

News brief

In a few minutes from now, we will complete 75 years of Indian Independence and start celebrating 76th Indian Independence Day. Let the festivity and celebration continue. On this auspicious occasion, we remember the following from our Freedom Fighters;

- ≡ I measure the progress of a community by the degree of progress which women have achieved
- BR Ambedkar
- ≡ You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty.
- Mahatma Gandhi
- ≡ Swaraj is my birthright and I shall have it
- Bal Gangadhar Tilak
- ≡ A country's greatness lies in its undying ideal of love and sacrifice that inspire the mothers of the race.
- Sarojini Naidu

Happy Independence Day

**May the Tricolour always fly high & higher
and touch the sky**

தாயின் மணிக்கொடி பாரீர்! - அதைத்
தாழ்ந்து பணிந்து புகழ்ந்திட வாரீர்!



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THE INSIGHT

Weekly Newsletter from HR Vidyalaya Corporate Services LLP
Volume – 129 Dated 14th August 2022 www.hrvidyalaya.in



Dear "The Insight" Readers,

We have launched a new column "AskSree" to answer your questions regarding work life.

Organizational Psychologist Gayathiri Sridharan uses Psychological Researches to answer your everyday dilemmas.

She received her training from Loughborough University, UK. As an Organizational Development Consultant with almost a decade of experience in various realms of Strategic Human Resource Management, she is committed to help organizations maximize their effectiveness.

Send your queries to @ itsmegayathiri@gmail.com
Solutions will be published in "The Insight"



This week's Solution for Nivedha's Quest

Quest	Solution
<p>Dear Sree,</p> <p>I am setting up a start-up business with a team of seven people in Chennai Guindy area and I have arranged a space in Workafella. I am just wondering whether to arrange lunch inside the office building or to ask the team to take a break to go outside to have lunch. Will that be a good idea as I have read that people feel fresh when they stretch their legs for some time.</p> <p style="text-align: right;">- Nivedha</p>	<p>Dear Nivedha,</p> <p>I really appreciate your idea of giving a chance for moving our body however there is a caveat as we live in hot city.</p> <p>In a recent study, researchers simulated a real-world scenario during the Japanese summer. Ninety-six students completed a simple arithmetic test in an air-conditioned room before either staying indoors, walking outside, or resting outside for 15 minutes. They then returned indoors to complete a second arithmetic test, and any changes in performance were measured.</p> <p>Walking in a hot outdoor environment impaired cognitive performance; however, it was not simply the exposure to the hot environment that impaired cognition. Rather, it was the combination of walking and being outside in the summer heat that had impacted cognitive performance. Furthermore, this effect was more pronounced in people, specifically men, who were sleep deprived, having slept less than 5 hours.</p> <p>So, it is better to stay inside the office to enhance productivity.</p> <p>Reference: University of Tsukuba. (2022, February 28). Your lunchtime walks in the summer could be making you less productive: Researchers find that a brief walk outside on a hot day impairs cognitive performance.</p>

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ESI snippet

- **Funeral Expenses:** Everyone knows that the Funeral expenses are payable in respect of death of Insured Member (who is covered under insurable employment).
- **But Funeral Expenses are also paid to –** death of a person, who is no longer in insurable employment but is in receipt of periodical payment of permanent disablement benefit.

Maternity Benefit – Snippet

Woman employee during Training or Probationary is also eligible under Maternity Benefit Act, if she fulfills eligibility condition.

Besides, a Female Apprentice with one surviving child may be granted maternity leave for a period of 90 days from the date of commence without payment of stipend and the apprenticeship training period shall be extended accordingly. The monthly stipend shall be paid to the apprentice during such extended period.

Benefit Rule of Construction in legislature

In construing a social welfare legislation, the court should adopt a beneficent rule of construction; if a section is capable of two constructions, that construction should be preferred which fulfills the policy of the Act, and is more beneficial to the persons in whose interest the Act has been passed. When, however, the language is plain and unambiguous, as here, we must give effect to it whatever may be the consequences, for, in that case, the words of the statute speak the intention of the legislature. When the language is explicit, its consequences are for the legislature and not for the court to consider. The argument of inconvenience and hardship is a dangerous one and is only admissible in construction where the meaning of the statute is obscure and there two methods of construction. In their anxiety to advance beneficent purpose of legislation, the courts must not yield to the temptation of seeking ambiguity when there is none.

Lalappa Lingappa and others vs. Laxmi Vishnu Textile Mills Ltd. Hon'ble Supreme Court

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Snippets on PF Act

Determination of Head Count | Consideration as Member for payment of PF

The word 'employment' must therefore be construed as employment in the regular course of business of the establishment, such employment obviously would not include employment of a few persons for a short period on account of some passing necessity or some temporary emergency beyond the control of the company

***Hon'ble Supreme Court of India
Regional Provident Fund vs Shri T. S. Hariharan on 1 April, 1971***

Voluntary Coverage under EPF & MP Act

The establishments covered on voluntary basis are required to comply with the provisions of the Act uniformly at par with other covered establishments and there is no scope for Opting out on a subsequent date.

RPFC is liable under Consumer Protection Act

When a young child is taken to a hospital by his parents and the child is treated by the doctor, the parents would come within the definition of consumer having hired the services and the young child would also become a consumer under the inclusive definition being a beneficiary of such services. The definition clause being wide enough to include not only the person who hires the services but also the beneficiary of such- services which beneficiary is other than the person who hires the services, the conclusion is irresistible that both the parents of the child as well as the child would be consumer within the meaning of Section 2(1)(d)(ii) of the Act and as such can claim compensation under the Act"

A perusal of the scheme clearly and unambiguously indicate that it is a 'service' within the meaning of Section 2(1)(o) and the member a 'consumer' within the meaning of Section 2(1)(d) of the Act.

Regional PF Commissioner Vs. Shiv Kumar Joshi... Hon'be SC 1999

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Not an Employee under PF Act

Apprentices employed under Apprentices Act or under standing orders of establishment are excluded, i.e. they are not employees. The model standing orders merely state that an 'apprentice' is a learner who is paid an allowance during the period of his training.

Where a person is engaged to perform casual jobs – directly by employer – from the provisions of the Act, similar jobs if performed through a Contractor are considered as an Employee of the Contractor (meaning, the Contractor needs to cover such persons, under EPF Act). A person doing Casual jobs is different from a Casual employee.

House Rent Allowance (HRA) – Snippets

- ❑ **Section 10(13A) of Income Tax Act prescribes a quantum of exemption, to the HRA received by an employee from his employer, subject to the satisfaction of certain basic conditions. Employer – Employee relationship is a must.**
- ❑ **Income should be from “Salary” and not “Income from other resources”**
- ❑ **The Place where the accommodation is situated is divided into 2 – Metro (exemption is 50%) and Non-Metro (exemption is 40%)**

- ❑ **HRA granted to an employee who is residing in a house/flat owned by him is not exempt from income-tax**
- ❑ **Whereas the House was owned by wife of the assessee & the assessee had paid rent to her thru bank transfer entry, the assessee had fulfilled twin requirements of section 10(13), i.e., occupation of house and payment of rent, and, thus, would be entitled to exemption under section 10(13A)**

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House Rent Allowance (HRA) – Snippets

Major cities (Chennai, Mumbai, Kolkata, Delhi)	Other places
Exemption is Least of 1. Allowance actually received 2. Rent paid in excess of 10% of Salary 3. 50% of Salary *Salary : Basic + DA	Exemption is Least of 1. Allowance actually received 2. Rent paid in excess of 10% of Salary 3. 40% of Salary *Salary : Basic + DA
<p>It is important to note from the above formula that, where rent paid is less than or equal to 10 per cent of salary, the amount exempt will be nil.</p>	
<p>The following basic conditions must be satisfied:</p> <ul style="list-style-type: none">≡ The allowance must be specifically granted to the employee by his employer to meet expenditure actually incurred on payment of rent in respect of residential accommodation occupied by the assessee.≡ The employee should not be the owner of the residential accommodation occupied by him.≡ The employee must have actually incurred expenditure on payment of rent.	
<p>Section 192(2D) read with rule 26C makes it obligatory for DDO to obtain following details/evidences in respect of exemptions for house rent allowance :</p> <ul style="list-style-type: none">(i) Rent paid to the landlord(ii) Name of the landlord(iii) Address of the landlord(iv) PAN of the landlord	