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RECENT LABOUR LAW UPDATES

SIGNIFICANT CHANGES EFFECTED UNDER THE PAYMENT OF BONUS (AMENDMENT) ACT, 2015

The latest amendment to the Payment of Bonus Act, 1965 (“Principal Act”) has come into effect through the Payment of Bonus (Amendment) Act, 2015 (“Amendment”). The Amendment has brought about significant changes to Section 2 (Definitions) and Section 12 (Calculation of bonus with respect to certain employees).

BACKGROUND

The Act provides a statutory right to employees of an establishment to share the profits of his/her employer. As per the Principal Act, any employee who was drawing a salary or wage not exceeding ten thousand rupees per month was eligible to be paid a bonus.

Section 2 (13) of the Principal Act states that, *"employee" means any person (other than an apprentice) employed on a salary or wage not exceeding ten thousand rupees per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.*

As per Section 12 of the Principal Act which lays down the ‘**Calculation of bonus with respect to certain employees**’- *Where the salary or wage of an employee exceeds **three thousand and five hundred rupees per mensem**, the bonus payable to such employee under section 10 or, as the case may be, under section 11, shall be calculated as if his salary or wage were **three thousand and five hundred rupees per mensem.***

For the purposes of calculation of the bonus to be paid to an employee under the Principal Act, INR 3,500 (Indian Rupees Three Thousand Five Hundred) per month was the maximum amount taken even if an employee was drawing up to INR 10,000 (Indian Rupees Ten Thousand Only) per month.

AMENDMENTS TO THE PRINCIPAL ACT

As per the Amendment, the words “ten thousand rupees” in Section 2 (13) have been substituted for the words “twenty one thousand rupees”.

Further, in Section 12 of the Principal Act, for the words "three thousand and five hundred rupees" at both the places where they occur, the words "**seven thousand rupees or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher**" has been substituted.

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The following Explanation was inserted at the end, namely:-

'Explanation.-For the purposes of this section, the expression "scheduled employment" shall have the same meaning as assigned to it in clause (g) of section 2 of the Minimum Wages Act, 1948 (11 of 1948).'

ANALYSIS

The Amendment has sought to make more employees eligible for bonus by raising the ceiling limit of the monthly wages. The Amendment also increases the amount of bonus that would be received by the eligible employee as against the Principal Act which provided that the bonus payable to an employee will be in proportion to his or her salary or wage. However, if an employee's salary is more than INR 3,500 per month, for the purposes of calculation of bonus, the salary will be assumed to be INR 3,500 per month. After the Amendment, this limit has been enhanced to INR 7,000 per month or the minimum wage for the scheduled employment (whichever is higher).

Although the Amendment received the assent of the President of India on 31 December, 2015, the Amendment shall be deemed to have come into force on the 1st day of April, 2014. Hence, it has a retrospective effect. This would mean that the employees who have already been paid a bonus for the financial year 2014-15, would now become eligible for arrears. The employees who draw a salary between INR 10,000 and INR 20, 999 per month would be eligible for bonus starting from the financial year 2014-2015 due to the retrospective nature of the Amendment. The labour intensive industries would have a significant impact as the differential/balance amount for the financial year 2014-105 would have to be provided in the current financial year to the employees. However, no specific date for the payment has been provided for in the Amendment.

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