

## Employees' Gratuity Act, 1972

Payment of Gratuity Act, 1972 is applicable to a) every factory, b) every shops and establishments within the meaning of any law for the time being in force in relating to shops and establishments in which 10 or more persons are employed on any day of the preceding 12 months. c) such other establishment or class of establishment in which 10 or more employees are employed.

- The employee shall be entitled to gratuity calculated at the rate of 15 days salary/wages for every completed year of service or part thereof exceeding six months.
- Salary/Wages shall be taken to be last drawn.
- In case of piece-rated employees, the average on total wages received by them during the period of 3 months preceding the termination of the employment shall be the basis.
- In case of workers in seasonal establishment, the gratuity shall be calculated at the rate of 7 days wages in each season the employee has worked.
- Wages are to be worked out on the basis of daily wages by dividing last drawn monthly salary or wages by 26 days.
- The maximum amount which can be paid under this Act, is limited to Rs.10 Lakh.

### Condition of Payment

- The employee becomes entitled to gratuity after his/her completion of 5 years of service with one employer.
- In case of death or disablement, the requirement of minimum qualifying period has been completely waived.
- Suspension from service for any period/detachment on closer of unit or otherwise, does not affect the continuity of service.

### System of Calculation of Gratuity

Last drawn salary (Basic+D.A.) x 15 days x no. of service years /26 = Gratuity amount  
"Gratuity Register "to be maintained.

#### F. A. Q.

1. In case of establishment comes under the purview of this Act, the number of employees fall below 10, whether the gratuity will be paid to the employees ?  
  
A. Yes. Once the shop/establishment comes under the purview of this Act, it shall continue to be within the ambit of this Act, even if number of employee fall below 10.
2. In case the termination takes place due to willful omission/negligence of the employee causing any damage or loss or destruction of property belonging to employer, whether the gratuity will be paid ?  
  
A. Gratuity can be whole or partially forfeited.
3. If the employee has been terminated for Riotous Attitude, disorderly conduct or violence or on his part any offence or moral carpeted in case of his employment whether the gratuity will be payable or not ?  
  
A. Gratuity will not be payable

4. Whether every employee of an establishment is entitled to gratuity under Payment of Gratuity?
- A. Every employee of an establishment in which 10 or more person are employed will come under payment of gratuity act. Employees of such establishment who has rendered continuous service for not less than 5 years shall be entitled to gratuity.
5. When is the Gratuity being paid ?
- (i) On his superannuation  
(ii) On his retirement or resignation.  
(iii) On his death or disablement due to accident or disease (5 years if service is not necessary)
6. What is the procedure for getting Gratuity ?
- A. (i) Application in form I by employee or Application in Form J by nominee or Application in Form K by legal heir.
- (ii) Submit the application to the employee within 30 days from the date of it becomes payable. The employer shall pay the gratuity within 30 days from the receipt of the application. For belated payment the employer is liable to pay 10% simple interest also.
7. What is the procedure if the employer refuses to pay the gratuity ?
- A. The claim or complaints under the act shall be filed to the Controlling Authority (District Labour Officer) in form N within 90 days of it become payable.
8. Where can a person file appeal against the order of Controlling Authority?
- A. Any person aggrieved by an order of the Controlling Authority may prefer an appeal to the Appellate Authority within 60 days from the receipt of the order.
9. What is the penalty for violation of the provision of the Act & Rules ?
- A. (i) Avoiding any payment or enabling any other person to avoid such payment or makes any false statement, imprisonment which may extend to six months or with fine which may extend to Rs.10,000/- or with both.
- (ii) Contravenes or makes default in complying with the provisions of the Act or any Rules, imprisonment which not less than three months but may extend to one year or with fine not less than 10.000/- which may extend to Rs.20,000/- or with both.
- (iii) Non-payment of gratuity, imprisonment which is not less than 6 months but may extend to 2 years or with fine which may extend to Rs.10,000/- or with both.