

## ITEMS INCLUDED IN BASIC WAGES

### BASIC WAGES - HOW TO CONSTRUE

The expression 'basic wages' has to receive an interpretation which would achieve the object of the enactment. The Act has to be considered in its proper perspective and contextual so as to fructify the legislative intentions underlying the enactment. If two views are possible, the view which **furtheres the legislative intention** should be preferred to one which would frustrate it.

### SOME OF THE ITEMS THAT ARE INCLUDED IN THE TERM "WAGES" FOR THE PURPOSE OF CONTRIBUTION UNDER SECTION 6 OF EMPLOYEES PROVIDENT FUND AND MISC. ACT 1952

- I Maternity benefits and sickness allowance are part of 'Basic Wages'
- I. Maternity benefits and sickness allowance which are payable in accordance with the terms of contract of employment;
  - II. Sickness allowance and maternity benefit which are payable under the statute and also form part of contract of employment(e.g Plantation Workers under the Plantations Labour Act, 1951)
- II Ad hoc allowance included for purpose of contributions
- I. Nomenclature of a payment to an employee is not decisive of its liability to PF Contributions but the pith and substance of the payment is;
  - II. On their own admitted statements in the management's representation, the ad hoc allowance is being paid towards the demand of employees for revision of pay and dearness allowance;
  - III. The ad hoc allowance is aid to all employees; and

IV. The observation of the Hon'ble Supreme Court in the Union of India and others v Ogale glass Works which states that the award of industrial tribunal cannot stand in the way of enforcing the statutory provision cast on the Regional Provident Fund Commissioner under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. In view of that, any agreement entered into between the employer and employees' union against deduction of PF on the ad hoc allowance in question is not binding on this organization.

III Bonus : When the word Bonus was used without any qualification in Sec.2(b)(ii), the legislature had in mind every kind of bonus that may be payable to an employees.

I. Payments made for production between quota and norm were part of basic wages.

II. Payments beyond the norm were production bonus and excluded from the definition.

IV Incentive to the employees is paid only for the work done by the employees during the course of eight hours and is not over and above the prescribed time of work. It forms part of basic wages and contribution in respect thereof is bound to be paid.

V Interim advance and settlement benefit forms part of basic wages and are liable for payment of provident fund contribution and other dues under the Act.

VI Encashment of earned leave by the employees forms part of basic wage.

#### **LIABILITY OF EMPLOYER**

It is the duty of the employer to contribute towards provident fund. The employers agreement, with the employee, not to deduct does not discharge the employer of his obligation in law to make payment. The term of the settlement which provides that there shall be no deduction only means that the company has agreed to take on the liability

## VII Payment of extra work - whether overtime

The definition of basic wage includes the emoluments paid to an employee on holidays. If extra work is done on time, it would not come within the definition of overtime and as such the payments received by the workmen for extra work within the normal duty hours, would not be overtime.

Similarly, the reward for good work is not similar to overtime and if it is taken so, it would tantamount to taking cognizance of an illegality committed by the establishment.

