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Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



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CRITICAL ANALYSIS OF MATERNITY BENEFIT ACT 1961 AND THEIR AMENDMENT-2017

AUTHOR – V. LALITHA, STUDENT AT TAMILNADU DR AMBEDKAR LAW UNIVERSITY SCHOOL OF EXCELLENCE IN LAW CHENNAI TARAMANI

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ABSTRACT

IN 2017 OF MATERNITY BENEFIT ACT : Focusing on the advancement and protection of working women's rights is crucial given the present rise in the number of women participating in the workforce, particularly young urban women. More than ever, there is a need to develop a gender-friendly labor market by creating a favorable work environment. The government now plays a bigger part in creating an atmosphere that promotes social justice in both the organized and unorganized sectors. The Maternity Benefit Act, which was first adopted by the Indian government in 1961 and subsequently revised in 2017, is a step toward this type of social justice. This essay examines the maternity benefit act's reach and concentrates on the long-term viability of the changes as well as shifting industry dynamics. The study concludes with a suggestion for strengthening the Maternity Benefit Act to make it more inclusive.

The Maternity benefits (Amendment) Act 1961 are to women at the rate of the average daily income for the duration of their real absences. All women are entitled to these benefits, and their employers are responsible for paying them. It is critical to acknowledge that women's participation in the employment market has significantly increased in recent years, mostly in urban regions. Furthermore, young women in cities are mostly responsible for the rise in women's employment. Growing awareness of the need to provide a working environment is a result of India's commitment to establishing a gender-friendly labour market.

KEY WORDS : Social Justice, Government, Maternity, and the Maternity Benefit Act etc.

INTRODUCTION:

THE MATERNITY BENEFIT(AMENDMENT) ACT 2017

The first mention of maternity leave or benefits in Indian government history was made in 1928 under the Bombay Presidency of British India. According to our review of the literature, Dr. Babasaheb Ambedkar vigorously promoted and advocated for the idea of maternity benefits. He was seen arguing in favor of maternity benefits from the Bombay assembly. For a while, India only provided maternity benefits to factory-worker women. The act's

primary objective was undoubtedly to safeguard women working in the formal economy. No attention was paid to women employed in the agricultural industry or other unorganized economic sectors. Furthermore, it focused only on the mother's prenatal care, overlooking the need for proper child care during the first few days.

Social justice is one of the essential components of legislation, without which it is impossible to carry out effectively. Social justice is one of the most important aspects of the law under the general heading of legislation. A law

must constantly change and adapt to the needs of the society for which it was created in order to be considered socially just. The foundation of social justice is the ongoing need for the disadvantaged to be uplifted and socially reformed. When there is significant equality among social, economic, and political circumstances while keeping in mind the constitution and legal considerations, social justice is attained. (Mayuri, May 2009) Around the world, women between the ages of 25 and 54 make up 63% of the labor force, while men make up 94%. According to UN Women's assessment, out of the 189 countries examined, 104 have laws prohibiting women from working in specialized fields, 59 have no laws or provisions aimed at preventing sexual harassment at work, and 19 have laws that allow husbands to legally stop their wives from working (UN Women, 2018). The number of women working in India has decreased by 23% since 1990 (World Bank, 2019).

A step in the direction of establishing equality among the populace, equal conditions, and a critical analysis of. 95 Maternity Benefit Act chances for everyone, I. Rai & S. Niyogi. Both domestically and globally, the value of maternity benefits has been acknowledged. The first agreement on maternity protection was approved at the ILO's inaugural international labor conference in 1919. In addition, two further conventions that expanded the scope and eligibility of women under maternity benefits were adopted in 1952 and 2000 (International Labour Organization, 2014).

Instead of traditional customs, cultural fragmentation is the primary cause of gender discrimination in Indian organizations. One learns fairly by studying the ancient scriptures that women are never viewed as inferior in any situation. A woman is regarded as the mother of the universe, controlling and directing the activities of everyone in the community. As time went on, these beliefs became less important, and women's roles were restricted to caring for the family. If they ever left the house to pursue careers in society, they faced discrimination

and rejection. It should be highlighted, nevertheless, that not all types of job discrimination against women are unlawful. In order for discrimination to be deemed unlawful, it must be in direct opposition to the terms and conditions agreed upon by the employer and employee at the time of employment. These terms and conditions specify the type, nature, duration, and other aspects of the work. Consequently, it becomes imperative to educate the female workforce about these issues. It is especially important for women who work in the unorganized sector and are not bound by any labor agreements.

Hiring is not the only way that discrimination against women occurs. Some characteristics that male employees value when they exhibit them are viewed as aggressive or domineering when they are expressed by female colleagues. Women employees are subjected to harsher evaluations and judgments than their male counterparts. It is a frequent assumption that pregnant women are less functional, so many of them experience prejudice by receiving fewer assignments or being placed on the bench during their pregnancy.

Women generally have the right to 18 weeks of paid maternity leave, according to a research conducted by the Organization for Economic Co-operation and Development (OECD). This is consistent with the International Labor Organization's proposal for 14 weeks of paid maternity leave. According to the OECD (2019), the majority of the countries studied paid at least 50% of their prior earnings in payments.

One of the most unique experiences in a woman's life is becoming a mother. For their child, she entirely transforms her life. For this reason, the idea of maternity benefits and leave was introduced. "To regulate the employment of women in certain establishments for certain period before and after child-birth and to provide for maternity benefit and certain other benefits" is the stated goal of the Maternity Benefits Act, which was announced by the President and published in the Indian Gazette

on December 12, 1961. Every employer is responsible for paying maternity benefits as the Maternity Benefits Act is one of the compensations to which all women are entitled

Every employer is responsible for paying maternity benefits as the Maternity Benefits Act is one of the compensations to which all women are entitled. The amount owed to the woman is calculated as the average of her daily wages for the time she was actually absent. It is a very important aspect of a woman's life since, thanks to maternity benefits, she can spend time with her kid and provide for them without fear of losing her career or her money. After having a child, women who live alone require money for medical bills and other costs. By taking use of the maternity benefit, they may guarantee both their reproductive and production.

OBJECTIVES:

The maternity benefit act 1961

- ❖ To evaluate the Indian maternity laws.
- ❖ To investigate how well-informed female employees are about their rights.
- ❖ To research whether or not maternity benefits programs are beneficial.

The maternity benefit (amendment) act 2017

1. To offer benefits related to maternity leave:

For women who work in organizations with ten or more workers, extend the paid maternity leave period from twelve weeks to twenty-six weeks.

2. To protect maternity and infant health:

Allowing moms enough time to rest and tend to their babies will benefit both the mother's and the child's health and wellbeing.

3. To promote workplace equality for women:

Assist working women in juggling their obligations to their families and careers to advance equal employment possibilities for women.

4. Adding new clauses for commissioning and adoptive mothers: Give women who are commissioned mothers (via surrogacy) or who

lawfully adopt a child under three months a 12-week maternity vacation.

5. To encourage remote work options: Give women the ability to ask work-from-home options following maternity leave, contingent on the type of employment and mutual consent with the employer.

6. To require childcare facilities: Require businesses with 50 or more workers to have childcare facilities within a certain radius and to open four times a day for moms to visit.

RESEARCH PROBLEM

Under the maternity benefit (Amendment) act 2017 With this research problem, you can investigate:

- How well women's employment is affected by the longer maternity leave (from 12 to 26 weeks).
- Potential bias against women of childbearing age and the effect on recruiting procedures.
- Employer attitudes and compliance, particularly in SMEs and the private sector.
- Knowledge and ease of access to the advantage among various socioeconomic categories.
- The function of offering childcare services and remote work choices.

The maternity benefit Act 1961

After reading a number of articles, researchers concluded that women employees bear some of the blame for the issues they encountered at work since they were unaware of their rights under India's labour law, which was exacerbated by illiteracy.

HYPOTHESIS

The Maternity Benefit (Amendment) Act, 2017 has significantly improved the working conditions and maternal health outcomes of women in the organized sector, but may have inadvertently impacted women's employment opportunities and hiring decisions by employers. This can also be divided into

particular hypotheses based on the study's focus:

Regarding Policy Impact:

The amendment has led to increased maternity leave uptake and better postnatal care among working women in the formal sector.

Regarding Employer Conduct:

The increased cost burden due to extended maternity leave has made employers more hesitant to hire women of childbearing age.

Regarding Women's Employment:

There is a statistically significant decline in female employment in the formal sector after the implementation of the Maternity Benefit (Amendment) Act, 2017.

The maternity benefit Act 1961: My research's hypothesis is that India's implementation of the Maternity Benefits Act is successful.

RESEARCH METHODOLOGY

THE MATERNITY BENEFIT (AMENDMENT) ACT 2017

1. Research design

- ✓ Study Plan A descriptive and analytical research design is used in the study. Understanding the Maternity Benefit (Amendment) Act, 2017's legal provisions, assessing its application, and assessing its effects on Indian working women are its objectives.

2. The Study's Goals

- ✓ To evaluate the Maternity Benefit (Amendment) Act of 2017's main provisions.
- ✓ To determine how aware and compliant employers and staff are.
- ✓ To investigate the Act's socioeconomic effects on women working in the organized sector.
- ✓ To assess how well the implementation mechanism works

3. Data Sources: Working women who have used maternity benefits were interviewed in a structured manner to get,

primary data

- ✓ Surveys and questionnaires distributed to companies and HR managers across a range of industries. Interviews with government representatives or legal professionals, if possible

Secondary Data:

- ✓ Government publications (such as those from the Ministry of Labor and Employment).
- ✓ Case law and judicial interpretation databases.
- ✓ Research papers, books, and articles about women's rights and labor laws.
- ✓ International and non-governmental organization reports.

4. Sampling Technique Purposive

- ✓ sampling is the method used to choose participants who are either in charge of carrying out the Act or who are its beneficiaries.
- ✓ Sample Size: Indicate the size of the sample according to your scope, such as 20 employers and 50 employees from various industries.

5. Data Collection Instruments

- ✓ Questionnaires with a structure Guides for interviews and online survey instruments (like Google Forms)
- ✓ Document analysis, including reports, regulations, and legal texts

6. Techniques for Data Analysis

Thematic study of textual data and interview transcripts is known as qualitative analysis. Using programs like Excel or SPSS, quantitative analysis involves calculating descriptive statistics (percentages, frequencies) for survey results.

SCOPE OF THE STUDY: The maternity benefit (Amendment) Act 2017

government
assistance.

financing

1. Key Provisions Examined:

Examining the revised clauses, such as

- ❖ The length of paid maternity leave has been increased from 12 to 26 weeks.
- ❖ Maternity leave for commissioning and adoptive moms was introduced.
- ❖ Facilities for childcare should be available in businesses with 50 or more workers. Work-from-home options are an option.

2. Coverage and Usefulness:

- ❖ The report discusses the different kinds of businesses and workers that are covered by the Act, including:
- ❖ Women working on plantations, in mines, factories, stores, and other places.
- ❖ Usefulness in the public and private spheres.

3. Evaluation of the Impact:

- ❖ Assessing the amendment's impact on: Working women's health and rights.
- ❖ Employer obligations and adherence.
- ❖ Gender inclusion and engagement in the workforce.

4. Analysis of Comparisons:

- ❖ A quick analysis of India's position in the world by contrasting it with other maternity benefit legislation.

5. Challenges and Restrictions:

- ❖ Examining implementation-related practical difficulties, like:
- ❖ Adherence by small and medium-sized businesses (SMEs).
- ❖ Knowledge among employers and workers.
- ❖ Employers' financial burden as a result of the absence of

6. Time Period:

- ❖ The primary emphasis of the study is the post-enactment era (2017 forward), with pertinent background information from the original Act of 1961 included for context.

Amendment to the Maternity Benefit Act of 2017

India's female labor force participation rate is among the lowest in the world and has significantly decreased. Aiming to boost women's labor participation, the Maternity Benefit Act of 1961 was modified in light of The President signed this amended act of parliament on March 27 of 2017, and the provisions of the legislation become operative on April 1st of 2017. The clause pertaining to creche facilities became operative on July 1st of 2017.

Pertinence of the Maternity Act This act is applicable to the following:

- a. Any mine, factory, or plantation, including government-owned ones;
- b. Any establishment that hosts acrobatic, equestrian, or other performances, regardless of the number of employees; and
- c. Any shop or establishment where ten or more people work on any given day during the previous 12 months.

The Constitution's Maternity Benefit Act Framework On December 12 of 1961

The president approved the Maternity Benefit Act after it had been approved by both chambers of parliament. When women are pregnant, this is the finest action the government can take to support them. The goal of maternity leave is to allow mothers to spend quality time with their children without fear of losing their jobs or their income, so that they can safeguard their child as well. The Maternity Benefit Act's (MBA) goal is to enable mothers to uphold the honour of motherhood

by giving their children full medical treatment and supporting them when their health prevents them from carrying out their responsibilities. Both J&K and the entirety of India can use the MBA. All organisations, including industries, plantations, legislatures, stores, and any other organisation based on the central government, are subject to this statute

Impact of Programs for Maternity Benefits

1. The Health of Mothers

It Taking care of one's health throughout pregnancy is crucial for all pregnant women. Women who quit their jobs too late before giving birth and return too soon afterward are more likely to suffer from physical and mental health issues. Some women are unable to care for their children as they grow and develop. Therefore, maternity leave enables women to care for both themselves and their children, preventing health issues.

2. Pediatric Health

When it comes to child health, maternity leave reduces a mother's ability to provide enough nutrition for her child, which can lead to the mother losing her child because she is worried about her financial future. Any mother who prioritizes her children may quit her career to care for them. Maternity leave will allow the mother to spend more time with her child, feed them, and support their growth and development.

3. Financial Gains

To prevent pregnant women from being fired from their jobs while on maternity leave and to prevent discrimination against them when they return to the workforce, the government should take the necessary steps. Maternity programs claim that it improves women's autonomy and rights. Maternity programs undoubtedly have an impact on economic benefits by offering economic involvement and protection for mothers.

4. Economic Involvement

Economic involvement is essential for women's empowerment. Women who work should not

be dependent on men or their spouses. This will help them leave the home if domestic abuse occurs and allow them to care for their children. One of the most important measures implemented by the central government is maternity leave, which assists women in striking a balance between job and family. Women should not have to choose between the two because of maternity leave. It will be simple for men and women to manage their homes without facing discrimination if they work together and generate money.

5. Division of Labor by Gender

Upon examining every aspect of maternity benefits, it is evident that maternity leave keeps expectant mothers from leaving their jobs and gives them the opportunity to return to the workforce following their leave. Maternity leave has led to a rise in the proportion of working women in recent years, which promotes gender equality. In order for both men and women to be able to care for their families, this statute grants them equality. Programs for maternity benefits also lower poverty and gender disparities. One of the main issues that women in India face everywhere is inequality.

MATERNITY LEAVE FOR WORKING WOMEN

1. Any kind of paid time off for expectant workers is known as maternity leave. The following is the amount of leave that an employer or organization is required to provide to expectant mothers both before and after the baby is born: Up to eight weeks prior to the anticipated birth date, pregnant mothers are entitled to 26 weeks of paid leave for both their first and second children.
2. Twelve weeks of paid leave are available to mothers who have their third or subsequent child.
3. Following a medically assisted pregnancy termination or miscarriage, a woman is entitled to six weeks of maternity leave.

UNDER PROVISION

Section 4: Women are prohibited from working or holding employment at certain periods.

Section 5: Eligibility to receive maternity benefits.

Section 7: The provision of maternity benefits in the event of a woman's death is covered in

Section 8. Medical Bonus Payment

Section 9 Miscarriage Leave etc.

Section 10: Leave in the event of a miscarriage, early delivery, medically assisted pregnancy termination, tubectomy, or pregnancy-related illnesses.

Section 11: Intermissions for nursing.

Section 12: Reprimands for nonpregnancy.

Section 13: In some cases, no pay deduction.

Section 18 : Maternity benefits are forfeited.

MATERNITY BENEFIT ACT DRAWBACK:

Other money will be needed to expand the firm to include a daycare facility. Many companies won't have the financial stability to provide such a provision for very long. This might also discourage firms from hiring young women. This will subsequently lead to discrimination against women in the employment process. Maternity leave takes time away from productivity. The entire cost is borne by the employer. The company not only pays the female employee during her break, but also compensates her for the task that is not finished. Someone else, who might not be the most qualified applicant for the job, fills in for the absent employee.

ACTIONS THAT MUST BE TAKEN:

1. Extending Paternity Leaves:

It's critical to reduce the gap between maternity and paternity leave and to cease assuming that women are solely responsible for child care. Without discouraging the hiring of women, this will level the playing field for men and women in social and professional contexts.

2. Cost-sharing with the government:

If the Businesses are less likely to discriminate against women when the government makes contributions. According to the 2018 ILO report on Care Work and Care Jobs, the government is required to cover maternity benefits up to at least two-thirds of the entire cost in compliance with ILO Convention 183.

3. Work schedule flexibility for both sexes:

This will help maintain the balance between work and life. Both sexes benefit from the flexibility offered by businesses in western regions, which report increased worker productivity.

MAJOR MODIFICATION

Awareness:

In accordance with section 11(a)(2), it is now required of all employers to communicate maternity benefits to local women employees at the time of hire. Both textual and electronic communication must be used to convey this information.

Duration:

The amendment made sure that the paid maternity leave was extended from 12 weeks to 26 weeks. This amendment applies to women who are expecting their first or second child. For women who are expecting their third child or more, the previous period-six weeks prior to and six weeks following the delivery-will still apply. With the 26-week extension, India is now among the top sixteen countries with the longest maternity leave, ranking third overall behind Canada and Norway.

Service for Crèches:

Section 11(a)(1) of the act now mandates that every establishment with 50 or more employees must have on-site childcare services. Throughout the day, the nursing ladies are permitted to visit the creche four times. The act, however, makes no indication of the age at which children are eligible to use the creche facility. Mothers who adopt or commission children: the statute stipulates that adoptive

mothers will get 12 weeks of maternity leave, beginning on the adoption date.

The act now explicitly states that women may work from home following the conclusion of the 26-week leave period that is provided by the act. This will be contingent upon the terms and circumstances set forth by their place of employment.

CONCLUSION:

Because women have historically been exploited and treated unfairly, it was crucial for the government and society to uphold their social standing and give them more clout in the marketplace. One step in this scenario is social legislation. Even though laws like the Maternity Benefit Act of 1961 and other government programs supporting women's advancement have existed for a while, working women's circumstances are not getting better.

Although the most recent update to the act is a step in the right direction for women in society, much more work needs to be done before this act benefits everyone in the nation, including men and women. The deteriorating status of women in the unorganised economy is only one aspect of India's failing society. It is widely acknowledged in society that women should receive benefits equally, regardless of the number of children they have, and that the father of the child should also receive these advantages. There is still much work to be done before this act is complete and sustainable.

Every working woman should have thought about whether to stay on the job or quit during her pregnancy. She has to choose between her personal and professional lives, which is the issue. Maternity programs were therefore developed to help expectant moms and their unborn children, lowering stress and negative attitudes while also enhancing the mother's health. India has risen into the top ten nations in the world because to an extension of the maternity leave from twelve weeks to twenty-six weeks. India's flexible maternity leave policy, which permits remote work and provides

childcare, has made it one of the greatest places for women to work. As a result, unorganized sectors can more easily use it.

Choosing between her personal and professional lives is a difficulty. In order to help pregnant women and their unborn child, maternity programs were established. This helped to improve their health and reduce the stress and unpleasant emotions that come with pregnancy. In addition to giving the mother an appropriate environment in which to feed the child, allowing the father to take a short leave of absence can allow him to give the child exceptional care. Because working women were forced to miss work during pregnancy or the postpartum period, the Maternity Benefit Act of 1961 aims to honorably and peacefully allow them to transition into motherhood without fear of reprisal.

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