

# THE Payment Of BONUS Act 1965

It was a custom followed for a very long time by Indian employers to pay to their regular employees annually an amount, mostly equal to month's wages as a reward for their contribution to the prosperity of the organisation. This was in tacit recognition of the fact that the employees were a partner in the business venture, and also of the fact that the enterprise could not have survived or made progress, but for the efforts of the employees. Such payments were normally made during the diwali festival on the day of Lakshmi Pooja.

In response to the demands of the trade unions in India, the government passed the Payment of Bonus by the employers to their employees in every accounting year in which they made profits. Thus, Bonus became

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a compulsory profit sharing by the employers.

The Act was further amended in the year 1979. By this amendment, payment of minimum Bonus to the employees became a statutory requirement even if there were no profits but as in words of other, Bonus was no longer a share in a profit but as good as a wage payment, as the employers had to pay the wages to employees irrespective of whether there were profits or not, similarly the amendment ~~requirement~~ the employers to pay Bonus irrespective of whether they were profits or not.

# Scope And Application

The Act extends to the whole of India. It applies to-

- a. Every factory; and
- b. Every other establishment in which twenty or more persons are employed on any day during an accounting year.

The Act empowers the governments to make the Act applicable to any other establishment even if the number of employees is less than twenty. However, it is necessary that where there are at least ten persons employed. Before doing so, the Government has to give a prior notice of two months to such establishment.

# Computation Of Gross profits And Available Surplus

Section 4 gives the method of computing the gross profits of an establishment. This is done according to the first schedule, which is annexed to the Act. Depreciation, development rebate Reserve and other reserves are to be added back to the net profits as shown in the profit and loss account. Bonus paid to the employees the previous year, provident fund contribution of the employers and the gratuity paid to the employees in the etc are also to be added back to the net profits. Capital receipts, capital profits, profit of business situated outside India, expenditure or losses, refund of direct taxes etc. are to be deducted. The sum so arrived at shall be the gross profit of the establishment for the respective accounting year.

Section 5 lays down that the available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6.

Section 6 states, that certain sums such as depreciation admissible under income tax, investment allowance and direct tax payable by the employer shall be deducted from the gross profits.

It has already been explained that 67% or 60% of the available surplus of the establishment, depending upon whether it is banking company or other company shall be the allocable surplus of that establishment which shall be used for the purpose of payment of Bonus to the employee.

## Eligibility for Bonus

Section 8 of the Act declares that every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

## Disqualification for bonus

Section 9 provides that an employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for.

- a. fraud
- b. Riotous or violent behaviour while on the premises of the establishment.

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payment of minimum bonus, it has come to be regarded as payment of deferred wage rather than payment of gift or an ex-gratia payment. It also cannot be called the profit sharing for the simple reason that the payment of bonus has to nothing to do with whether the employer has made any profits or not.

## Payment of maximum Bonus

As per section 11, where in respect of any accounting year the allocable surplus exceeds the amount of minimum bonus payable to the employees, the employers shall in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year, bonus which shall be an amount in proportion to the salary or wages earned by the employee during the accounting year subject to maximum of twenty % of such salary or wages.

## Bonus Calculation for Certain employees

Section 12 provides that where the salary or wages of an employee exceeds Rs. 2500/- per month, the Bonus payable to such employee (maximum bonus or minimum bonus) shall be calculated as if his salary were two thousand five hundred rupees per month.

This section puts a limit on the payment of Bonus as regards its calculation. We have already seen in the definition of employee that a person employed for wages exceeding Rs. 3500/- per month is not an employee within the meaning of the Act and therefore is not entitled to any Bonus at all. Section 12 further lays down that an employee drawing a salary which is more than Rs. 2500/- per month shall be entitled to Bonus but his bonus will be calculated ignoring his wages which are



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in excess of Rs 2500/- per month