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Consultants and Actuaries

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Topic to be covered:

**Payment of Gratuity
(Amendment) Act, 2018**

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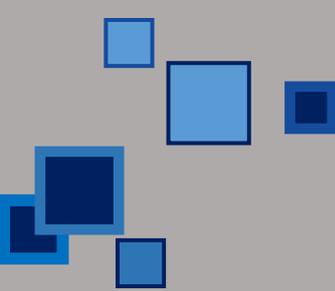
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Background

- As per sub-section (3) of section 4 of the Payment of Gratuity Act, 1972, ceiling on Gratuity was 10 lakhs rupees.
- As per section 2A of Payment of Gratuity Act, 1972 female employees are deemed to be in continuous service for maternity leave of twelve week period.
- By 7th pay commission, Gratuity limit was increased to 20 lakhs for central government employees w.e.f. 01.01.2016.
- Office memorandum issued by Department of Public Enterprises, to increase Gratuity Ceiling for executives and non-unionised supervisors of the Central Public Sector Enterprises (CPSEs) from 10 lakhs to 20 lakhs w.e.f. 01.01.2017.
- Lok Sabha passed Payment of Gratuity Amendment Act, 2018 on 15th March 2018 which empowered central government to notify changes in sub section 3 of section 4 for Gratuity ceiling and section 2A for maternity leave.
- Rajya Sabha has also passed this amendment act on 22nd March, 2018.
- This amendment bill got presidential consent on 28th March, 2018.

Changes

- As per The Payment Of Gratuity (Amendment) Act, 2018 following changes were made:
 - In section 2A of the principal Act, in sub-section (2), in the Explanation, in clause (iv), for the words "twelve weeks", the words "such period as may be notified by the Central Government from time to time" substituted.
 - In section 4 of the principal Act, in sub-section (3), for the words "ten lakh rupees", the words "such amount as may be notified by the Central Government from time to time" substituted.
- Ministry of Labour and employment issued a notification on 29th March, 2018 to specify following changes in Gratuity Act:
 - In exercise of the powers conferred by clause (iv) of the Explanation to sub-section (2) of section 2A of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies for the purposes of the said clause that the total period of maternity leave in the case of a female employee ***shall not exceed twenty-six weeks.***
 - In exercise of the powers conferred by sub-section (3) of section 4 of the Payment of Gratuity Act, 1972, the Central Government hereby specifies that the amount of gratuity payable to an employee under the said Act ***shall not exceed twenty lakh rupees.***

Above changes are effective from 29th March, 2018

Comments

Increase in Gratuity Ceiling

- This will increase retirement benefit received as Gratuity and bring private sector employees at par with central government employees.
- Employees will receive higher Gratuity amount, effect will be for employees having higher service and/or higher pay.
- Company's expense will increase as change in ceiling impact has to be recognised immediately in Profit and Loss immediately in case of Ind AS 19 as well as IAS 19.
- In case of AS 15 also it will be recognised immediately if benefit is vested, which is most likely.
- As per Income Tax Act, 1961 as per clause (ii) sub section 10 of section, Gratuity is exempt in accordance with the provisions of sub-sections (2) and (3) of section 4 of Gratuity Act, 1972. So, this Tax exemption limit will also be 20 lakhs now.

Increase in Maternity Leave period for Continuous Service

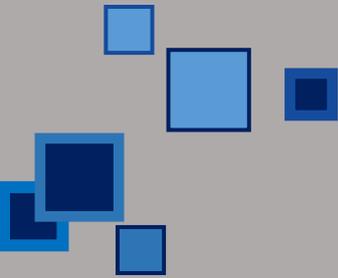
- Maternity Benefit (Amendment) Act, 2017 enhanced the maximum maternity leave period to 26 weeks, whereas Gratuity Act had reference of '12 weeks'.
- Now Gratuity Act has been brought at par with maternity benefit act by enhancing this time limit to 26 weeks in clause (iv) of the Explanation to sub-section (2) of section 2A of the Payment of Gratuity Act, 1972.

In current year 2017-18 we can see a significant amount charged in Profit and Loss for Past service cost due to this change in Gratuity ceiling.

In March 2018 Discount rate has increased as compare to March 2017, this will result into Actuarial gain on obligation due to change in financial assumption. In case of companies following Ind AS it will be charged to OCI whereas as per AS 15 it will be charged to Profit and Loss.

Further Gratuity Act has empowered to Central Government to notify further changes in Gratuity ceiling and maternity benefit leave, this will help government to apply future changes in fast and efficient manner.

Reference: <http://egazette.nic.in/WriteReadData/2018/184298.pdf> (Gratuity Amendment Act, 2018) [issued on 29th March, 2018]
<http://egazette.nic.in/WriteReadData/2018/184299.pdf> (Increase in Gratuity ceiling and maternity leave period) [issued on 29th March, 2018]



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