

**REPORT
ON THE WORKING OF
THE MATERNITY BENEFIT ACT, 1961
DURING THE
YEAR 2008**



**GOVERNMENT OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT
LABOUR BUREAU
SHIMLA/CHANDIGARH**

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1. Scope and Objective

1.1 The Maternity Benefit Act, 1961 extends to the whole of the Indian Union and applies to every factory, mine, plantation and circus industry including any such establishment belonging to government but excluding all the establishments covered under the provisions of the Employees State Insurance Act, 1948. The State Governments are, however, empowered to extend the provisions of the Act to any other establishment subject to the prior approval of the Central Government. The Act also applies to Shops and Commercial Establishments in which 10 or more persons are employed or were employed on any day of the preceding 12 months, and establishments wherein persons are employed for the exhibition of equestrian, acrobatic and other performances. Every woman entitled to the payment of maternity benefit under the Act shall, notwithstanding the application of the Employees State Insurance Act, 1948 to the factory or other establishments in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under Section 50 of the Act. There is no wage limit for coverage under the Maternity Benefit Act provided a woman is not covered under the Employees State Insurance Act, 1948.

2 Main Provisions

2.1 The Act regulates the payment of maternity benefits to women employees in certain establishments for certain specified periods before and after the child birth and prescribes for the payment of maternity benefits to them at the rate of average daily wage for the period of their actual absence from duty up to a maximum period of six weeks immediately preceding and including the day of the delivery and for six weeks immediately following that day. The Act was last amended by the Maternity Benefit (Amendment) Act, 1988 which came into force from 10th January, 1989. The amended Act provides, *inter-alia*, for extension of its provisions to Shops and other Commercial Establishments employing 10 or more persons. The qualifying period of service for the entitlement of maternity benefit under the Act has been reduced from 160 days to 80 days of actual work in the preceding twelve months and the rate of medical bonus payable to women employees has been enhanced from Rs. 250 to Rs. 2500 if the employer does not provide pre-natal confinement and post-natal care free of charge. The average daily wage of a woman worker for this purpose is to be calculated on the basis of wage earned by her for the

days on which she worked during the period of three calendar months immediately preceding the date of her absence on account of maternity and the rate of maternity benefit would be fixed at the average daily wages for three calendar months or minimum wages fixed or revised under the Minimum Wages Act, 1948 or Rs. 10 per day, whichever is higher.

2.2 A provision has also been made for filing of complaints, if any, with the competent court by the aggrieved women workers, or office bearers of a registered trade union of which such women workers are members or a voluntary organisation, or an inspector notified under the Act. The complaints can be filed only with the prior approval of the Inspector. These provisions of the amended Act were brought into force with effect from 10.1.1989. Under the Act, there are also provisions for certain other benefits in case of miscarriage, premature birth or illness arising out of pregnancy.

3 Administration of the Act

3.1 The Central Government is responsible for administration of the provisions of the Act in Mines and in Circus Industry, while the concerned State Governments are responsible to check whether the Maternity Benefit Act is being enforced in factories, plantations and other establishments. The Central Government has entrusted the responsibility of administration of the Act to the Chief Labour Commissioner (Central) in respect of Circus Industry.

4 Working of the Act during the year 2008

4.1 The data presented in this report are based on the annual returns/reports furnished by the concerned administering authorities in the Central & States pertaining to those establishments which have submitted returns for the year 2008. This may not, therefore, be strictly comparable over time due to varying response rate from year to year. The Maternity Benefit Act, 1961 is no more enforced by the Directorate of Mines Safety and as such the information on Mines under the Maternity Benefit Act for Mines (other than Coal) is 'NIL' for the year 2008.

5 Analysis of data

5.1 In the factory sector, out of 49,469 factories covered by the Act, only 23.04 per cent factories /establishments submitted annual returns (Table-1). The average daily employment of women workers in these establishments was 4,00,734 out of which, only (0.29 per cent) women workers claimed maternity benefit during the year while 1082 claims were accepted and an amount of and Rs. 333.18 lakh paid during the year 2008, including Special bonus to the tune of Rs. 11.15 lakh in 734 cases.

5.2 In Plantation Sector, out of 1,358 plantations, returns from 74.30 per cent plantations were received, in which the average daily employment of women workers was 3,02,658 out of

which 5.70 per cent women workers claimed maternity benefit and all were accepted and paid during the year under report. Special bonus was paid in 2,592 cases. An amount of Rs. 367.29 lakh was paid as maternity benefit which included bonus to the tune of Rs. 7.07 lakh.

5.3 In other establishments, out of 15,145 establishments, returns from 14.65 per cent establishments were received, in which the average daily employment of women workers was 16,91,159 out of which 0.34 per cent women workers claimed maternity benefit and all were accepted and paid during the year under report.

5.4 The number of women workers who claimed maternity benefit and its percentage to the total number of women workers employed in the units which furnished returns and the average amount of maternity benefits paid per case in different States separately for factories and plantations are presented in Table 2. While the percentage reflects the incidence of claims per hundred women workers employed, the average amount of maternity benefits paid per accepted claim indicates the extent of incidence of monetary impact per case. The percentage of women workers claiming maternity benefits to the total number of women workers employed in factories was the highest at 4.2 in Jammu & Kashmir, followed by 3.7 in Tamil Nadu and 2.6 in Haryana. In plantations, the highest percentage was in Assam(6.2) followed by Tripura (6.0). The highest average amount of maternity benefits paid was Rs. 1,75,418 in Maharashtra in the factory sector and Rs. 11,762 in Tamil Nadu in the plantation sector and 15,814 in Himachal Pradesh in other establishments.

5.5 The details relating to the number of complaints received, number of complaints investigated, number of prosecutions launched, number of convictions obtained and the amount of fine levied in factories, plantations and other establishments separately during the year 2008 are given in Table 3. In the plantation sector, no fresh complaints were received during the year in Tamil Nadu. However, 2 earlier complaints were investigated and 6 prosecutions were launched. In the other establishments 700 complaints were received in Tamil Nadu out of which 512 were investigated and 10 prosecutions were launched.

5.6 The statistics pertaining to maternity benefits paid under the Employees' State Insurance Act, 1948 are presented in Table 4. The extent of coverage under the Act varied from State to State. The number of women workers who claimed maternity benefit under this Act was the highest in Tamil Nadu 5419(26.74 per cent) followed by Karnataka 5064 (24.99 per cent) and Maharashtra 2732 (13.48 per cent). The amount paid per case was highest in Tamil Nadu State (Rs. 6.46 crore) followed by Maharashtra (Rs. 6.29 crore) and Karnataka (Rs. 5.43 crore)

during the year under report. In all, 20267 women workers claimed the maternity benefit and Rs. 27.10 crore was paid to them as maternity benefit under the ESI Act, 1948.

5.7 Since women workers can claim maternity benefits either under the Maternity Benefit Act, 1961 or under the Employees' State Insurance Act, 1948, the total of the respective figures under these Acts is expected to reflect the progress in the extension of the particular benefit to eligible women workers. The total number of claims paid under the Maternity Benefit Act, 1961 and the Employees' State Insurance Act, 1948 was 38,339 and the total amount paid as maternity benefits under both these statutes comes to Rs. 34.10 crore during the year, 2008.

6 Limitations of statistics:

6.1 The states of Kerala, Maharashtra, Manipur, West Bengal, Union Territories of Daman & Diu and Puducherry have not submitted the returns for the year 2008. The information furnished in Table 4 is on financial year basis as available from Employees State Insurance Corporation, New Delhi whereas the data in all other Tables is on calendar year basis. The Act is not being implemented in the states of Mizoram, Nagaland, Sikkim and Union Territory of Lakshadweep.

Table-1
State-wise Maternity Benefits paid in factories ,Plantations and Other establishments during the year 2008

State/Union Territory	Number of establishments covered by the Maternity Benefit Act	Number of establishments submitting returns	Response Rate (%)	Average No. of women workers employed daily in establishments submitting returns	No. of women who claimed maternity benefit during the year
1	2	3	4	5	6
I. FACTORIES					
1 Andhra Pradesh	11557	4107	35.54	48839	61(0.12)
2 Arunachal Pradesh	-	-	-	-	-
3 Assam	-	-	-	-	-
4 Bihar	20	11	55.00	103	-
5 Chhattisgarh	2929	365	12.46	1490	2(0.13)
6 Delhi	7936	1493	18.81	5065	3(0.06)
7 Goa	5	14	28.00	12	16(1.33)
8 Gujarat	1580	1	0.06	22893	204(0.89)
9 Haryana	653	399	61.10	8720	226(2.59)
10 Himachal Pradesh	1077	487	45.22	2977	21(0.71)
11 Jammu & Kashmir	241	131	54.36	1324	63(4.76)
12 Jharkhand	308	308	100.00	5349	12(0.22)
13 Karnataka	11334	3423	30.20	289322	431(0.15)
14 Kerala	9	9	100.00	251	6(2.39)
15 Madhya Pradesh	7024	152	2.16	3328	5(0.15)
16 Maharashtra	76	51	67.11	1467	7(0.48)
17 Meghalaya	76	51	67.11	10	-
18 Orissa	652	19	2.91	977	16(1.64)
19 Punjab	540	54	10.00	511	-
20 Rajasthan	2099	11	0.52	298	4(1.3)
21 Tamil Nadu	15	13	86.67	1067	40(3.75)
22 Tripura	423	128	30.26	3295	-
23 Uttarakhand	392	28	7.14	413	12(2.90)
24 Uttar Pradesh	500	122	24.40	2609	25(0.96)
25 West Bengal	20	17	85.00	364	1(0.27)
26 Andaman & Nicobar Islands	2	2	100.00	10	-
27 Chandigarh	1	1	100.00	40	2(5.00)
28 Dadra & Nagar Haveli	-	-	-	-	-
29 Daman & Diu	..	..	..	..	..
30 Puducherry	..	..	..	..	..
Total	49469	11397	23.04	400734	1157(0.29)
II. PLANTATIONS					
1 Assam	770	555	72.08	266067	16504(6.20)
2 Himachal Pradesh	17	11	64.71	108	-
3 Karnataka	-	-	-	-	-
4 Kerala	..	..	..	..	..
5 Tamil Nadu	460	379	82.39	31671	476(1.50)
6 Tripura	106	59	55.66	4730	283(5.58)
7 Uttarakhand	5	5	100.00	82	-
Total	1358	1009	74.30	302658	17263(5.70)
III. Other Establishments					
1 Himachal Pradesh	-	2	-	8	3(37.50)
2 Rajasthan	10945	6	0.05	3765	-
3 Tamil Nadu	4151	2212	53.29	165386	571(0.34)
4 Uttarakhand	49	-	-	-	-
Total	15145	2220	14.66	169159	574(0.34)

- = Nil. Note Figures in brackets in col. 6 are percentages with reference to column 5.
.. = Not available

Table-1-Concl'd.

State/Union Territory	No. of claims accepted and paid either fully or partially		Number of cases in which special bonus was paid	Total amount of maternity benefits paid (in Rs.).	Total Amount of Bonus (included under Col. 10) (Rs)
	Total	From Current year Claims			
1	7	8	9	10	11
I. FACTORIES					
1 Andhra Pradesh	61	54	15	3744608	37873
2 Arunachal Pradesh	-	-	-	-	-
3 Assam	-	-	-	-	-
4 Bihar	-	-	-	-	-
5 Chhattisgarh	2	2	2	108962	500
6 Delhi	3	-	-	119693	-
7 Goa	-	-	-	-	-
8 Gujrat	167	157	104	1999609	39039
9 Haryana	226	226	198	5958735	49500
10 Himachal Pradesh	21	-	20	88075	-
11 Jammu & Kashmir	55	-	-	639029	-
12 Jharkhand	12	12	-	499278	-
13 Karnataka	431	399	138	14394120	203750
14 Kerala	6	-	-	308220	7981
15 Madhya Pradesh	5	-	-	279609	114261
16 Maharashtra	7	-	3	1227924	44442
17 Meghalaya	-	-	-	-	-
18 Orissa	16	-	-	275550	-
19 Punjab	-	-	-	-	-
20 Rajasthan	4	-	-	-	-
21 Tamil Nadu	40	12	7	1386282	23240
22 Tripura	-	-	-	-	-
23 Uttarakhand	7	-	-	634715	10362
24 Uttar Pradesh	16	9	247	1434252	575157
25 West Bengal	1	-	-	65444	3038
26 Andaman & Nicobar Islands	-	-	-	-	-
27 Chandigarh	2	-	-	154136	6834
28 Dadra & Nagar Haveli	-	-	-	-	-
29 Daman & Diu	:	:	:	:	:
30 Puducherry	:	:	:	:	:
TOTAL	1082	871	734	33318241	1115977
II. PLANTATIONS					
1 Assam	16504	2874	2306	33552591	636296
2 Himachal Pradesh	-	-	-	-	-
3 Karnataka	-	-	-	-	-
4 Kerala	:	:	:	:	:
5 Tamil Nadu	203	434	3	2387757	555
6 Tripura	283	283	283	788814	70750
7 Uttarakhand	-	-	-	-	-
TOTAL	16990	3591	2592	36729162	707601
III. OTHER					
ESTABLISHMENTS					
1 Himachal Pradesh	3	-	3	47442	-
2 Rajasthan	-	-	-	-	-
3 Tamil Nadu	-	-	-	1503543	-
4 Uttarakhand	-	-	-	-	-
Total	3	-	3	1550985	-

- = Nil. Note Figures in brackets are percentage of column 5.

.. = Not available

Table-2

Percentage of Claims Made and the Average Amount of Maternity Benefits
paid in Factories, Plantations and Others (By States) During the Year 2008

State/Union Territory	Claims made and Benefits paid	
	No. of claims made per 100 women workers employed (%)	Average amount of maternity benefits paid per accepted claim (in Rs.)
1	2	3
<u>I. FACTORIES</u>		
1 Andhra Pradesh	0.12	61387
2 Arunachal Pradesh	-	-
3 Assam	-	-
4 Bihar	-	-
5 Chhattisgarh	1.94	54481
6 Delhi	0.20	39898
7 Goa	-	-
8 Gujrat	0.73	11974
9 Haryana	2.59	26366
10 Himachal Pradesh	0.71	4194
11 Jammu & Kashmir	4.15	11619
12 Jharkhand	0.22	41607
13 Karnataka	0.15	33397
14 Kerala	2.39	51370
15 Madhya Pradesh	0.15	55922
16 Maharashtra	0.48	175418
17 Meghalaya	-	-
18 Orissa	1.64	17222
19 Punjab	-	-
20 Rajasthan	1.34	-
21 Tamil Nadu	3.75	34657
22 Tripura	-	-
23 Uttarakhand	1.69	90674
24 Uttar Pradesh	0.61	89641
25 West Bengal	0.27	65444
26 Andaman & Nicobar Islands	-	-
27 Chandigarh	5.00	77068
28 Dadra & Nagar Haveli	-	-
29 Daman & Diu	..	..
30 Puducherry	..	..
Total	0.27	30793
<u>II. PLANTATIONS</u>		
1 Assam	6.20	2033
2 Himachal Pradesh	-	-
3 Karnataka	-	-
4 Kerala	..	..
5 Tamil Nadu	0.64	11762
6 Tripura	5.98	2787
7 Uttarakhand	-	-
Total	5.61	2162
<u>III. OTHER ESTABLISHMENTS</u>		
1 Himachal Pradesh	37.50	15814
2 Rajasthan	-	-
3 Tamil Nadu	-	-
4 Uttarakhand	-	-
Total	0.00	15814

- = Nil. .. = Not available.

TABLE - 3
Number of Complaints Received and Prosecutions Launched in Plantations (By States)
during the year 2008

State/Union Territory	No. of complaints received	No. of complaints investigated	No. of prosecutions launched	No. of convictions obtained	Amount of fine levied (Rs.)
<u>FACTORIES</u>					
1 Andhra Pradesh	-	-	-	-	-
2 Arunachal Pradesh	-	-	-	-	-
3 Assam	-	-	-	-	-
4 Bihar	-	-	-	-	-
5 Chhattisgarh	-	-	-	-	-
6 Delhi	-	-	-	-	-
7 Goa	-	-	-	-	-
8 Gujrat	-	-	-	-	-
9 Haryana	-	-	-	-	-
10 Himachal Pradesh	-	-	1	1	500
11 Jammu & Kashmir	-	-	-	-	-
12 Jharkhand	-	-	-	-	-
13 Karnataka	-	-	-	-	-
14 Kerala	-	-	-	-	-
15 Madhya Pradesh	-	-	-	-	-
16 Maharashtra	-	-	-	-	-
17 Meghalaya	-	-	-	-	-
18 Orissa	-	-	-	-	-
19 Punjab	-	-	-	-	-
20 Rajasthan	-	-	-	-	-
21 Tamil Nadu	-	-	-	-	-
22 Tripura	-	-	-	-	-
23 Uttarakhand	-	-	-	-	-
24 Uttar Pradesh	-	-	-	-	-
25 West Bengal	-	-	-	-	-
26 Andaman & Nicobar	-	-	-	-	-
27 Chandigarh	-	-	-	-	-
28 Dadra & Nagar Haveli	..	..	..	..	..
29 Daman & Diu	-	-	-	-	-
30 Puducherry	..	..	..	..	-
Total	-	-	1	1	500
<u>II PLANTATIONS</u>					
1 Assam	-	-	-	-	-
2 Himachal Pradesh	-	-	-	-	-
3 Karnataka	-	-	-	-	-
4 Kerala	..	..	..	..	-
5 Tamil Nadu	-	2	6	-	-
6 Tripura	-	-	-	-	-
7 Uttarakhand	-	-	-	-	-
Total	-	2	6	-	-
<u>III OTHER ESTABLISHMENTS</u>					
1 Himachal Pradesh	-	-	-	-	-
2 Rajasthan	-	-	-	-	-
3 Tamil Nadu	700	512	10	5	2300
4 Uttarakhand	-	-	-	-	-
Total	700	512	10	5	2300

- = Nil

.. = Not available.

TABLE-4

Maternity Benefits Paid Under the Employees' State Insurance
Act, 1948 during the financial year 2007-2008

	State/Union Territory	No. of Insured Women as on 31.3.2008	Number of Maternity benefit case (confinement) during the year 2007-2008	Amount Paid During the year 2007-2008
1	2	3	4	5
1	Andhra Pradesh	130795	923(4.55)	13165332
2	Assam & Meghalaya	5122	63 (0.31)	854108
3	Bihar	2026	10(0.05)	191288
4	Chhattisgarh	1652	2(0.01)	276254
5	Delhi	57456	383(1.89)	7365948
6	Goa	19322	366(1.81)	4796645
7	Gujarat	48397	356(1.76)	5140314
8	Haryana	24127	404(1.99)	4960289
9	Himachal Pradesh	13043	136(0.67)	1456956
10	Jammu & Kashmir	8616	32(0.16)	300813
11	Jharkhand	10316	29(0.14)	266200
12	Karnataka	284319	5064(24.99)	54345981
13	Kerala	160515	2307(11.38)	26859673
14	Madhya Pradesh	15758	114(0.56)	1340662
15	Maharashtra	199581	2732(13.48)	62985989
16	Orissa	10895	130(0.64)	1040814
17	Punjab	81244	236(1.16)	2386260
18	Rajasthan	29523	229(1.13)	2892610
19	Tamil Nadu	383481	5419(26.74)	64696060
20	Uttar Pradesh	27154	660(3.26)	6640776
21	Uttarakhand	787	13(0.07)	486245
22	West Bengal	44044	173(0.85)	2134956
23	Chandigarh	11204	84(0.42)	1604302
24	Puducherry	19109	402(1.98)	4820424
	All Industries	1588486	20267(100.00)	271008899

Source: The Employees' State Insurance Corporation New Delhi

Note. Figures in brackets in col. 4 are percentages the all-India