

## ESI Act : Wages definition under Section 2(22)

*(Ref. Hon'ble SC Harihar Polyfibres vs The Regional Director, Esi ... on 4 September, 1984, for comprehensive definition)*

**Wages means** : all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled **(Contractual and the definition is exhaustive in using the word means)**

**And** : Includes any payment to an employee in respect of any period of authorised leave, lockout, strike which is not illegal or layoff **(non-contractual and inclusive part)**

**And** : other additional remuneration, if any, paid at intervals not exceeding two months **(inclusive part and need not be under the terms of employment)**

**But** : does not include four specific items of payment **(exclusion clause)**

If Attendance Bonus (volunteered by Employer to increase productivity) if paid Quarterly, will it attract the definition of wages?

Yes, as,

1. It is payable as per the specific Terms (if an employee attends all 26 days in a month)
2. There was a *consensus ad idem* (meeting of minds of all parties involved)- an express contractual agreement
3. The Bonus is payable monthly if an employee is eligible by attending the work for such month, but was paid quarterly, (for reasons, including avoidance of ESIC)
4. It forms part of the first para of Wages definition, as it is payable for each such month, when employee is eligible

**Where the Employers of Shop and Establishments were currently not bothered about the Provisions under the Factories Act – Are to be mandatorily comply with few provisions - if the Factories Act is subsumed under The Occupational Safety, Health and Working conditions Code as the Contract Labour Act also will be simultaneously be subsumed in the same code.**

**Incentive to Employer for engaging Benchmark Disabled persons Effective 1<sup>st</sup> April 2016**

- 1. Without any wage ceiling Payment of employers' contribution towards EPFO & ESIC for the first 03 years is made by the Government of India. Only Admin charges are to be paid by the Employer**
- 2. One-third of Gratuity amount due & admissible to such employees will be reimbursed by Government.**
- 3. the stipend during the apprenticeship period payable to the persons with disabilities shall be borne by the Government.**

**Planning to invest in National Pension Scheme (NPS)? Individual can claim Tax Benefit under 3 sections:**

- a) Section 80CCD (1) – within the limit of Rs.1.5 lakhs under Section 80C**
- b) 80CCD (1b) – Rs.50,000 additional, over & and above the limit under Section 80C;**
- c) 80CCD (2) - employer's contribution (limited to 10% of employee's Basic + DA) – This deduction is available in the New Tax Regime also**

**Engaging Women Employees? Prohibited areas are....**

- 1. Hazardous processes – ALL**
- 2. Dangerous process–Prohibited/Restricted**
- 3. Cotton Openers**
- 4. Machinery in Motion**
- 5. Even stationary parts of the machine could not be cleaned by woman if the machinery as a whole is in motion**
- 6. Night shifts – only with safety measures**
- 7. A pregnant woman in her last stages of Pregnancy – not to be assigned with any difficult or hard work that may affect pregnancy**
- 8. Section 4691) (b) of Mines Act, prohibits employment of women in any part of Mine which is below ground**