

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Labour Law II
Semester- VIII (Batch: 2018-23)

End Semester Online Examination: May 2022

Date: 07th May, 2022

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 700-750 words, 5 Marks: 350-400 words, 3 Marks: 250-300 words, 2 Marks: 100-150 words

Answer any five of the following questions

Marks

- | | | |
|-----|---|------|
| Q.1 | <p>'Gratuity is a kind of retirement benefit like the provident fund or pension. The general principle underlying gratuity scheme is that by their length of service, employees are entitled to claim a certain amount of retiral benefit.' In the light of the given statement, critically examine the growth of the concept of gratuity in Indian industry and also evaluate the role of judiciary in establishing gratuity as a statutory right of the employees.</p> | (10) |
| Q.2 | <p>'As per the provisions of the Maternity Benefit Act, 1961 the benefits are extended to all the working women whether employed on contractual or regular post. Unfortunately, there are numerous instances where contractual women employees have to knock on the doors of the court regarding right to maternity benefits and allied issues.'</p> <p>In the light of above statement, analyse the role of the Indian judiciary in protecting the rights of contractual women employees with respect to maternity benefits. Also, identify the loopholes in the existing maternity benefit laws in India and provide suggestions thereon.</p> | (10) |
| Q.3 | <p>'The amendments to the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 appear to be progressive in nature but they have down side also. Like the new amendments put a complete prohibition on employment of children, but at the same time it allows them to be employed in family enterprises/businesses. Considering that majority of child labor activities happen in economically weaker section of the society which is highly unregulated, no proper mechanism has been provided to keep the same in check with the new amendments.'</p> <p>Express your views on the amendments in the Act in the light of forgoing statement.</p> | (10) |
| Q.4 | <p>Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 provides for the procedure for prohibition of employment of contract labour. With the help of the decided case laws analyse, whether the workforce that comprises contract labour should be automatically absorbed in the establishment as regular employees after a notification is issued under Section 10, prohibiting the system of contract labour in that establishment.</p> | (10) |

- Q.5 The wife of the deceased Manjeet Singh, a truck driver with M&H Transport Company, filed a claim petition before the Commissioner under the Employees Compensation Act, 1923 for seeking compensation of Rs. 8 lacs from the Company. The ground stated for claiming the compensation was that Late Manjeet Singh was a workman employed with the said transport company and he died on 04.12.2020 on the bank of River Chenab, Akhnoor in his truck while he was under the employment of the said company. The claimant pleaded that the monthly income of the deceased Manjeet Singh, who was driving the truck of the company was Rs. 8,000/- per month on account of fixed monthly salary and a tip of Rs. 400/- per trip from Jammu to Srinagar and back. It is claimed that the deceased at the time of his death was 46 years old. It is also pleaded in the application that since the deceased Manjeet Singh had died under mysterious circumstances and the cause of his death was not known as such, the SHO, Police Station, Akhnoor initiated inquest proceedings in terms of Section 174 of Cr.PC. The police, however, did not finalise the inquest report. A copy of the death certificate and the driving licence of the deceased was made part of the claim petition. (5+3+2=10)

On the basis of the above-stated facts, decide the following issues:

- a) Whether the deceased falls within the definition of workman as defined under the Employees' Compensation Act?
- b) Whether the deceased died out of and in the course of his employment?
- c) What relief can be provided to the claimant?

- Q.6 On January 30, 2010 at 5:30 a.m, the Inspector of Factories, Surat visited Mahavir Metal and Mechanical Works, Surat City, in which 100 workers were employed. The work carried on in the establishment was manufacture of parts of machines, sheet metal cutting products, embossing die, pillar set, die set, power press, industrial engineering products etc. The workers were working on dangerous machines. The machines were not fenced and there were no safety equipment provided to these workers. On examining the notice of period of work and register of workers the Inspector found that 50 of the workmen belonged to a group which was expected to begin work from 7 a.m. (5x2=10)

On the basis of the above stated facts decide the following issues:

- a) Whether Mahavir Metal and Mechanical Works falls within the definition of 'factory'?
- b) If yes, discuss the relevant sections under the Factories Act, 1948 that are being violated.
