necessary in case of: <ul style="list-style-type: none"> ❖ Death (paid to nominee or legal heirs) ❖ Disablement ❖ Expiration of fixed-term employment ❖ Other events notified by the Central Government • If the nominee or heir is a minor, the share shall be deposited with a competent authority and invested in bank/financial institution for the benefit of such minor until majority
12.	How is gratuity calculated?	<ul style="list-style-type: none"> • For every completed year of service or part thereof in excess of six months: • 15 days' wages per year (or such number as notified by Central Government) based on the rate of wages last drawn. <p>Special cases:</p> <ul style="list-style-type: none"> • Piece-rated employees: Daily wages calculated as average of total wages for the three months preceding termination (excluding overtime) • Seasonal employees: 7 days' wages per season • Fixed-term employment or deceased employees: Gratuity paid on pro-rata basis

		<ul style="list-style-type: none"> • The maximum gratuity is as notified by the Central Government which is currently ₹ 20 lakhs. • For employees re-employed after disablement: <ul style="list-style-type: none"> ➤ Wages for the period preceding his disablement shall be taken to be the wage received by him during that period. ➤ Wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.
13.	Does gratuity affect other agreements or awards?	<ul style="list-style-type: none"> • Nothing shall affect the right of an employee to receive better gratuity terms under any: <ul style="list-style-type: none"> • Award • Agreement • Contract with employer
14.	Whether the person drawing wages ₹18,000/- or more will be covered under the definition of worker as per OSH & WC Code.	<ul style="list-style-type: none"> • Any person, who is employed in a supervisory capacity drawing wages exceeding ₹18,000/- (or an amount as may be notified by the Central Government from time to time) is not included in the definition of worker.
15.	Clarity on Core and Non-core activities.	<ul style="list-style-type: none"> • Core and non-core activities are clearly defined under the OSH & WC Code, 2020 [Section 57]. Principal employer may engage contract labour for core activities which are ordinarily carried out through contractor, or of intermittent nature or involve sudden increase in volume of work requiring time-bound completion.
16.	Whether Journey Allowance for ISMW within the State for the long-distance workers may be allowed.	<ul style="list-style-type: none"> • As per OSH & WC Code, 2020, the employer shall pay to and fro journey allowance to ISMW once in a year from his native place to place of employment.
17.	How will the ESI coverage be governed until the finalisation of Rules?	<ul style="list-style-type: none"> • The definition of wage has come into force with notification of the Code w.e.f. 21st Nov, 2025.
