



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 6 AND ISSUE 2 OF 2026

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 1 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-1-of-2026/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

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## CORPORATE BURDEN VS. WORKER SECURITY: A COMPARATIVE ANALYSIS OF MATERNITY BENEFIT FUNDING IN INDIA AND THE UNITED KINGDOM

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**BEST CITATION** – T ADISREE, CORPORATE BURDEN VS. WORKER SECURITY: A COMPARATIVE ANALYSIS OF MATERNITY BENEFIT FUNDING IN INDIA AND THE UNITED KINGDOM, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (2) OF 2026, PG. 701-709, APIS – 3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT

This research paper provides a comparative analysis of maternity benefit funding models in India and the United Kingdom, examining the socio-economic consequences of employer-liability and social insurance frameworks. Following the 2017 amendment to the Maternity Benefit Act, India extended paid maternity leave to twenty-six weeks while retaining a pure employer-liability funding model. Empirical research suggests that this structure has contributed to a measurable “motherhood penalty,” including reduced interview invitations and a shift toward precarious employment arrangements for women of childbearing age.

A central focus of this analysis is the Supreme Court’s decision in *Kavitha Yadav v. Ministry of Health and Family Welfare*. The Court established the doctrine of notional employment extension, holding that maternity benefits cannot be curtailed merely because a fixed-term contract expires during the leave period. While this interpretation strengthens worker protection, it simultaneously expands the financial obligations of employers.

By contrast, the United Kingdom’s Statutory Maternity Pay system operates through a social insurance framework funded by National Insurance contributions. The existence of Small Employers’ Relief allows firms to reclaim a significant proportion of maternity payments, thereby reducing the financial disincentive to hire women. This paper argues that India should gradually transition toward a shared-responsibility model, combining employer participation with state-funded reimbursement mechanisms.

**Key Words:** Maternity Benefit, Employer Liability Model, Social Insurance, Family Welfare, Motherhood Penalty

### I. INTRODUCTION

Maternity protection occupies a crucial position within labour law, public health policy, and gender equality frameworks. International labour standards recognise that adequate maternity benefits are essential to safeguard the health and economic security of working mothers. The International Labour Organization has consistently emphasised that maternity protection policies must ensure that women are

not forced to choose between employment and motherhood.<sup>1845</sup>

In addition, Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women obliges states to provide maternity leave with pay or comparable social benefits while protecting women from employment discrimination.<sup>1846</sup> These international standards have influenced the

<sup>1845</sup> Int’l Labour Org., *Maternity and Paternity at Work: Law and Practice Across the World* (2014).

<sup>1846</sup> Convention on the Elimination of All Forms of Discrimination Against Women art. 11, Dec. 18, 1979, 1249 U.N.T.S. 13.

evolution of maternity protection laws across many jurisdictions.

India significantly strengthened maternity protection through the Maternity Benefit (Amendment) Act, 2017, which extended paid maternity leave from twelve to twenty-six weeks.<sup>1847</sup> While the reform represented an important step toward improving maternal health and child welfare, the funding structure remained unchanged. Under the existing framework, the entire cost of maternity benefits is borne by the employer.

This financing model raises important economic questions. When maternity benefits are funded solely by employers, the cost of reproductive labour becomes directly associated with hiring decisions. Empirical studies suggest that employers may respond by reducing hiring of women of reproductive age or by shifting toward short-term contractual arrangements.<sup>1848</sup>

The issue has gained further significance following the Supreme Court's decision in *Kavitha Yadav v. Ministry of Health and Family Welfare*, which expanded the scope of employer liability by holding that maternity benefits must continue even after the expiry of a fixed-term contract.<sup>1849</sup>

This paper compares India's employer-liability system with the United Kingdom's social insurance framework in order to assess the broader implications of different funding structures for labour market equality and corporate sustainability.

## II. METHODOLOGY

This study adopts a comparative doctrinal and socio-legal research methodology to examine the structure and implications of maternity benefit funding mechanisms in India and the United Kingdom. The doctrinal component focuses on the interpretation of statutory

provisions governing maternity benefits, including the *Maternity Benefit Act, 1961* and the *Maternity Benefit (Amendment) Act, 2017* in India, as well as the statutory framework governing Statutory Maternity Pay under the *Employment Rights Act 1996* in the United Kingdom. The research also analyses judicial developments, particularly the landmark decision of the Supreme Court of India in *Kavitha Yadav v. Ministry of Health & Family Welfare*, which significantly expanded the interpretation of maternity rights under Indian labour law.

In addition to doctrinal analysis, the study employs a comparative policy approach to evaluate the economic and institutional implications of different maternity benefit funding models. Secondary sources such as academic journal articles, international labour reports, and empirical labour-market studies are examined to assess the broader socio-economic effects of maternity legislation. Particular attention is given to empirical research measuring the "motherhood penalty" in hiring outcomes and employment contracts following the 2017 amendment to the Maternity Benefit Act. Through this combined doctrinal and empirical analysis, the paper seeks to identify structural differences between India's employer-liability model and the United Kingdom's social insurance framework, and to assess how these differences shape labour-market incentives, employer behaviour, and gender equality outcomes.

## III. II. THE INDIAN CONTEXT: EMPLOYER LIABILITY AND THE 2017 MANDATE

### A. The Architecture of the 2017 Amendment

The enactment of the *Maternity Benefit (Amendment) Act, 2017* represented a significant expansion of statutory maternity protections for women employed in the formal sector in India. The amendment increased the duration of paid maternity leave from twelve weeks to twenty-six weeks for women working in establishments employing ten or more employees, thereby positioning India among

<sup>1847</sup> Maternity Benefit (Amendment) Act, No. 6 of 2017, INDIA CODE (2017).

<sup>1848</sup> S. Bapna et al., Does Employer-Paid Maternity Leave Help or Hurt Female IT Workers? Soc. Sci. Resch. Network (2021).

<sup>1849</sup> *Kavitha Yadav v. Ministry of Health & Family Welfare*, Civil Appeal No. 5010 of 2023 (Supreme Court of India Aug. 17, 2023).

the jurisdictions with the longest periods of statutorily mandated maternity leave.<sup>1850</sup> This legislative expansion was intended to promote maternal health, improve child welfare outcomes, and enable working women to balance employment responsibilities with childcare during the crucial early months following childbirth.<sup>1851</sup>

Despite this expansion of benefits, the amendment retained the core financing structure of the original *Maternity Benefit Act, 1961*, which places the responsibility for wage replacement entirely upon the employer.<sup>1852</sup> Under this employer-liability framework, establishments must bear the full cost of maternity wages for the statutory leave period without reimbursement from the state. In addition to wage replacement, employers are required to comply with several supplementary obligations designed to facilitate workplace support for new mothers. These include the provision of crèche facilities in establishments employing fifty or more workers, allowing mothers to visit their children during working hours; the provision of nursing breaks for breastfeeding following an employee's return to work; and the payment of a medical bonus where pre-natal and post-natal care is not provided by the employer.<sup>1853</sup>

While these provisions were introduced to strengthen the protection of working mothers, the cumulative obligations imposed upon employers can generate substantial financial and administrative burdens. In practice, employers must not only continue paying wages during the leave period but may also incur additional costs associated with temporary staffing arrangements, training replacement workers, and ensuring compliance with childcare infrastructure requirements.<sup>1854</sup> These obligations can be particularly

challenging for small and medium enterprises that operate with limited financial reserves and relatively small workforces. As a result, the employer-funded nature of maternity benefits remains one of the most debated aspects of India's maternity protection framework.

### B. Economic Distortions and the Motherhood Penalty

A growing body of empirical research has sought to assess the labour-market consequences of employer-funded maternity benefit regimes in India. One influential study examining millions of job applications within the Indian technology sector found a measurable decline in interview invitations for female candidates following the introduction of the twenty-six-week maternity leave mandate.<sup>1855</sup> The researchers observed that employers appeared to adjust their hiring behaviour after the legislative reform, suggesting that the increased cost of maternity benefits influenced recruitment decisions.

Scholars interpret these findings as evidence of statistical discrimination within the labour market. Statistical discrimination occurs when employers rely on generalized assumptions about group characteristics—such as the likelihood of maternity leave—to make hiring decisions under conditions of uncertainty.<sup>1856</sup> In the context of employer-funded maternity benefits, firms may perceive women of childbearing age as representing a higher expected cost compared to male employees. Consequently, some employers may attempt to reduce potential financial liabilities by preferring male candidates or by offering female employee's positions with shorter contracts or less employment security.

The effects of these incentives appear to be particularly pronounced in regions where female labour-force participation is already relatively low. In such contexts, employers may

<sup>1850</sup> Maternity Benefit (Amendment) Act, No. 6 of 2017, § 3 (India).

<sup>1851</sup> Int'l Labour Org., *Maternity and Paternity at Work: Law and Practice Across the World* (2014).

<sup>1852</sup> Maternity Benefit Act, No. 53 of 1961, § 5 (India).

<sup>1853</sup> Id. §§ 8, 11, 11A.

<sup>1854</sup> S. Bala, *Implementation of the Maternity Benefit Act*, Research Papers in Economics (2016).

<sup>1855</sup> Saurabh Bapna et al., *Does Employer-Paid Job-Protected Maternity Leave Help or Hurt Female IT Workers? Evidence from Millions of Job Applications*, SSRN (2021).

<sup>1856</sup> P. Pandey, Impact of the Maternity Benefits Act, 1961 (Amendment 2017) on Job Employment of Working Mothers in India, 65 *Int'l J. L. & Mgmt.* 320 (2023).

view women's participation in the workforce as less stable or more likely to involve career interruptions associated with childbirth.<sup>1857</sup> This perception can reinforce existing gender inequalities by limiting women's access to stable employment opportunities. As a result, while the 2017 amendment sought to strengthen maternity protections and promote gender equality in the workplace, the employer-liability funding model may inadvertently contribute to the persistence of the so-called "motherhood penalty" within the labour market.

#### IV. THE KAVITHA YADAV JUDGMENT: A TRANSFORMATIVE LEGAL PILLAR

##### A. Doctrine of Notional Employment Extension

The decision of the Supreme Court of India in *Kavitha Yadav v. Ministry of Health and Family Welfare* marks a significant development in the jurisprudence surrounding maternity rights and labour protections in India. The case involved a medical professional appointed on a fixed-term contractual basis whose employment was scheduled to expire shortly after she applied for maternity leave. The employer granted maternity benefits only until the date of contract termination, thereby limiting the payment to a small portion of the statutory entitlement. When the matter reached the Supreme Court, the Court rejected this restrictive interpretation and instead emphasized the welfare-oriented nature of the Maternity Benefit Act. The Court held that maternity benefits are not contingent upon the continued existence of the employment contract but instead arise from the statutory entitlement conferred upon women workers who satisfy the eligibility requirements under the Act.<sup>1858</sup>

In articulating what may be described as the doctrine of "notional employment extension," the Court reasoned that once the statutory conditions under Section 5 of the Maternity Benefit Act are satisfied, the right to maternity

benefit becomes vested in the employee. Consequently, the employer cannot rely on the expiry of a fixed-term contract as a means to curtail the full statutory benefit period.<sup>1859</sup> The Court's reasoning reflects a broader constitutional commitment to social justice and gender equality, interpreting maternity protections as an integral component of labour welfare legislation. Such an interpretation is consistent with earlier judicial approaches that emphasize the beneficial character of the statute and require courts to adopt interpretations that advance, rather than restrict, the rights of working mothers.<sup>1860</sup>

##### B. Interpreting "Discharge" and Section 12 Safeguards

A central issue in the judgment concerned the interpretation of Section 12 of the Maternity Benefit Act, which prohibits the discharge or dismissal of a woman during maternity leave. The Court adopted an expansive interpretation of the term "discharge," concluding that it must be understood broadly to include not only explicit termination but also situations where employment effectively ceases due to the expiration of a contractual term. In doing so, the Court rejected the argument that a contract naturally ending on its agreed date falls outside the statutory prohibition. Instead, the Court reasoned that allowing employers to terminate maternity benefits simply because the contractual period ends would undermine the purpose of the legislation and defeat the protective intent of the statute.<sup>1861</sup>

The Court also relied upon Section 27 of the Maternity Benefit Act, which provides that the provisions of the Act shall have overridden effect over any inconsistent contractual arrangement. This provision ensures that statutory protections cannot be diluted through contractual clauses or employment agreements. By invoking this overriding effect, the Court affirmed that employment contracts

<sup>1857</sup> Bose et al., *Motherhood Penalty Revisited: Impacts of Maternity Leave Mandates on Nature of Employment Contracts*, *J. Dev. Stud.* (2024).

<sup>1858</sup> *Kavitha Yadav v. Ministry of Health & Family Welfare*, Civil Appeal No. 5010 of 2023 (India Aug. 17, 2023).

<sup>1859</sup> Maternity Benefit Act, No. 53 of 1961, § 5(2), India Code (1961).

<sup>1860</sup> *Municipal Corp. of Delhi v. Female Workers (Muster Roll)*, (2000) 3 S.C.C. 224 (India).

<sup>1861</sup> Maternity Benefit Act, No. 53 of 1961, § 12 (India).

cannot be used as instruments to circumvent maternity protections. The decision therefore reinforces the principle that maternity rights are statutory social security rights rather than merely contractual benefits dependent on employer discretion.<sup>1862</sup>

### C. The Legal Fiction of Continued Employment

The doctrinal consequence of the Court's reasoning is the creation of what scholars describe as a "legal fiction" of continued employment. Under this framework, the law treats the employment relationship as notionally continuing for the limited purpose of enabling the woman employee to receive the full maternity benefit mandated under the statute. While the employment contract may technically expire, the employer remains responsible for the payment of wages during the statutory maternity period.<sup>1863</sup>

This legal fiction reflects the broader philosophy of labour welfare legislation in India, which often prioritizes social protection over strict contractual formalism. However, the judgment also introduces complex implications for employers, particularly those relying heavily on fixed-term or contractual arrangements. By extending liability beyond the formal duration of employment, the decision increases the financial risks associated with hiring women on temporary contracts. Empirical studies examining the labour market effects of maternity legislation in India suggest that such financial risks may contribute to employer reluctance to hire women of childbearing age, reinforcing the so-called "motherhood penalty" in the labour market.<sup>1864</sup> The challenge therefore lies in balancing the protection of workers' rights with the need to ensure that regulatory burdens do not inadvertently reduce employment opportunities for women.

## V. THE UK SOCIAL INSURANCE MODEL: A CONTRAST IN RISK MANAGEMENT

### A. SMP Rates and Structure (2025–2027)

In contrast to India's employer-funded maternity framework, the United Kingdom has adopted a social insurance model that distributes the financial burden of maternity benefits across employers and the state. Under the Statutory Maternity Pay (SMP) system established under the Employment Rights Act 1996 and related social security legislation, eligible employees are entitled to maternity pay for a period of up to thirty-nine weeks.<sup>1865</sup> During the first six weeks of maternity leave, employees receive payments equivalent to ninety percent of their average weekly earnings without any statutory cap. Thereafter, employees receive a fixed statutory rate or ninety percent of their earnings, whichever is lower.<sup>1866</sup>

The statutory rate is periodically revised by the government to reflect changes in inflation and living costs. For the financial year 2025–2026, the weekly statutory maternity payment is set at £187.18, with a scheduled increase to £194.32 beginning in April 2026.<sup>1867</sup> These periodic adjustments ensure that maternity benefits maintain their real value and continue to provide meaningful income replacement for workers during the post-birth period. The design of SMP therefore reflects a broader welfare-state philosophy that views maternity leave as a shared societal responsibility rather than a private contractual obligation borne solely by individual employers.

### B. The Small Employers' Relief Mechanism

One of the most significant features of the British system is the Small Employers' Relief (SER) mechanism, which mitigates the financial impact of maternity payments on small businesses. Under this scheme, employers initially pay statutory maternity pay to the employee but subsequently recover most or all of the cost from the government through

<sup>1862</sup> Id. § 27.

<sup>1863</sup> Kavitha Yadav, Civil Appeal No. 5010 of 2023.

<sup>1864</sup> Saurabh Bapna et al., *Does Employer-Paid Job-Protected Maternity Leave Help or Hurt Female Employment?* SSRN (2021).

<sup>1865</sup> Employment Rights Act 1996, c. 18, §§ 71–73 (U.K.).

<sup>1866</sup> GOV.UK, *Statutory Maternity Pay and Leave: Employer Guide* (2025).

<sup>1867</sup> Id.

deductions from their National Insurance contributions.<sup>1868</sup> In general, employers may reclaim ninety-two percent of the statutory maternity pay they provide to employees.<sup>1869</sup>

For small employers whose annual National Insurance contributions fall below a prescribed threshold, the reimbursement rate is even higher. Such employers are eligible to reclaim one hundred percent of the statutory maternity pay plus an additional compensation amount intended to offset administrative costs.<sup>1870</sup> For the 2025–2026 financial year, this compensation rate stands at 8.5 percent, allowing small employers to reclaim a total of 108.5 percent of the payments made.<sup>1871</sup> Government policy documents indicate that this compensation rate will increase to nine percent in the 2026–2027 fiscal year, raising the total reimbursement to approximately 109 percent.<sup>1872</sup>

The SER mechanism represents a deliberate policy choice to protect small businesses from disproportionate financial burdens while ensuring that maternity rights remain robust. By reimbursing not only the wage cost but also a small administrative premium, the state effectively transforms maternity leave from a private financial liability into a publicly supported social insurance benefit. This approach significantly reduces the economic incentives for employers to discriminate against women in hiring or promotion decisions.

### C. Risk Pooling Versus Risk Concentration

The most significant distinction between the Indian and British systems lies in the distribution of financial risk associated with maternity benefits. In the Indian framework, maternity leave costs are concentrated entirely on the individual employer, meaning that each firm bears the full wage replacement cost whenever an employee takes maternity leave. This concentration of risk can lead employers to

perceive female employees as a higher-cost labour category, particularly in sectors where profit margins are narrow or where firms rely on contractual labour arrangements.<sup>1873</sup>

By contrast, the British system relies on a model of risk pooling through the National Insurance fund. Under this arrangement, the costs associated with maternity benefits are distributed across the broader economy through mandatory contributions collected from employers and employees.<sup>1874</sup> Individual employers serve primarily as administrative intermediaries responsible for distributing payments, while the underlying financial burden is absorbed by the social insurance system. This design ensures that the decision to hire a woman does not expose a firm to a disproportionate financial risk relative to hiring a male employee.

The implications of these contrasting models extend beyond fiscal considerations and into broader labour market dynamics. Where maternity costs are concentrated on employers, firms may adopt defensive hiring practices to minimize potential liabilities. Conversely, when maternity benefits are financed through pooled social insurance mechanisms, employers face little incentive to engage in discriminatory hiring practices because the cost of maternity leave is largely decoupled from individual employment relationships.<sup>1875</sup> The British model therefore illustrates how institutional design can simultaneously promote gender equality and maintain economic efficiency within labour markets.

## VI. STAKEHOLDER ANALYSIS: IMPACT ON SMEs AND LARGE ENTERPRISES

### A. Small and Medium Enterprises

Small and medium enterprises represent the segment of the economy most sensitive to the financial implications of maternity benefit policies. In India, the requirement that

<sup>1868</sup> Id.

<sup>1869</sup> Id.

<sup>1870</sup> CIPP, *Small Employers' Relief Increased for 2025–26* (2025).

<sup>1871</sup> Id.

<sup>1872</sup> Brown Butler, *Small Employers' Relief Rises to 9%* (2026).

<sup>1873</sup> P. Pandey, *Impact of the Maternity Benefits Act Amendment on Employment*, 65 *Int'l J. L. & Mgmt.* 320 (2023).

<sup>1874</sup> Employment Rights Act 1996 (U.K.).

<sup>1875</sup> Int'l Labour Org., *Maternity and Paternity at Work* (2014).

employers bear the full cost of maternity benefits places a particularly heavy burden on smaller firms with limited financial reserves and relatively small workforces. When an employee in a small enterprise takes maternity leave for twenty-six weeks, the employer must continue to pay wages while also arranging for temporary replacement labour or redistributing workloads among existing staff.<sup>1876</sup> For enterprises with narrow profit margins, such costs may constitute a substantial proportion of their annual payroll expenditure.

This financial pressure may inadvertently influence hiring practices. Studies examining labour market behaviour in India following the 2017 amendment to the Maternity Benefit Act have found evidence of reduced interview callbacks and increased reliance on informal or contractual employment arrangements for women of childbearing age.<sup>1877</sup> Such trends suggest that the economic burden placed on employers may indirectly contribute to labour market discrimination, even when employers do not consciously intend to engage in discriminatory practices.

In contrast, the United Kingdom's reimbursement framework substantially reduces the financial exposure of small enterprises. Because eligible firms can reclaim more than one hundred percent of statutory maternity payments through the SER scheme, maternity leave does not represent a net financial loss for small businesses.<sup>1878</sup> This reimbursement structure ensures that small enterprises remain capable of complying with maternity protection laws without jeopardizing their financial stability. As a result, the UK system demonstrates how carefully designed reimbursement mechanisms can protect both workers and small businesses simultaneously.

## B. Large Enterprises

Large enterprises typically possess greater financial resources and administrative capacity

to manage employee leave policies. In India, multinational corporations and large domestic firms are generally better equipped to absorb the cost of maternity benefits due to their diversified revenue streams and larger workforce. Nevertheless, even these organizations must account for the cumulative cost of maternity leave, particularly in sectors with high female workforce participation. When multiple employees take maternity leave simultaneously, the financial and operational implications can become significant, especially when temporary replacements must be recruited or trained.<sup>1879</sup>

Despite these challenges, large corporations often adopt internal policies aimed at supporting maternity leave and facilitating the return of employees to the workforce. Such policies may include flexible work arrangements, childcare support, and reintegration programs designed to retain skilled female employees. However, the absence of state reimbursement in India means that these initiatives remain largely voluntary and dependent on the financial capacity of individual firms.

In the United Kingdom, large enterprises benefit from the general reimbursement mechanism that allows them to reclaim ninety-two percent of statutory maternity pay through National Insurance deductions.<sup>1880</sup> Although the reimbursement rate is lower than that provided to small employers, it still significantly reduces the financial burden associated with maternity leave. Consequently, large British firms are able to treat maternity leave as a routine human resources function rather than a substantial financial liability. This institutional environment encourages companies to focus on employee retention and workplace equality rather than cost avoidance.

## C. Comparative Economic Implications

The divergent experiences of stakeholders under the Indian and British systems highlight

<sup>1876</sup> Maternity Benefit (Amendment) Act, No. 6 of 2017 (India).

<sup>1877</sup> Bapna et al., *supra* note 7.

<sup>1878</sup> GOV.UK, *supra* note 9.

<sup>1879</sup> Pandey, *supra* note 16.

<sup>1880</sup> GOV.UK, *supra* note 9.

the broader economic consequences of maternity benefit funding models. In India, the concentration of financial responsibility on individual employers can create incentives that indirectly discourage the hiring of women, particularly in smaller firms where the cost impact is greatest.<sup>1881</sup> The judicial expansion of maternity rights through decisions such as *Kavitha Yadav* further strengthens worker protections but simultaneously increases employer liability in the absence of complementary state support mechanisms.

The British model demonstrates an alternative approach in which maternity benefits are financed through collective social insurance rather than direct employer liability. By distributing costs across the entire workforce through National Insurance contributions, the state reduces the financial risk faced by individual employers and minimizes the potential for discriminatory hiring behaviour.<sup>1882</sup> This comparative analysis suggests that the effectiveness of maternity protection laws depends not only on the duration or generosity of benefits but also on the institutional mechanisms used to finance them.

## VII. CONCLUSION

Maternity protection represents a critical intersection between labour rights, gender equality, and public welfare policy. The comparative analysis undertaken in this paper highlights a fundamental structural divergence between the Indian and British approaches to maternity benefit financing. India's framework, rooted in the *Maternity Benefit Act, 1961* and reinforced through the *Maternity Benefit (Amendment) Act, 2017*, places the full financial responsibility for maternity leave upon individual employers.<sup>5</sup> While the legislative expansion to twenty-six weeks of paid leave represents an important advancement in maternal health and child welfare policy, the employer-liability funding model generates unintended economic incentives that may

contribute to discriminatory hiring practices and reduced employment opportunities for women of childbearing age.

The decision of the Supreme Court of India in *Kavitha Yadav v. Ministry of Health & Family Welfare* further strengthens maternity protections by recognizing that maternity benefits constitute a statutory social security right that cannot be curtailed by the expiration of a fixed-term employment contract. By establishing the doctrine of notional employment extension, the Court reaffirmed the welfare-oriented purpose of maternity legislation and ensured that contractual arrangements cannot undermine statutory protections. However, this judicial expansion of worker protection simultaneously increases the financial exposure of employers operating under a pure employer-liability regime.

In contrast, the United Kingdom's statutory maternity pay system demonstrates how maternity protection can be integrated within a broader social insurance framework that distributes financial responsibility across the state, employers, and the national insurance system. Through mechanisms such as Small Employers' Relief, British policy effectively pools the financial risk associated with maternity leave and reimburses employers for most or all of the payments made to employees. By decoupling maternity costs from individual hiring decisions, the UK model reduces incentives for discriminatory hiring behaviour while maintaining robust protections for working mothers.

The comparison between these two systems suggests that the effectiveness of maternity protection policies depends not only on the duration or generosity of statutory benefits but also on the institutional structure used to finance those benefits. In jurisdictions where maternity costs are concentrated on individual employers, protective legislation may inadvertently create barriers to women's employment. Conversely, when maternity benefits are financed through pooled social

<sup>1881</sup> Bapna et al., *supra* note 7.

<sup>1882</sup> Int'l Labour Org., *supra* note 18.

insurance mechanisms, the financial risk is distributed across society, allowing gender equality objectives to be pursued without imposing disproportionate burdens on individual firms.

Accordingly, meaningful reform of India's maternity protection regime may require a transition toward a shared-responsibility model involving greater state participation in the financing of maternity benefits. Such reforms could include state-funded reimbursement mechanisms, expanded social insurance coverage, or targeted subsidies for small and medium enterprises. By adopting a more balanced funding framework, India can strengthen maternity protections while simultaneously reducing labour-market distortions that disadvantage women. Ultimately, the success of maternity policy should be measured not only by the generosity of statutory entitlements but also by its ability to promote sustainable employment opportunities and genuine gender equality within the workplace.

