

A scenic landscape featuring a rainbow arching over a mountain range, a forested valley, a lake, and several small wooden huts in a grassy field.

**LABOUR RESEARCH,
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Editorial

NEW PENSION SCHEME – GROWING DISSATISFACTION



The embracing of the globalization philosophy by the Government of India during the 1980's and 1990's brought a down fall of the Public Sector Units as well as several Institutions and Organizations set up at the initiative of Central and State Governments since the independence of the country, with the sole objective of harnessing the resources of the country so that it becomes an independent sovereign and democratic country without depending upon outside support. The nation witnessed tremendous growth in the economy through the achievement-self-sufficiency in basic requirements such as food, shelter and cloth etc. The country was also able to make very substantial progress in the field of education, healthcare etc., These achievements gave a boost to the reputation of the nation as one of the strongest democracies in the world. The Public and Private participation in the industrial growth was an example to several third world countries who had just begun to achieve their independence from the colonial rule.

The collapse of the market for the colonial rulers in the West and as well the US and other developed nations in the global trade; as such they were looking for expansion beyond their borders. Thus, the under developed and developing countries in the third world became a big target for expansion of their markets. It is in this background, the IMF and World Bank began their operations to help these countries to seek markets in the Asian and African continents. They saw a great potential in India to expand their business and market through the IMF and World Bank dictated policy. The first and foremost attack of the policy makers in the World Bank was to dismantle the economic strength of the third world countries where the Government has main stake in the establishment of industries. The Government of India had around 300 PSU's in the beginning of the 1990's and the breeze LPG, became a mantra for the Government of India. Thus the down fall of the Public Sector Units commenced. The Government once abdicated their responsibility towards the growth of the industries and commerce and handed over the same to the Private Sector, the attack on the workers in the Public Sector as well as the Central Government started. The Government identified a huge workforce as redundant in the Public Sector as well as their own set up. As an austerity measure, the Government stopped recruitment in the Central Government, the Central Government's various establishments and there was a huge backlog of

UNION IS STRENGTH

recruitment numbering more than 3 lac jobs. The Government also came with an alibi it is not in a position to fund saying the PSU's including those who were dealing with the Research and Development even in the Science and Technology. The implementation of the 5th Pay Commission was considered as a huge burden on the exchequer and thereby the Government decided to abolish all the vacancies in the Central Government and several larger undertakings of the Central Government.



by the Government as welfare measures to the employees working with them. It was one of the social securities available to the workforce in the country. While, the Pension Scheme was prevalent in the State Government and the Central Government even before the Independence,

the Provident Fund as well as the Gratuity were mainly devised to help the working class in the private sector so that they are taken care at the twilight of their life for the services they have rendered to the institutions in which they were working including the Government and Autonomous institutions, Public Sector units etc.,

The Government also found that the major revenue is spent for the salaries and Pension payable to the Central Government employees. It wanted to provide a ground for the Privatization of the Pension Fund which was the monopoly of the Government of India. By that time the Government has already commenced disengaging itself from the social responsibilities to the people of the country including their own employees in the Public Sector Units. The Government enacted the act of Pension Fund Regulatory and Development Authority for managing the Pension Fund by the private sector.

It was in the year 2003, the then NDA Government proposed to abolish the Pension Scheme administered by the Central Government and to come out with a separate Pension Fund Scheme popularly known as New Pension Scheme - with a defined contribution and undefined benefit for the benefit of their own employees in the Government and wanted the same should be extended in all the State Governments as well. The Central Government fixed the date of effect of the New Pension Scheme as 1st January 2004 for all the Central Government servants as well as the undertakings administered by them.

The Pension Scheme available to the Central and State Government employees as well as some of the other undertakings by the Central and State Governments were based on the defined contribution and defined benefits. The retirees were getting the Pension on the basis of their salary last drawn and the total service rendered by them. The Basic Pension fixed by them was also having the benefit of index based DA to cover the inflation. The Pay Commissions were also taking care of the inflation uncovered by appropriate recommendations from time to time for improvement in the Pension as well as Family Pension payable to the retirees. The Defense personnel were also eligible for liberal pension as prescribed by the Pay Commission from time to time. The Pension Scheme, the Provident Fund Scheme and the Gratuity schemes were devised

The salient features of the scheme are: The members will contribute 10% of the Pay and the employer will make an equal contribution towards the Pension Fund. The NPS was to be handed over to the Private Pension Fund managers to utilize the funds and invest in a profitable way. The option of savings fund and as well as investment is available to the members on the basis of their age so that they are able to get a reasonable returns on their retirement.

The members were also permitted to withdraw an amount of 50% of their accumulation on their retirement. A number of facilities were also

TO SEEK A FAVOUR IS TO BARTER AWAY ONE'S FREEDOM

introduced so that they are able to get their accumulation whenever there are emergent situations. The Pension Fund Regulatory and Development Authority is an autonomous body which governs the Pension Fund and regulates them from time to time. The initial collections were held by the respective institutions and since there was a considerable time for the Pension Managers to come to the scene, the Government had to provide interest on these accumulations before transferring them to the Pension Fund Managers.

The Banking Industry introduced the Pension Scheme through an agreement signed between the Unions and the IBA during the 1990's effective from 1.1.1986. The scheme was as prevailing in the Central Government at the time of its introduction. The Scheme was also in lieu of the Provident Fund Scheme which was in existence in the Banking Industry. The employees were given option either to continue in the Provident Fund or to opt for Pension Scheme. The option was kept open for a limited period. The Pension regulation contained a provision that the participation in the strike by the employees will entail a break in the service and which may result in the forfeiture of the Pension in respect of those who participate in the strike. This created a fear amongst several employees and deterred them from exercising their option in favor of the Pension. The provision in the regulation was fought by the Unions and the same was subsequently removed from the Pension Regulation. Thereafter a demand was made by UFBU for the extension of the option to those who did not opt earlier. After a prolonged negotiations and discussions the second option was granted and the unions had to agree in lieu of this concession to accept the New Pension Scheme. The IBA and Government wanted that the banking industry should also accept the New Pension Scheme as available in respect of the Central Government employees as well as the Public Sector Units. Thus the New Pension Scheme was introduced in the banking industry in lieu of the old Pension Scheme which was prevalent in the industry.

The uncertainty in the administration has been a source of frustration amongst the members who are governed by the New Pension Scheme. The employees in the State Governments have been demanding scrapping of the New Pension Scheme and reintroduction of the old scheme. The Delhi State has taken steps to abolish the scheme. The Karnataka State Government has also initiated certain steps for reintroduction of the earlier scheme. There are other State Governments as well as the Public Sector Units demanding the scrapping of the scheme.

The Central Government on the basis of representations received from the civil servants and the employees of the public Sector units decided to make the NPS more attractive. The 7th Pay Commission had also made certain observations and recommendations for further improvements in the NPS. The Government set up a committee which went into the various aspects of the Scheme and came out with certain recommendations to make it more attractive and to remove the fears of the members of the NPS. Some of the suggestions that are implemented to make the scheme more acceptable by the workforce in the country are as follows:-

- a) The Government to increase their contribution towards NPS to 14% of the pay as against the present one of 10%. The employees contribution to remain at 10% only.
- b) To allow the withdrawal of the accumulation upto 60% of the contribution.
- c) The 50% of NPS can be invested in equity, up from 15% and choose private pension fund managers;
- d) The tax exemption was made available as in the case of the Provident Fund - EEE - popularly known as exemption at the time of contribution, the accumulation and withdrawal.

These improvements have benefited over 18 lakh

NEVER BEND BEFORE THE INSOLENT MIGHT

employees in the Government.

The Government is bent upon making the scheme popular in order to place those who are agitating for the re-introduction of the earlier scheme. The Government sources are assuring that the money invested in the annuities at the time of superannuation from the accumulated NPS, they would be able to get 50% of their last drawn pay as Pension.

The new Pension Managers are now in the field also and there is going to be stiff competition to garner the funds that are available under the NPS. It is reported that there are about 2.48 crore NPS subscribers and the amount which is

now available under the scheme is a big amount to attract multiple players in the field.

The all-round stiff opposition for the scheme and the demand for the re-introduction of the old scheme has made the Central Government to make certain improvements in the scheme. However, the discontentment amongst the NPS members about the fear of losing their investment at the fag end of their lives still haunt them and the resistance is building up amongst the working class in the country for the abolition of NPS and introduction of the earlier scheme of Pension where there was an assured returns and guarantee to their superannuation benefits by the Government and other institutions. ■

CENTENARY OF INTERNATIONAL LABOUR ORGANIZATION

We are at the threshold of yet another mile stone in the workers movement in the world. The year 2019 will be Centenary year of the International Labour Organization a wing of United Nations Organizations with its headquarters at Geneva, Switzerland.

The working class should be grateful to the United Nations Organizations for their initiative in providing a tripartite forum to the working class at the international level. The ILO was formally set up in the year 1919 after a series of meetings in the United Nations organizations where the countries absorbed with the devastating effect of the First World War and wanted to resolve the issues that led to the World War. They were just coming to terms with the destroyed economy, the mindless killing of thousands and thousands of soldiers, the large number of war widows etc. The countries were also focusing on issues affecting the working class, the working condition of the children, women employees and their exploitation etc. The ILO was the outcome of the peace conference at the end of World War I at Versailles on April 19, 1919. The Indian Government was actively participating in all these developments and the freedom struggle was also taking a decisive shape in the country. Being an original signatory to the treaty of peace, India became a founder member of ILO in 1919 itself. Since, then it has been playing a pivotal role in shaping

the living standards of the working class all over the world.

The Indian participation in the evolution of the ILO is substantial. By virtue of being the founder member of ILO it entered the Governing Council of ILO as a permanent member in the year 1922. As a result of its continuous pro labour approach in the various stages, the Office of the ILO was established in India in the year 1928. Its work in the field of emancipation of the working class with particular reference to the child labor, women workers, the fight against the gender discrimination etc., which paved the way for improving fraternity amongst the working class, peace among nations, pursuing decent work and justice for workers and providing technical assistance to developing nations in particular those countries who were popularly known as the third world countries and were looking for guidance and inspiration from the international agencies, was recognized by the International community and the ILO was honoured with the Nobel Peace prize for its excellent contribution to the humanity in the year 1969.

Today, ILO is a renowned world organization with its contribution towards promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity security and dignity. It has a total number of 187 countries under

DEFEND THE ECONOMIC SOVEREIGNTY OF THE COUNTRY

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its umbrella looking for its guidance and support in the improvements in the standards of working environment in their countries.

The Governing Body is the executive body of the International Labour Organization and meets once in 4 months and usually in the months of March, June and November to take decisions on the policy matters affecting the working class in general. The International Labour Conferences adopt the draft programs and the same shall be carried forward to be placed in the Conferences.

The last Governing Body was formed in the year 2016. The composition of ILO is composed of 57 titular members 28 Governments, 14 employers and 14 Workers and 66 deputy members consisting of 28 Governments 19 employees and 19 workers to oversee the functioning of ILO, out of which ten Titular Governments seats are permanently held by 10 countries. The Indian Government is one amongst them and the permanent member.

The ILO organizes once in a year International Labour Conference in Geneva to set the broad policies of the ILO, including conventions. The ILO Conference is termed as the International Parliament of Labour. The collapse of colonial regime in the world, and the emergence of independent nations all over the globe in particular the Asian and African continents, popularly known as the third world countries owed their freedom to the millions and millions of peasants, the working class, the intellectuals who were freedom lovers and ensured the freedom of their respective countries had responsibilities towards the downtrodden, the workers, peasantry, and the women and children's who were subject to ill human treatment by their colonial rulers, found the ILO as a ray of hope for betterment of their lives. In the process the ILO was seen as a guiding and inspiring force to the people of the third world countries. Though the League of Nations was dissolved, new organization in the name of United Nations Organizations came into being as a result of the second world war. It is only the ILO which survived the Second World War and continued its onward journey towards the emancipation of the working class.

The ILO is responsible to tackle the international

labour problems. The main objective as per the preamble of ILO is to (1) to provide Social Justice to Workers, (2) Avoid injustice, deprivation and exploitation of labour, 3) Build up Human working conditions to the labour. The 26th Session of the ILO which took place at Philadelphia in 1944 during the second world war, came out with the profound philosophy on which the ILO decided its onward journey. Some of the major area of concentration of ILO is to ensure eradication of child labor, the improvement of the working conditions of the women, to eradicate gender equality in the matter of compensation etc., to ensure safety in the working environment, the fixation of the working hours, the protection of the workers interest through the social dialogue, the right to unionize and the need for providing overseeing institutions in regard to the implementation of various resolution/conventions etc.

The role of the ILO in promoting the welfare of the labours in the world is remarkable. The Indian Government is yet to recognize the trade union rights to the supervisory cadre although India is a founder member of the ILO. The right of unionization by the professional workers is recognized by the ILO. Today there are 186 members who have joined the ILO and who are also members of UNO.

The recent ILO Conferences are aiming at protecting the interest of the workers and to ensure a decent work atmosphere in almost all new sectors of the economy as well. The 107th International Conference held during the month of May 2018 was important considering the issues that were discussed at a time when the ILO is celebrating its Centenary in the beginning of 2019. The perspective of the workers as to the Future of Work they want and the ILO's initiative in order to ensure a decent work environment and the building of a feature with decent work and social dialogue that was necessary between the Governments, the Employees and the Employers was a major development where a participative attempt is seen to improve the work environment through the efforts of all concerned. The major conventions protecting the interest of the workers are labour rights, Workplace, Participation, the Job Security, forced Labor convention, Freedom of Association and Protection of the Right to organize, Equal Remuneration Convention, discrimination in

SUCCESS COMES TO THOSE WHO DARE AND ACT

employment and occupation, Minimum Age Convention, Work forms of Child Labour, Weekly Rest, Medical Examination of employees, Labour Protection, Protection of Wages, Migration of employees, Plantation occupation convention, Radiation Protection, equality, Social Security, Hygiene and Employment Policy.

The list of Conventions meant to protect the interest of the working class is lengthy one. However, when it comes to the implementation by the member nations, it is only recommendatory and not a binding

one on the part of the member nations. Hence, each and every covenant will have its own impact amongst the member nations.

The ILO is an inspiration for the workforce all over the world. The ILO intervenes when there is violation of the basic conventions which are meant to treat the working class in a decent manner. The laws of the land of the member countries have to be fine-tuned in order to give real meaning to the various conventions adopted by the ILO and then only the pious objective of establishment of the ILO is justified. ■

INDIAN LABOUR LAWS AND THE CHANGING NATURE OF WORK

How responsive have our labour reforms been to the changing nature of work?

A look at the workforce of India shows a unique dichotomy today. On one hand, the organized sector which is marked with fairly stable wage structure and is often highly regulated, employs a fairly low proportion of the total workforce. This, while the unorganized sector still employs a major share of the workforce who often work in unregulated conditions with fairly low wages. Out of the total employed within the formal sector, a significant population finds employment in the public sector while the private sector, although in news most of the times, ends up getting the least share of the pie.

Of late both the sectors, the private and public sector, are heading towards an increased usage of labour substituting technologies. Increased automation of processes and adoption of newer technologies have led to many talent shifts. And most of these talent shifts have come at the cost of many being fired or being redeployed. Take the recent case of the layoffs that have happened within the IT and Telecom sectors. And the impact of the changing nature of work is bound to spread across sectors. According to the Future of Jobs report by the World Economic Forum published last year the landscape of skills is changing quite fast. Technological disruptions like machine learning and robotics will lead to the automation of specific jobs. Currently, mobile internet and cloud technology along with Big Data applications are considered the biggest drivers of change. But moving towards 2020 the report shows a significant rise in robotics, autonomous transportation, and artificial intelligence as drivers

of change. These disruptions would free up workers for newer tasks and their employment would demand an update of their skill sets. Even the jobs which are relatively stable may require a regular upgrade of skill sets as they now operate in constantly evolving ecosystems. And by 2020, more than a third of the desired core skill sets of most occupations will comprise skills that are not yet considered crucial to the job today. Such shifts in talent preferences are bound to impact the global economy and by extension the way we look at growing the ambit of jobs within the organized sector in India. In order to counter the negative effects, many labour reforms are being brought into consideration.

Universal Basic Income: Universal Basic Income is the concept of providing each individual of the country a fixed amount of money that is distributed through the government and other public means of distribution. Although the concept was originally discussed within the Planning Commission during the 1960s, it has recently resurfaced as a possible alternative to the many welfare schemes currently operating within the country. The IMF recently came out with a statement that pegged UBI as more an effective solution to energy "tax subsidies" which are "typically characterized as fraught with inefficiencies and inequities". Although many believe that an introduction of UBI might create distortions within the labour market and increase the fiscal responsibility of the government, the changing nature of work might soon require the government to create some kind of social security net as soon the workforce would find itself in need of adapting to changing talent preferences quite often. In addition, towards being a vital tool in eradicating poverty, UBI might soon become helpful in counteracting automation based unemployment.

WORK IS WORSHIP, DO YOUR DUTY

Minimum wages: The Code of Wages Bill which is currently in the Lok Sabha is a part of the governments' effort to rationalize the current Labour Acts of the country. As a part of this reform, The Code on Wages Bill 2017 will subsume 4 existing laws of wages — the Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976. Once the Code on Wages is enacted, all these four Acts will get repealed. The aim of Bill is to provide a national framework of setting minimum wages, increasing the ambit of people who are impacted by it, and creating a system of updating minimum wages with the passage of time. It also introduces the concept of statutory National Minimum Wage for different geographical areas. It will also ensure that no State Government fixes the minimum wage below the National Minimum Wages for that particular area as notified by the Central Government. Although helpful to employees in principle, its approval through Lok Sabha without significant changes and its eventual implementation would still remain a challenge.

Labour laws: The formation Code of Wages Bills is a part of a larger move by the central government to codify the various different Labour Act in place into four broad categories Code on Wages, Code on Industrial Relations, Code on Social Security and Code on occupational safety, health and working conditions. Many have suggested that such codification process of Labour Laws in India stand to benefit the working community as a whole—both employees and employers—as it reduces the complications and friction that arises and helps streamline the process. Labour Law reforms are also necessary to introduce greater flexibility in their implementation as it helps enhance the ease of doing business. This according to the NITI Aayog's Ease Of Doing Business report is the reason why many firms tend to avoid labour-intensive sectors, owing to cumbersome compliance with labour related

regulations. Although such moves might be beneficial, the debate for such a change should be more inclusive of the parties that it affects and taking a hasty approach wouldn't not be advisable.

Our Skill development programs: The final component of preparing the workforce of tomorrow is to create exhaustive skill building and training programmes that in tune with the incoming changes. This ensures their quick absorption into the economy again. Although in recent times there has been an effort in creating robust skilling programs, the reality seems quite far off the intended results. Data revealed regarding the Pradhan Mantri Kaushal Vikas Yojana (PMKVY) stated that of the 30.67 lakh candidates who had been trained or were undergoing training across the country in June 2017, only 2.9 lakh had received placement offers.

The impact of automation and changing nature of work is also spreading to many 'urban-centric' jobs where people require reskilling instead of the traditional skill-building activities. This is a gap where the private players, due to their quick response time and expertise in content, can effectively bridge. Our skill development plans should aim at addressing such issues in a comprehensive and relevant manner. Economic growth is the bedrock of any job growth strategies. Thus it's come as a little surprise that one of the ways that the government aims to boost productivity, and in turn create avenues for job growth, is to undertake significant labour law reforms. But the changing nature of work points to a world where increased productivity and efficiency don't necessarily lead to the increase in number and quality of jobs. So in order to offset the negatives of changing talent preferences, both within the private and public sectors, steps have to be taken to fulfil today's need to grow and tomorrows ability to sustain. ■

Topics: Employee Relations, Skilling

CHALLENGES OF YOUTH TODAY

Modern day youth of India lives in the most interesting phase of the history. As the Indian economy went globalized and the internet is already an integral part of our lives, we have fairer chances of making it big than any of the previous generations. The youth is considered to be the best asset of any country and

investment in the human resource promises flabbergasting returns. However, if we are to develop the citizens for a better nation tomorrow, we are supposed to not only develop their talent but also recognize and counter the challenges Indian youth is facing in present day; the challenges that are faced

FORTUNE FAVOURS THE BRAVE

by the young brigade of India:

Peer Pressure: Blame it on the way Indian societies are crafted or any other possible factor, peer pressure is one of the biggest challenges faced by youngsters. The generation gap has widened to an extent that the views of the people of two generations repel each other. The varying interest of the young adults and high expectations of the parents and relatives mar the spirit of growth as a whole. This acts as a check on the enthusiasm of young mind leading to waste of the time and resource.

The elders need to understand that a little space and trust shown in them will open the doors of the opportunities for the youngsters. At the same time, children need to understand that parents care. There is no harm in learning from their experiences and the wisdom.

Drugs And Alcohol: The drugs and the alcohol are other challenges that are faced by the young Indians. Failure, success or broken, drugs are taken as an easy escape from the life and the struggles related to it. Be it in the name of the success party or to overcome the failure, drugs are seen as a mandatory component of any party. Failing in a relationship or



the end semester success parties, getting placed in the dream company or missing the entrance by a whisker; sadly, all the answers are searched in the lap of alcohol and weed. Youngsters need to understand that life is not always a rollercoaster ride. If we plot a graph of same; it is a setup of highs and lows with steep curves. This does not mean that the body has to be

handed over to be ruined by unrequired products. In the name of the country and their body, we need to overcome this challenge!

Cost Of Education: Young brigade aims to conquer the world and make India a superpower. The only way to make it happen is the education. If we look at the institutes today, privatization has increased the effective cost of education. Costly higher education in the private institutes and lack of basic amenities in the government or the government aided educational groups has proven to be a big headache for our young people.

The government need to raise the standard of the education and the provide all the resources for the basic learning. Apart from this, a check must be kept on the private educational institutions in the financial terms. ■

Source: Indian Youth

THE CHALLENGES FACED BY INDIAN WORKING WOMEN TO BALANCE PROFESSIONAL AND SOCIAL LIFE IN 21ST CENTURY

Women are the forerunner of society and play an important role in society, in all fields of life, without their contribution no society can nurture properly. As stated by Muhammad Ali Jinnah in 1944 that "No nation can rise to the height of glory unless your women are side by side with you". The changing roles of women in India have led to their greater contribution in the employment sector and changes in many aspects of Indian life. The typical Indian family today is the dual-earner family.

Women are now employed in previously male-dominated fields such as professional, law, sports, the military, law enforcement, firefighting and top-level corporate positions. Indian Working women spend less time maintaining the home than they

did in last decade. To balancing work-family of working women is very important. To balance work and family the women have to plan their career effectively. The good work plus family balance includes the priorities fixing by working women, awareness of current working position and environment, bring up-to-date latest technology, fix plan in such a manner that enough time is spent with family, improve the area when and where required and observing self-performance. Women aren't just spending money; they are earning it. Currently in a large number of households, the woman is the primary breadwinner.

Statement of the Problem : Indian women are allowed to work in today's life; but still they are facing lot more problem in social as well professional life to balance both as priority need.

STRONG REASONS MAKE STRONG ACTIONS

Indian Working Women are not supposed to do extra hours' duty or night shift work as lack of family support. In case of married working women they are not allowed many times to go on business tour as not permitted by family member. Also women are not getting enough maternity leave at workplace even if she wants paid leave then also it's not considered due to organizational constraint; because of this she loses her job or do compromise more. If women are in higher position at workplace then she has many more responsibility, then also they have to come home at right time, cook, clean, take care of their family members. It creates more stress & it effects to some health problem. Due to lack of leave, sometimes working women are not able to attend family function. Working women do not properly take care of family member. Working women having very young child, they are forced to leave child for work responsibility and she has to think about day care maid of her child who might not be faithful enough. Although she has to hire maid for child care at home whom they have to pay more. This create more tension and stress to her & lack of concentration in their work. Gender discrimination is another problem faced by women in case of pay. In some companies women employees are paid less salary than men. This research is to find out more challenges faced by Indian working women. Still in 21st century there is a belief that women are not capable enough to work in some professional field like

transportation, civil construction, electricity department, etc. Family-Work Conflicts, Family-Work Balance means the women has power to equilibrium the hours of personal and professional life. But sometimes some circumstances occur in such a way that conflict will be there either socially or professional side to balance Family-Work life. She is unable to set her priorities. As a result she withdraws from her work due to simple reasons like taking care of her children, aged in laws/parents, and other family pressures. If the man is able to share some of her responsibilities, she would be successful women. They bring up children; look after partners, relatives and friends; maintain households; take part in voluntary organizations; and undertake civic duties. It is widely accepted that the lack of women in senior, corporate positions is due to conflict between family and career; and that women feel the need to choose between their career and family. Some women avoid promotion in order to avoid the extra stress from balancing family and work. Some employers were resistant to promoting women, assuming that women would put their families first, therefore slacking in their work duties. However, as it can be seen, these studies are fairly outdated. Women who are successful in balancing their work and family life tend to redefine the structural and personal roles that have been assigned to them by the workplace and society ■

Source: People Matters

NORTH EAST KARNATAKA ROAD TRANSPORT CORPORATION Vs. SMT. SUJATHA
[CIVIL APPEAL No.7470 OF 2009]
ABHAY MANOHAR SAPRE, J.

1. This appeal is directed against the final judgment and order dated 29.11.2006 passed by the High Court of Karnataka at Bangalore in M.F.A. No.4170 of 2002 whereby the High Court dismissed the appellant's appeal and confirmed the order dated 23.04.2002 passed by the Commissioner for Workmen's Compensation (Labour Court), Bellary (hereinafter referred to as "the Commissioner").

2. The issue involved in this appeal lies in a narrow compass. It is clear from the facts mentioned hereinbelow.

3. One Mallikarjuna was an employee of the appellant State Road Transport Corporation for the State of

Karnataka working as a driver. He died while he was on duty on 06.04.1999 when he felt pain in his chest and suffered heart attack.

4. The respondent is the wife of deceased Mallikarjuna. The respondent filed a claim petition before the Commissioner under the Workmen's Compensation Act, 1923 (for short "the Act") claiming compensation for the death of her husband Mallikarjuna. The appellant (employer) contested the claim petition.

5. By order dated 23.04.2002, the Commissioner allowed the claim petition and awarded a sum of Rs.3,79,120/with a direction to the appellant to

MAN IS THE ARCHITECT OF HIS OWN FUTURE

deposit the awarded sum within 45 days, failing which, the awarded amount would carry interest at the rate of 12% per annum.

6. The employer (appellant herein) felt aggrieved and filed appeal in the High Court of Karnataka at Bangalore. By impugned order, the High Court dismissed the appeal, which has given rise to filing of this special leave to appeal by the employer in this Court.

7. So the question, which arises for consideration in this appeal is whether the High Court was justified in dismissing the employer's appeal and thereby was justified in upholding the order of the Commissioner.

8. None appeared for both the parties. We, therefore, perused the record of the case. On perusal of the record, we are inclined to modify the order of the Commissioner dated 23.04.2002 in favour of the respondent to the extent indicated infra.

9. At the outset, we may take note of the fact, being a settled principle, that the question as to whether the employee met with an accident, whether the accident occurred during the course of employment, whether it arose out of an employment, how and in what manner the accident occurred, who was negligent in causing the accident, whether there existed any relationship of employee and employer, what was the age and monthly salary of the employee, how many are the dependents of the deceased employee, the extent of disability caused to the employee due to injuries suffered in an accident, whether there was any insurance coverage obtained by the employer to cover the incident etc. are some of the material issues which arise for the just decision of the Commissioner in a claim petition when an employee suffers any bodily injury or dies during the course of his employment and he/his LRs sue/s his employer to claim compensation under the Act.

10. The aforementioned questions are essentially the questions of fact and, therefore, they are required to be proved with the aid of evidence. Once they are proved either way, the findings recorded thereon are regarded as the findings of fact.

11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lie only against the specific orders set out in clause (a) to (e) of Section 30 of the Act with a further rider contained in first proviso to the Section that the appeal must involve substantial question of law.

12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a Regular First Appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.

13. When an employer files the appeal, he is under a legal obligation to deposit the entire awarded sum in terms of second proviso to Section 30 of the Act as a precondition to file the appeal in the High Court except where the appeal is filed against the order falling in clause (b).

14. It is only when the employer deposits the entire awarded money along with the memo of appeal duly certified by the Commissioner, his appeal is regarded as being properly filed in conformity with the requirement of Section 30 of the Act.

15. Such appeal is then heard on the question of admission with a view to find out as to whether it involves any substantial question of law or not. Whether the appeal involves a substantial question of law or not depends upon the facts of each case and needs an examination by the High Court. If the substantial question of law arises, the High Court would admit the appeal for final hearing on merit else would dismiss in limini with reasons that it does not involve any substantial question/s of law.

16. Now coming to the facts of this case, we find that the appeal before the High Court did not involve any substantial question of law on the material questions set out above. In other words, in our view, the Commissioner decided all the material questions arising in the case properly on the basis of evidence adduced by the parties and rightly determined the compensation payable to the respondent. It was, therefore, rightly affirmed by the High Court on facts.

17. In this view of the matter, the findings being concurrent findings of fact of the two courts below are binding on this Court. Even otherwise, we find no good ground to call for any interference on any of the factual findings. None of the factual findings are found to be either perverse or arbitrary or based on no evidence or against any provision of law. We accordingly uphold these findings.

18. This takes us to examine the next question which was wrongly decided by the Commissioner and the High Court also did not notice the error committed by the Commissioner.

19. The question relates to grant of interest on the awarded amount and further, from which date, it is to be awarded to the claimant (respondent).

20. The grant of interest on the awarded sum is governed by Section 4A of the Act. The question as to when does the payment of compensation under the Act "becomes due" and consequently what is the point of time from which interest on such amount is payable as provided under Section 4A (3) of the Act remains no more *res integra* and is settled by the two decisions of this Court.

21. As early as in 1975, a four Judge Bench of this Court in *Pratap Narain Singh Deo Vs. Srinivas Sabata & Anr.* (1976) 1 SCC 289: AIR 1976SC 222 speaking through Singhal, J. has held that an employer becomes liable to pay compensation as soon as the personal injury is caused to the workman in the accident which arose out of and in the course of employment. It was accordingly held that it is the date of the accident and not the date of adjudication of the claim, which is material.

22. Another question analogous to the main question arose before the Three Judge Bench of this Court in the case of *Kerala State Electricity Board & Anr. Vs. Valsala K. & Anr.* (1999) 8SCC 254: AIR 1999SC 3502 as to whether increased amount of compensation and enhanced rate of interest brought on statute by amending Act 30/1995 with effect from 15.09.1995 would also apply to cases in which the accident took place before 15.09.1995. Their lordships, placing reliance on the law laid down in *Pratap Narain's* case (supra) held that since the relevant date for determination of the rate of

compensation is the date of accident and not the date of adjudication of the claim by the Commissioner and hence if the accident has taken place prior to 15.09.1995, the rate applicable on the date of accident would govern the subject.

23. After these two decisions, this Court in two cases (both by the Two Judge Bench) viz. *National Insurance Company Ltd vs. Mubasir Ahmed & Anr.* (2007) 2 SCC 349 and *Oriental Insurance Company Ltd. vs. Mohmad Nasir & Anr.* (2009) 6 SCC 280 without noticing the law laid down in *Pratap Narain* and *Valsala* cases (supra) took a contrary view and held that payment of compensation would fall due only after the Commissioner's order or with reference to the date on which the claim application is made.

24. This conflict of view in the decisions on the question was noticed by this Court (Two Judge Bench) in *Oriental Insurance Company Ltd vs. Siby George and others* (2012) 12 SCC 540. Justice Aftab Alam speaking for the Bench referred to aforementioned decisions and explaining the ratio of each decision held that since the two later decisions rendered in the cases of *Mubasir* and *Mohmad Nasir* (supra) which took contrary view without noticing the earlier two decisions of this Court rendered in *Pratap Narain* and *Valsala* cases (supra) by the larger Benches (combination of four and three Judges respectively) and hence later decisions rendered in *Mubasir* and *Mohmad Nasir* cases (supra) cannot be held to have laid down the correct principles of law on the question and nor can, therefore, be treated as binding precedent on the question.

25. In other words, the law laid down in *Pratap Narain* and *Valsala* cases (supra) was held to hold the field through out as laying down the correct principle of law on the subject. The Two Judge Bench in *Oriental Insurance Company Ltd vs. Siby George and others* (supra) accordingly followed the principle of law laid down in *Pratap Narain* and *Valsala* cases (supra) and decided the case instead of following the law laid down in *Mubasir* and *Mohmad Nasir* cases (supra) which was held *per incuriam*.

26. Now coming to the facts of this case, we find that the Commissioner awarded the interest to the respondents at the rate of 12% per annum on the awarded sum but it was awarded from the expiry of 45 days from the date of order and that too, if the

A GOOD MAN DOES NOT ARGUE, HE WHO ARGUES IS NOT A GOOD MAN

appellant failed to deposit the awarded sum within 45 days.

27. In other words, if the appellant had deposited the awarded sum within 45 days from the date of the order then the respondent was not entitled to claim any interest on the awarded sum, but if the appellant had failed to deposit the awarded amount within 45 days, then the respondent was entitled to claim interest at the rate of 12% per annum from the date of the order.

28. In our opinion, the aforementioned direction of the Commissioner in awarding the interest on the awarded sum is contrary to law laid down by this Court in Pratap Narain's case (supra) and hence not legally sustainable.

29. In the light of the forgoing discussion, even though the respondent did not challenge this direction by filing any appeal in the High Court nor challenged it by filing any appeal in this Court too, yet the question being a pure question of law, this Court with a view to do substantial justice to the respondent consider it just and proper to modify the order of the Commissioner in respondent's favour so as to make the same in conformity with the law laid down by this Court in the above referred two decisions (supra).

30. Accordingly and in view of the foregoing discussion, the order of the Commissioner dated

23.04.2002 is modified in favour of the respondent to the extent that the awarded sum of Rs. 3,79,120/ shall carry interest at the rate of 12% per annum from the date of accident i.e. 06.04.1999.

31. The Commissioner is accordingly directed to work out the total amount payable by the appellant to the respondent in terms of the order passed by this Court.

32. Since no one appeared for the appellant as well as respondent in this case, the Registry shall send a copy of this order to the Commissioner, the appellant and the respondent respectively within one week.

33. The Commissioner, on receipt of the order, will issue notice to the parties and calculate the total amount to enable the appellant to deposit the same within one month for being paid to the respondent after due verification.

34. The appeal stands accordingly disposed of with aforementioned directions and modifications in the order of the Commissioner dated 23.04.2002 passed in case No. KAB/KNP/7/985/99.

.....J. [ABHAY MANOHAR SAPRE]

.....J. [INDU MALHOTRA]

**New Delhi;
November 02, 2018**

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