



Worker Education Series

# Maternity Benefits Act, 1961

Cividep India  
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## What is the Maternity Benefits Act?

The Maternity Benefits Act has been enacted to provide certain benefits to women workers in certain establishments. These benefits are called 'maternity benefits' because they are related to pregnancy and childbirth. Maternity benefits are given to women workers to ensure the health of both the woman and the child.

## Who does it cover?

Maternity Benefits Act covers every establishment, including a factory, mine, plantation or a circus, and to every shop in which more than 10 persons or more have been employed at any point of time during the past 12 months.

For maternity benefits to apply to a woman worker, she must have worked in the establishment for at least 80 days in the 12 months before the date of her delivery.

If an establishment is covered under the ESI Act, then the Maternity Benefits Act will not apply. She is however, entitled to benefits under the ESI Act.

## What benefits does the Maternity Benefits Act provide?

The benefits accorded to women workers under the Maternity Benefits Act can mainly be divided into two: cash benefits and non-cash benefits.

During the period of her actual absence from work, that is during the period immediately preceding, during and after delivery of her child, the woman worker is entitled to be paid maternity benefit from her employer at the daily wage rate. This means that the leave that a woman worker takes during this period will not affect her salary, or in other words, she will keep receiving salary even though she does not work during this period.

The maximum time period for which a woman is entitled to maternity benefit is 12 weeks. Out of this, 6 weeks have to be during the period immediately preceding the date of her delivery.

## What if the woman worker dies during childbirth/or during the time of her maternity leave?

If the woman worker dies during the period of her maternity benefit, maternity benefit needs to be paid only till the date of her death.

However, if the woman worker dies during childbirth, or in the days immediately after giving birth to a child, then the employer shall have to pay maternity benefit for the entire period. This amount shall be payable to the person the woman has nominated for the purpose and in the absence of the nominee, to her legal heir. If the child also dies then the maternity benefit needs to be paid only till the date of the death of the child.

## What if a worker comes under the ESI Act? Are there any maternity benefits available to her?

ESI Scheme covers six medical benefits and this includes maternity benefit. Maternity benefit is payable for three months (which is extendable by further one month on medical advice). Maternity benefit is paid at the rate of full wages. The condition for receiving this benefit under the ESI is that the employee must have been making contributions under the ESI Act for at least 70 days in the preceding year.

In the case of miscarriage, the maternity benefits under the ESI Act is available for 6 weeks.

## What if ESI facilities are not available in the area where the worker resides?

If ESI facilities are not available in the area where the worker lives, then the worker is eligible to be paid a medical bonus. For each period of maternity/confinement, the worker is eligible for a payment of Rs. 2500, subject to a maximum of two confinements.

## What if the woman dies during childbirth or during the confinement period?

Under the ESI, if a woman dies during this period maternity benefits are still payable to her nominee under the Scheme, provided she leaves behind her child. If the child also dies, then the maternity benefit is payable only till the date of the death of the child (inclusive of the day the death occurs).

## What if, after the pregnancy and childbirth, the woman worker becomes sick due to reasons related to the pregnancy?

In such a case, the woman worker is entitled to maternity benefit for an additional period not exceeding one month on account of her abstaining from work as a result of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage or medical termination of pregnancy.

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### Remember!

- Maternity Benefits have been provided under the law to safeguard the rights of both the woman worker and the child.
- You are entitled to these benefits as a worker and pregnancy is not a valid reason for terminating someone from work.
- You should be able to join back in the same post before and after your maternity leave. Pregnancy and childbirth are not justifiable reasons for a demotion.
- If you are not eligible under the ESI, you are eligible to get maternity benefits under the

Maternity Benefits Act till the time you are eligible for coverage under the ESI Act. As long as you come under one of the Acts, you are entitled to maternity benefits.

- Both contract workers and permanent employees are eligible for maternity benefits under the Act, as long as they fulfil the other requirements.

# Colophon

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## Cividep India

Cividep India is an NGO based in Bangalore, which works to empower workers and communities and to ensure that businesses comply with human rights, labour rights, and environmental standards. With this objective Cividep educates workers, studies effects of corporate conduct, dialogues with various stakeholders, and advocates for policy change. Cividep's workers' rights initiatives have been in the garment manufacturing and electronics manufacturing as well as plantation and leather sectors.



The GoodElectronics Network accommodates networks, organisations and individuals that are concerned about human rights, including labour rights, and sustainability issues in the global electronics supply chain, including but not limited to trade unions, grass roots organisations, campaigning and research organisations, academia, and activists. The Network has a strict civil society-only profile.



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