

The Payment of Gratuity Act, 1972

This act applies to every factory, mine, oilfield, plantation, port, railway company and every shop or establishment in which ten or more persons are employed, or were employed at any time in the past twelve months.

4. Payment of gratuity. Gratuity is to be paid to an employee upon termination of employment after at least five years of continuous service, which can be due to superannuation, retirement, resignation, death, or disablement. If termination is due to death or disablement, the five-year service requirement is not necessary. In the case of death of the employee, the gratuity must be paid to the nominees, and if any such nominee is a minor, their share must be deposited with the controlling authority. The employer must pay gratuity based on 15 days 'wages for each completed year of service (or part thereof exceeding six months), calculated at the rate of the employee's last drawn wages. In the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by employee for a period of three months immediately preceding the termination of his employment. In seasonal establishments, the employer must pay the gratuity at the rate of seven days' wages for each season.

It is very important to note that for a monthly rated employee, the fifteen days' wages shall be calculated by dividing the last drawn monthly wages by twenty-six and then multiplying the result by fifteen.

7. Determination of the amount of gratuity. An eligible person or their representative must submit a written application to the employer to request payment of gratuity. But it is responsibility of employer when the gratuity is due, the he must calculate the gratuity amount, inform the eligible person and relevant authority in writing, and pay the gratuity within 30 days. If the employer fails to pay within this period, he must pay simple interest from the due date. However, no interest is charged if the delay is occurs due to the fault of the employee.

7B. Powers of Inspectors. An Inspector has the authority to ensure compliance with this Act by requesting necessary information from employers. This includes the right to enter and inspect premises to review essential documents like registers, records, notices, and other required documentation. Employers are obligated to maintain these records.

9. Penalties. If employer or anyone responsible for payment intentionally makes a false statement to avoid payments, they could face up to six months in prison, a fine of up to ten thousand rupees, or both.

If an employer violates any provisions of this Act or its rules, they can be punished with imprisonment for at least three months, up to one year, or with fine which shall not be less than ten thousand rupees which may extend to twenty thousand rupees, or both. On the other hand, if an employer fails to pay gratuity, they can be imprisoned for a minimum of six months to a maximum of two years. However, the court may choose a lesser term or impose a fine if it deems it justifiable, with reasons recorded in writing.