

ELB E-BULLETIN

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Welcome to the eighth edition of the e-Bulletin (Volume VII) brought to you by the Employment, Labour and Benefits practice group of Khaitan & Co. This e-Bulletin covers regulatory developments (including those relating to the upcoming labour codes), case law updates and insights into industry practices that impact businesses from a sector agnostic standpoint.

Labour Codes: Story So Far

In this section, we help you in understanding the developments that have taken thus far on the implementation of the 4 labour codes on wages, social security, industrial relations, and occupational safety, health, and working conditions, which received the Presidential assent between the years 2019 and 2020.

Broadly speaking, the labour codes, which aim to consolidate and consequently replace 29 Central labour laws, are yet to be brought into force, barring provisions relating to



Employees' pension fund



Central Advisory Board on minimum wages



Identification of workers and beneficiaries through Aadhaar number for social security benefits

Moreover, even if the codes are fully brought into effect, the same would require the issuance of rules, schemes, and notifications of the relevant governments so as to have a comprehensive revised compliance regime.

Under the labour codes, the 'appropriate government' for an establishment can be the Central Government or the state government, depending on the nature of its operations or the existence of multi-state operations. Such appropriate government has the power to inter alia issue rules detailing some of the substantive aspects broadly set out under the codes and also prescribing procedural compliances such as filings, maintenance of registers, etc. In the past year, several key industrialised states such as Haryana, Delhi, Maharashtra, Gujarat, Andhra Pradesh, Telangana, Tamil Nadu, and Karnataka released draft rules under some or all of the labour codes for public consultation. As of now, 4 out of a total of 36 states and union territories are yet to publish draft rules on the code on wages, while 5 states have not released draft rules on code on industrial relations, social security and occupational safety, health and working conditions.



In the case of *Indian Federation of Application-Based Transport Workers (IFAT) v Union of India and Others* Writ Petition (Civil) Number 1068 of 2021, the Supreme Court while addressing concerns regarding the delay in implementing the Code on Social Security, 2020, has directed the Central Government to file an affidavit specifying the timeline for the implementation of the Code on Social Security, 2020.

Recently, the Ministry of Labour and Employment has formed an internal committee with an intent to push the Indian states to ensure alignment in the existing laws with the labour codes and thereby fast track the implementation of the labour codes. Such an attempt has been put forth to *"improve on the ease of doing business, attract investments and facilitate job creation"*.

Regulatory Updates

In this section, we bring to your attention, important regulatory developments in the form of notifications, orders, bills, amendments, etc. witnessed in the past one month in the context of employment and labour laws.

Delhi formulates rules under Transgender Persons (Protection of Rights) Act 2019

By way of a notification dated 10 July 2025, the Delhi Government published the Delhi Transgender Persons (Protection of Rights) Rules, 2025 (Delhi Transgender Persons Rules) in the Official Gazette. The Delhi Transgender Persons Rules outline provisions for obtaining identity certificates for transgender persons, procedures for communication in case of application rejection, and the right to appeal. Additionally, the Delhi Transgender Persons Rules include welfare measures, anti-discrimination provisions, guidelines for establishments to ensure equal opportunities for transgender persons, and a grievance redressal mechanism for transgender persons.

Ministry of Labour and Employment notifies the EDLI Amendment Scheme

The Ministry of Labour and Employment has notified the Employees' Deposit-Linked Insurance (Amendment) Scheme, 2025 (EDLI Amendment Scheme), on 18 July 2025 in the Official Gazette. The EDLI Amendment Scheme has amended paragraph 22 (scales of assurance benefit and the minimum average balance to be maintained by an employee) of the Employees' Deposit Linked Insurance Scheme, 1979 (EDLI Scheme) to include a sub-paragraph after paragraph 22(1) of the EDLI Scheme. The new inclusion provides that in the event of an employee's death (*who is a member under the Employees' Provident Funds and Miscellaneous Provisions Act 1952 (EPF Act) read with the relevant schemes, or a member of any exempted provident fund trust under the EPF Act*) during the preceding 12 months or during the period of their membership, a minimum assurance benefit of INR 50,000 shall be payable even if the average provident fund balance is lower than INR 50,000.

Further, the EDLI Amendment has also amended paragraph 22(3) of the EDLI Scheme to include a proviso which specifies that for determining the required continuous 12 months' service, any gap of up to 60 days between two employments will be ignored and treated as continuous service. Lastly, the EDLI Amendment



has introduced paragraph 22(5) which specifies that in the event of an employee's death who is a member under the EPF Act and relevant schemes or of an exempted provident fund trust within 6 months of the last contribution while still on the rolls of the employer, the assurance benefit will remain payable, in accordance with the EDLI Scheme.

EPFO issues notification for furnishing accurate gross wages for availing benefits under the ELI Scheme

Through a circular dated 22 July 2025, the Employees' Provident Fund Organisation (EPFO) has clarified that the eligibility for availing incentive under the Employment Linked Incentive scheme is for employees whose gross wages do not exceed INR 1,00,000. Accordingly, it is imperative that all the employers submit information relating to the gross wages of employees in the respective field of electric challan cum return, correctly, from the wage month of August 2025 onwards.





We have explained and elaborated on the ELI Scheme in our previous editions of the Bulletin / ERGO, which may be accessed [here](#), [here](#) and [here](#).

ESIC launches Amnesty Scheme, 2025

Through a circular dated 24 July 2025, the Employees' State Insurance Corporation (ESIC) has launched Amnesty Scheme for 2025 for the withdrawal of cases filed against/by employers under Section 75 (matters to be decided by employees' insurance court), Section 82 (appeal), Section 84 (punishment for false statements), and Section 85 (punishment for failure to pay contributions) of Employees' State Insurance Act, 1948. This will help in reducing the number of litigations by providing a mechanism for the resolution of disputes outside the court, and to earn the goodwill of stakeholders. There are various conditions provided for withdrawal of cases, which include payment of the contribution along with interest, production of records, etc.

Odisha introduces guidelines concerning employment of female workers during night shifts in factories

The government of Odisha vide a notification dated 24 July 2025 has issued a notification concerning the guidelines to be adhered to as regards employment of women workers during night shifts in factories. As per the notification, the factories in Odisha are permitted to engage women workers between 7 PM to 6 AM subject to the fulfilment of certain conditions by the employer including

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|  <p>Obtaining consent of the women worker in writing to work during night shift</p> |  <p>Ensuring that CCTV cameras are maintained in the work areas where women workers are employed.</p> |
|  <p>Ensuring adequate security and safe transportation facilities are provided to the women workers to pick and drop them at their residence</p> |  <p>Providing separate toilet / washroom facilities, and boarding and lodging facilities under the control of women wardens</p> |



Further, every occupier employing women employees during night shift, shall submit a self-certification in the prescribed manner (as annexed to the notification) electronically in the designated portal of the department that all facilities and conditions prescribed in the notification have been adhered to.

Uttar Pradesh promulgates Uttar Pradesh Factories (Seventy-Fifth) Amendment Rules, 2025

By way of a notification dated 4 July 2025, the government of Uttar Pradesh has promulgated the Uttar Pradesh Factories (Seventy-Fifth) Amendment Rules 2025 (UP Rules). The UP Rules amend multiple paragraphs of the schedules set out under the Uttar Pradesh Factories Rules, 1950 concerning prohibition on employment of women, adolescents and children in multiple categories of factories (such as, lead processes, sand blasting, bath, etc) to permit the employment of only women workers in such categories throughout, subject to the conditions including that the



Employer should have obtained the consent of the women workers



Occupier shall modernise the processes from time to time.



International safety standards are adopted by the occupier for ensuring occupational safety and health

Delhi exempts establishments from few work time provisions, thereby doing away with permission requirement

Through a notification dated 7 August 2025, the government of Delhi has exempted all shops and establishments from Sections 14 (employment of young persons and women), 15 (opening and closing hours) and 16 (close day) of the Delhi Shops and Establishments Act, 1954 and has done away with the erstwhile permission requirement for employers to seek exemption from these sections. We have covered this update in detail in our ERGO which may be accessed [here](#).

Bihar introduces a new shops and establishment legislation

The government of Bihar has enacted the Bihar Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2025 (Bihar S&E Act) on 12 August 2025 published in the Official Gazette. The Bihar S&E Act sets out provisions concerning the terms and conditions of employment of individuals in shops and establishments located in Bihar, thereby replacing the erstwhile Bihar Shops and Establishments Act, 1953. This Bihar S&E Act has been introduced with a view to modernise regulations, thereby aligning with the current needs of the hour, including digitisation of records and permission for women workers to work during night shifts provided the requisite conditions prescribed under the Bihar S&E Act are adhered to. Further, the Bihar S&E Act has revised its registration requirement in line with the shops and establishment legislations applicable to Maharashtra and Gujarat, by mandating registration for every shop and establishment employing 10 or more workers.



Karnataka strengthens implementation of POSH Act

The government of Karnataka has directed all public and private offices to strictly abide by the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), thereby mandating the employers to upload details of their internal committees on the central She-Box portal. The directive further urges the employers to ensure that all complaints received through the portal or even directly are addressed promptly. For all establishments that have not yet constituted an internal committee despite being eligible under the POSH Act are instructed to constitute an internal committee in accordance with the POSH Act at the earliest.

Case Updates

In this section, we share important judicial decisions rendered in the past one month from an employment and labour law standpoint.

Accident occurring while commuting to/from workplace will be construed to have arisen out of and in the course of employment: Supreme Court

In the case of *Daivshala and Others v Oriental Insurance Company Limited and Others* Civil Appeal Number 6986 of 2015 (Arising out of Special Leave Petition (Civil) Number 16573 of 2012), an ex-employee unfortunately met with a fatal accident while he was travelling to reach the factory. The accident occurred while he was 5 Km away from the factory.

When a claim was filed under the Employees' Compensation Act, 1923 (EC Act), the employer and insurance company took a defence that, as the accident occurred outside the premises of the factory, it was not out of or in the course of employment. The Supreme Court observed that the EC Act is a beneficial piece of legislation meant for welfare of the workers.

The court held that while there has been ambiguity around the term 'accident arising out of and in the course of employment', an accident occurring to an employee while they are commuting from their residence to place of employment for work and from place of employment to their residence after work will be an accident arising out of and in course of employment. This is, however, subject to the nexus between the circumstances, time and place of accident and the employment being established.

Proceedings under the EPF Act being quasi-judicial in nature should not be conducted after the passing of liquidation order: National Company Law Tribunal (Kochi Bench)

In the case of *Regional Provident Fund Commissioner v CA Mahalingam Suresh Kumar* (Liquidator of M/s Raihan Healthcare Private Limited) IA (IBC)/57/KOB /2024 in IBA/240 /KOB/2019, the EPFO had filed an application to declare that the amount due to EPFO is an exempted item from the liquidation estate, and EPFO will be entitled to get the entire amount before liquidation of the corporate debtor.



EPFO claimed that provident fund/pension fund dues were excluded from the 'liquidation estate' and any delay in submission of claim (as was the situation in the present matter) from EPFO cannot be a ground of rejection. The liquidator submitted that it is well established that no suit or proceedings can be initiated during the moratorium period imposed under Section 14 (moratorium i.e. freezing/suspension of any ongoing/new legal actions) and Section 33 (initiation of liquidation) of the Insolvency and Bankruptcy Code 2016.

The Tribunal held that, as the proceedings under the EPF Act are also quasi-judicial in nature, they should not have been conducted after the passing of the liquidation order. Further, once claims are filed before the IRP for an assessed amount, subsequent re-assessment for the same period under same heads after initiation of moratorium is also not permissible.

Distinct registrations under various statutes are not conclusive to establish existence of separate units: Supreme Court

In the case of *M/s Torino Laboratories Private Limited v Union of India and Others* Civil Appeal Number 9540 of 2018, 2 pharmaceutical companies were set up by members of one family. While one entity i.e. the initial company was covered under the EPF Act, the second company i.e. the appellant company opposed directions by EPFO to deposit contributions on the ground that the number of employees did not exceed the prescribed threshold.

The EPFO did not accept such contention, as an inspection had established that the applicant company was situated within the premises of the initial company. While the appellant company denied any liability, they accepted voluntary coverage of EPF Act and communicated that they will start contributing. The dispute pertained to the period before such communication.

The Supreme Court observed that to determine if 2 units are 1 integrated unit, there is no universal test. Each case needs to be decided on its own peculiar facts, as in some case, unity of ownership, management and control may be the decisive factor, while in others, functional integrity or unity of employment may be the vital consideration. Further, having separate registration under a different statute or even an independent financial statement cannot be conclusive grounds to claim that units are different.

In the present case, the court held that the companies were in same industry with premises on contiguous plots of land. Their offices and communication channels were same along with unity of finance. Therefore, the 2 entities were rightly treated as a common entity under the EPF Act.

Pending criminal proceedings which are not related to official duty cannot be bona fide ground for withholding gratuity payment: Punjab and Haryana High Court

In the case of *Suresh Kumar Sharma (deceased) through legal representatives v State of Haryana and Others* Civil Writ Petition Number 15069 of 2019, there was a claim to release gratuity which was being refused due to criminal proceedings pending before Supreme Court against the retired employee (who passed away during the pendency of proceedings). The employer has relied on service rules wherein it was mentioned that if an employee is found guilty of grave misconduct in a departmental/judicial proceeding during his service, their pension may be withheld.



However, the court held that withholding gratuity because criminal appeal is pending against the deceased employee is not correct. The deceased employee's family cannot be deprived from the right of gratuity specifically when the High Court had acquitted the deceased employee in the matter. Further, criminal proceedings must be in connection with official duties of an employee. The respondent employer was directed to release gratuity along with interest and regularize pension of the deceased employee.

A factory manager can be considered as employer under Gratuity Act: Kerala High Court

In the case of Thankamma and Others v The Regional Joint Labour Commissioner and Others Writ Petition (Civil) Number 24720 of 2025, the background was that a notice for claim of gratuity was received by the manager of the employer factory, who failed to appear before the Controlling Authority under the Payment of Gratuity Act, 1972 (Gratuity Act). Thereafter, an ex-parte order was filled, and revenue recovery proceedings were initiated against the factory. The petitioners then filed an application seeking condonation of delay.

The petitioners contended that the owner of the factory was deceased when the ex-parte order was passed. Hence, any proceeding seeking gratuity should have been initiated against his legal representatives. The respondent claimed that the factory manager is a statutorily recognized person to be treated as 'employer' under the Gratuity Act who has received notice of the proceedings under the Gratuity Act. The death of the owner/occupier should not have any consequence to the proceedings.

The court accepted the submissions of the respondent and held that 'employer' was properly represented in the proceedings before the Controlling Authority by service of notice to the manager of the factory.

Industry Insights

In this section, we delve into interesting human resources related practices and/or initiatives as well as industry trends across various sectors in the past one month.

Artificial Intelligence (AI) emerges as a major solution for recruitment bottlenecks

It is noted that AI has come out as a [powerful solution](#) to recruitment bottlenecks for India Inc. Employers are experimenting with AI-driven practices such as anonymised CVs, bias-free job descriptions, and chatbots that improve application completion rates. By combining these data - driven insights with human judgment, Indian organisations are not only speeding up hiring cycles and improving quality of hires but also making the process more inclusive and candidate - friendly, positioning AI as a strategic partner in building future-ready workforces.



We hope the e-Bulletin enables you to assess internal practices and procedures in view of recent legal developments and emerging industry trends in the employment and labour law and practice landscape.

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