



# Legal Protection Of Inter-State Migrant Workers: A Study Of Brick Kilns In District Bathinda

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**Abstract:** Migrant labourers, denoted as individuals who relocate from one jurisdiction to another in pursuit of occupational opportunities or enhanced living standards, typically eschewing permanent settlement intentions, thereby proffering their services on a transitory, often seasonal, basis, have persistently confronted instances of discrimination and exploitation perpetrated by contractors, agents, and employers, constituting egregious violations of human rights. Migrants commonly encounter impediments in accessing indigenous health and social amenities, and are susceptible to rights deprivation, either owing to their undocumented status or due to impediments in availing judicial redress. In acknowledgment of the systemic exploitation endured by interstate migrant labourers, the legislative body of India promulgated several statutes, including The Minimum Wages Act, 1948, The Payment of Wages Act, 1936, The Factories Act, 1948, and notably, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 was legislatively conceived with the explicit objective of overseeing the employment of interstate migrant labourers, enhancing their labour conditions, and addressing associated concerns. The ongoing scholarly inquiry undertakes an examination of the statutory safeguards afforded to interstate migrant labourers, scrutinizing the efficacy of the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979 through a comprehensive empirical inquiry conducted within the brick kiln establishments situated in the Bathinda district of Punjab.

**Index Terms:** Migrant workers, Inter-State migration, Labour Protection, Human rights violations, Brick kilns.

## 1. INTRODUCTION

In a country such as India where regional disparities are prominent, mass migration exerts a significant influence on the socio-political and economic impacts, making the review of public policy concerning migrant workers an extremely important task. According to the Census of India conducted in 2011, the period spanning from 2001 to 2011 witnessed a staggering influx of approximately 139 million individuals engaged in both intra-state and inter-state migration within the nation's borders. Furthermore, as delineated in the Economic Survey of India for the year 2017, inter-state migration was estimated to have reached a noteworthy annual average of approximately 9 million persons between the years 2011 and 2016. Nonetheless, it is imperative to acknowledge that prevailing sources of official data fail to offer a comprehensive portrayal of the scope and characteristics of migration patterns within India.

The Commission on Legal Empowerment of the Poor (CLEP) articulates legal empowerment as the "process of systemic transformation whereby marginalized individuals, bereft of means, gain the capacity to leverage the law, legal frameworks, and legal aid to assert and promote their entitlements and interests as bona fide citizens". In the context of India, the discourse on legal empowerment for underprivileged segments has undergone innovative augmentation since the 1980s, extending its scope to encompass the preservation of collective rights among marginalized communities. Workers engaging in seasonal, temporary, or part-time employment across various sectors undertake migratory movements between regions within a state or nation. Migrant workers who are not affiliated with any trade unions and do not adhere to their labour standards are not protected by the government or trade unions. They are not paid the minimum wage as stipulated by the Minimum Wages Act. Migration is the act of moving from one location to another in search of a job. It has historically facilitated socioeconomic upliftment, including poverty alleviation, enhanced healthcare and educational prospects, augmented income, and mitigated societal discord, thereby enhancing economic adaptability. In accordance with the tenets outlined within the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. Within the purview of Section 2(e) "Inter-State migrant workman means any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment." Due to their lack of education, information, and negotiating strength, migrant workers are frequently exploited and forced into low-paying, dangerous jobs. They are made even more vulnerable by a lack of identity, legal protection, and representation. Migrant workers' nomadic lifestyles make it difficult to regulate their working and living conditions, which may negate union and government labour standards for regular workplaces. However, with intent to bring improvement in their situation, Government of India enacted "The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979". The Act governs the employment and working conditions of migratory workers between states; it requires establishment registration, contractor licensing, and imposes obligations on contractors.

## 2. RESEARCH OBJECTIVES

1. To study the Laws relating to protection of Migrant workers in India.
2. To make an analysis of statutory provisions of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979 for the protection of inter-state migrant's workers.
3. To make a field survey of brick kilns in the District Bathinda to assess the implementation of various Statutory provisions relating to protection of migrant's workers under various labour legislations specially the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979.

## 3. RESEARCH METHODOLOGY

In pursuing the present research, the study has opted the Doctrinal as well as Empirical method of research. For this study both primary and secondary data have been used. For the selection of sample, the search was carried out by simple random sampling technique. Five villages (i.e. Guddha, Jai Singh, Mian, Jhumba, Nandgarh) in the District Bathinda are selected. From each village one brick kiln is selected randomly for the field study. For the purpose of collection of data, Interview Schedule technique was adopted. Content analysis tool was used for analysis the quantitative data.

## 4. LEGAL FRAMEWORK FOR PROTECTION OF MIGRANT WORKERS

### 4.1 The Constitution of India

The Indian Constitution enshrines extensive provisions safeguarding workers' rights. Articles 19(1)(a), (g), and 21 uphold freedoms of speech, profession, and movement, with reasonable restrictions. Directive Principles emphasize the state's duty to ensure citizens' welfare, including adequate means of subsistence, equal pay, health protection, and fair working conditions. Additionally, Articles 41, 42, and 43 outline the state's responsibility to provide employment, education, social security, and maternity benefits. Article 43-A mandates worker participation in management. Overall, these constitutional provisions aim to promote workers' well-being, equitable treatment, and participation in decision-making within industries.

In the Case *People's Union for Democratic Rights v. Union of India AIR 1982 SC 1473* The public interest litigation (PIL) in the Supreme Court of India brought attention to the severe living and working circumstances of construction workers, many of whom are interstate migrants, involved in building projects in Delhi. It highlighted the absence of essential facilities, exploitation, and failure to pay minimum wages to these workers. Honourable Supreme Court issued certain following directions to government: 1. Ensure the payment of minimum wages to workers 2. Providing the basic facilities such as drinking water, medical facilities, and proper accommodation at construction sites 3. Establish welfare boards to oversee the welfare of construction workers and enforce labor laws effectively 4. Monitoring the implementation of these directives through regular inspections and reporting mechanisms.

In the case of *Bandhua Mukti Morcha AIR 1984 SC 802*, a landmark legal battle in India, Bandhua Mukti Morcha initiated a PIL in the 1980s, exposing widespread bonded labor in various sectors. The Supreme Court intervened, issuing directives to the government to identify, rehabilitate bonded laborers, enforce labour laws, and curb exploitative practices.

*Dena Nath v. National Fertilizers Ltd. AIR 1992 SC 457*, is a notable case in Indian employment law that deals with the rights of temporary or daily wage workers in the context of regularization of their employment. The Supreme Court of India, in its judgment in *Dena Nath v. National Fertilizers Ltd.*, held that temporary workers who have been engaged in work of a perennial nature for a considerable period should be entitled to regularization of their employment. The court emphasized the principle of 'equal pay for equal work' and held that temporary workers performing the same duties as permanent employees should receive the same benefits and job security.

### 4.2. The Payment of Wages Act, 1936

The Payment of Wages Act, 1936 enacted as early as 1936 during the colonial rule with the objective to ensures the regular and prompt payment of wages. When the payment of wages are not on time it is a form of exploitation and in order to stop this exploitation the present was enacted by parliament. The Act is also prohibited the imposition of arbitrary fines on migrant work.

### 4.3. The Minimum Wages Act, 1948

The Minimum Wages Act, 1948 was enacted to regulate, review and revise the minimum rates of wages. The present Act protects the interests of migrant workers or workers engaged in the unorganized sector. According to this Act, the Government will set minimum pay rate, minimum piece rate, guaranteed time rate, and overtime rate for various professions, areas, or job classes, as well as for adults, adolescents, children, and apprentices.

### 4.4. Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979

The Inter-State Migrant Workers Act, 1979, safeguards labourers employed outside their home states through contractors. Contractors must be licensed and provide workers with passbooks detailing wages and advances. Workers are entitled to minimum wages as per the Minimum Wages Act, 1948, paid in cash. Conditions of employment, including hours, overtime pay, and amenities, must be on par with local standards. Employers must ensure access to drinking water, sanitation, and washing facilities within seven

days of employment. Separate accommodations for women workers are mandatory. Legal aid is also a requisite. The Act ensures fair treatment and basic rights for inter-state migrant workers in India.

#### 4.4.1. Rights of inter-state migrant workmen

**Wage rates and other conditions of service of inter-State migrant workmen**— The wages, holidays, work hours, and working conditions of migrant workers from other states must be same to those of local workers performing equivalent jobs in the same institution. If not, the appropriate government establishes guidelines to guarantee that workers earn at least the legally mandated minimum wage in order to protect their rights.

**Displacement allowance:** The legislation mandates that contractors are obligated to provide a displacement allowance, amounting to either fifty percent of the monthly wages or seventy-five rupees, whichever sum proves to be greater, to every inter-state migrant laborer upon recruitment. Furthermore, it explicitly states that the disbursement made in the form of a displacement allowance to a worker shall not be drawn from existing funding sources and must be issued as a supplementary provision, separate from the regular wages or any other remuneration due to the individual.

**Journey allowance:** The legislation stipulates that the contractor is obligated to provide a traveling allowance to inter-state migrant workers, which shall not be less than the fare from the worker's place of residence in their home state to the place of employment in the other state, for both the outward and return journeys. Additionally, the Act affirms that the worker is entitled to receive wages during the duration of such journeys, as if they were actively performing their duties.

**Other facilities:** Contractors employing inter-State migrant workers must ensure regular wage payment, gender pay equality, suitable working conditions, adequate accommodation, free medical facilities, protective clothing provision, and report accidents to authorities and the worker's kin. These obligations aim to protect the rights and well-being of workers employed away from their home states.

## 5. DATA AND ANALYSIS

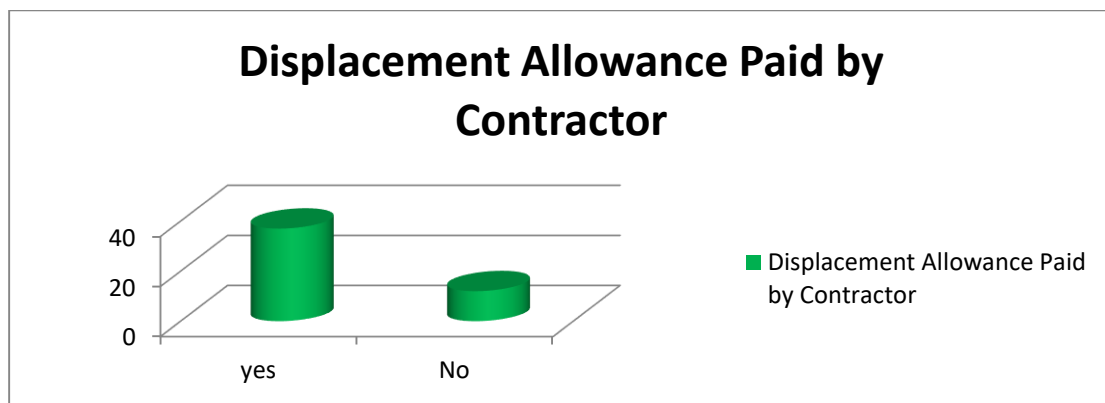
The region of Punjab, denoted by its geographical, historical, and cultural significance situated in the north-western expanse of the Indian subcontinent, serves as the Universe for this empirical investigation. Employing a Simple Random Sampling methodology, brick kilns within the Bathinda District were selected as the focal units for examination. Subsequently, a field survey was conducted in five villages of Bathinda, namely Jai Singh, Mian, Guddha, Nandgarh, and Jhumba, targeting brick kiln laborers as respondents. The research encompassed a cohort of 49 respondents, comprising 17 females and 32 males. Notably, the age group ranging from 25 to 30 years constituted the predominant demographic, with 42.86% of the workforce falling within this bracket, followed by 30.61% aged between 36 to 50 years, while 22.45% were below 25 years, and 4.08% were above 50 years. Regarding educational attainment, the majority of respondents were found to have completed primary education (67.35%), with a minimal percentage having reached matriculation (6.12%) or higher secondary levels (10.2%), and a noteworthy minority reported as illiterate (16.33%). Furthermore, the study reveals a predominant representation of Scheduled Caste individuals among the respondents (39 out of 49), with only one individual identified as belonging to the General caste. In terms of tenure within the brick kiln industry, the majority of respondents (63.27%) reported a tenure of less than 3 years, followed by 28.57% with a tenure of 3 to 5 years, and 8.16% with a tenure of 10 to 20 years; none reported a tenure exceeding 20 years. Marital status analysis indicates that the overwhelming majority of respondents (89.8%) are married, with a minority (10.2%) classified as unmarried.

### • Displacement Allowance Paid by Contractor

Table 5.1

Sr. No.	Displacement Allowance Paid by Contractor	No. of Respondent	Percentage
1	Yes	37	75.51
2	No	12	24.49

Source: Data Collected from the Field



**Figure no.5.1**

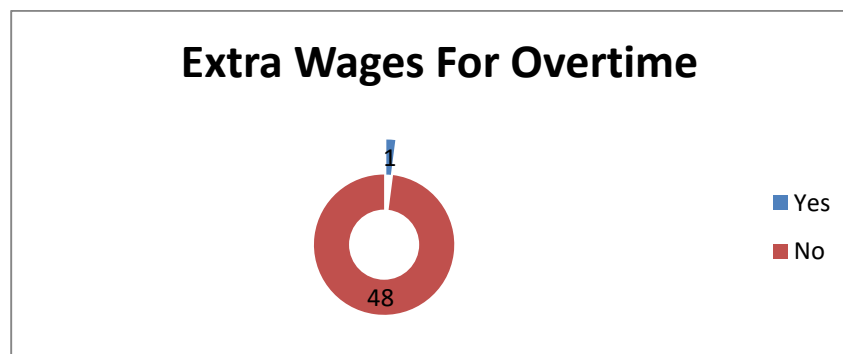
As per field survey data, it was found that the displacement allowance to the migrant workers is paid by the contractor when they are leaving the kilns. 75.51% respondents said that they are getting displacement allowance from contractor but 24.49% respondents are not getting.

- **Extra Wages for Overtime**

**Table 5.2**

Sr.No.	Extra Wages for Overtime	No. of Respondent	Percentage
1	Yes	1	2.04
2	No	48	97.96
	Total	49	100

Source: Data Collected from the Field.



**Figure no.5.2**

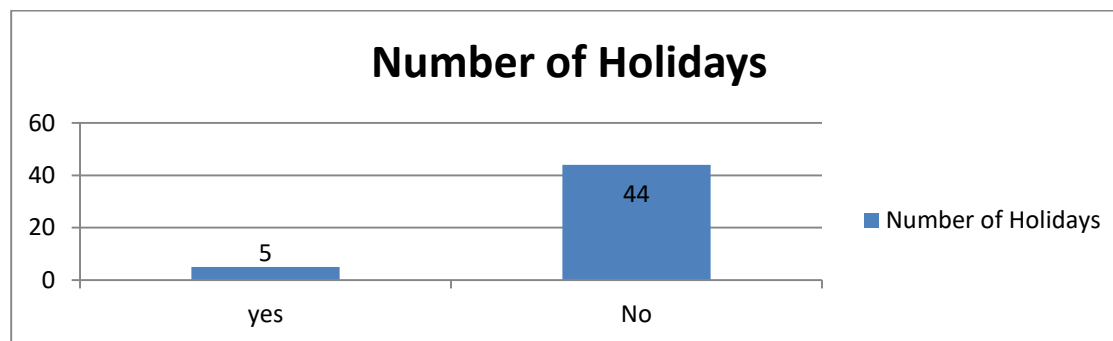
Section 59 of the Factories Act, 1948 deals with the payment for overtime work. It states that every worker in a factory who puts in more than nine hours a day or more than forty-eight hours a week shall be paid extra for overtime. Furthermore, it states that overtime pay will be double what regular wages are. Thus, the brick molders are likewise eligible for overtime pay under this rule. As previously mentioned, brick molders put in 12 to 14 hours a day and, for those who have one weekly holiday, 72 to 84 hours or 84 to 91 hours per week (for those who have holidays every 15 days). It was shocking to know the fact that none of the responders in the field research received overtime pay, however, was startling. As per field survey data given above in table 5.2, it was found that no extra wages were given for over work by the contractor.

- **Number of Holidays**

**Table 5.3**

Sr.No.	Holidays	No. of Respondent	Percentage
1	Yes	5	10.2
2	No	44	89.8
	Total	49	100

Source: Data Collected from the Field.

**Figure no.5.3**

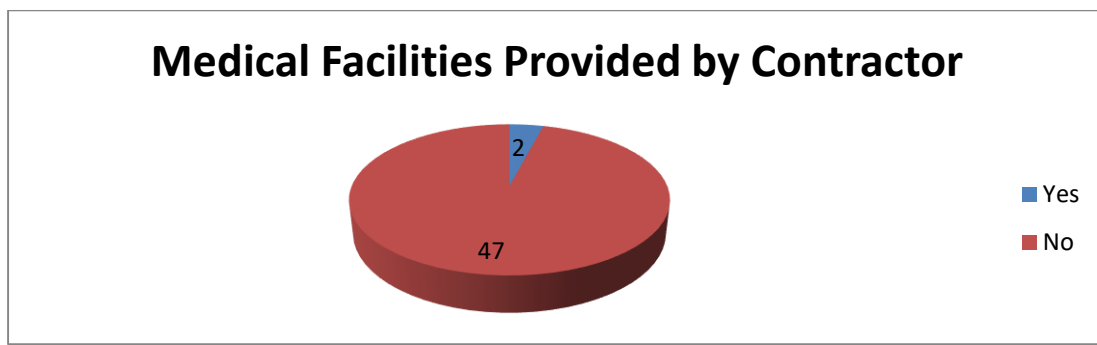
The brick kiln is covered by the Factories Act of 1948. This Act establishes guidelines for the number of working hours per day and per week. According to this Act, no manufacturing employee may be forced or permitted to work more than nine hours a day or more than 48 hours a week. According to this Act, no factory employee may be made to work more than nine hours a day or more than 48 hours a week. It further states that no worker shall be permitted to work in a factory on Sundays, which are the first day of the week. However, if a worker has a full day off, which occurs three days before or after Sunday, he is permitted to work on that day. However, if a worker has a full day off, which occurs three days before or after Sunday, he is permitted to work on that day. The results of the field research revealed that Punjabi brick kilns violate the Act's limitations. As per field survey data given above in table 5.3, it was found that the 44 respondent out of 49 has said that there are no any holidays for us. And 5 respondents said that he has holidays but his wages have been cut by the contractor when he was on leave.

- **Medical Facilities Provided by Contractor**

**Table 5.4**

Sr.No.	Medical Facilities	No. of Respondent	Percentage
1	Yes	2	4.08
2	No	47	95.92
	Total	49	100

Source: Data Collected from the Field.



**Figure no.5.4**

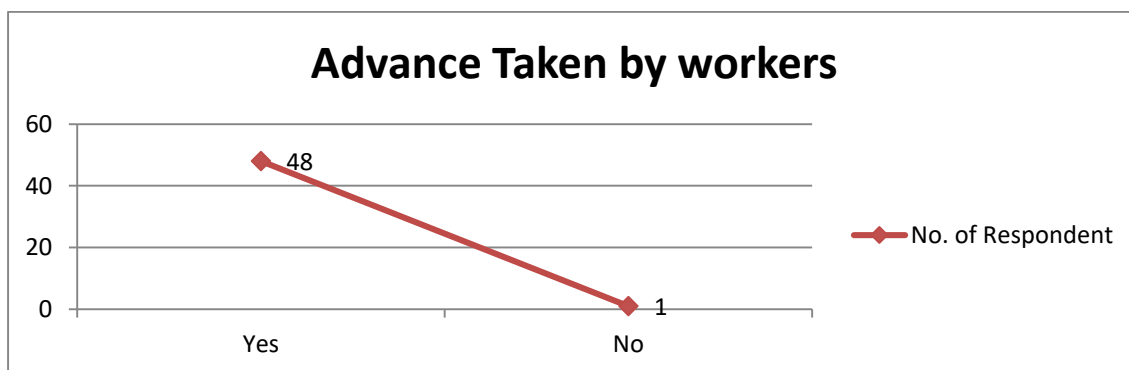
As per field survey data given above in table 5.6, it was found that the 47 respondents out of 49 has said that no medical facilities are provided by contractor. But rest of respondents said that medical aid facilities are not provided by contractor.

- Advance Taken by workers**

**Table no. 5.5**

Sr. No.	Advance take by workers	No. of Respondent	Percentage
1	Yes	48	97.96
2	No	1	2.04
	Total	49	100

*Source: Data Collected from the Field.*



**Figure no.5.5**

The field survey revealed (table no.5.7) that 48 respondents out of 49 has said that they have taken advance from the contractor.

- How long are you working in the brick kilns**

**Table 5.6**

Serial no.	Working Years	No. of respondent	Percentage
1	Below 3 years	31	63.27
2	3-5 Years	14	28.57
3	6-10 Years	04	8.16
4	10-20 Years	0	0
5	Above 20 years	0	0

*Source: Data Collected from the Field.*

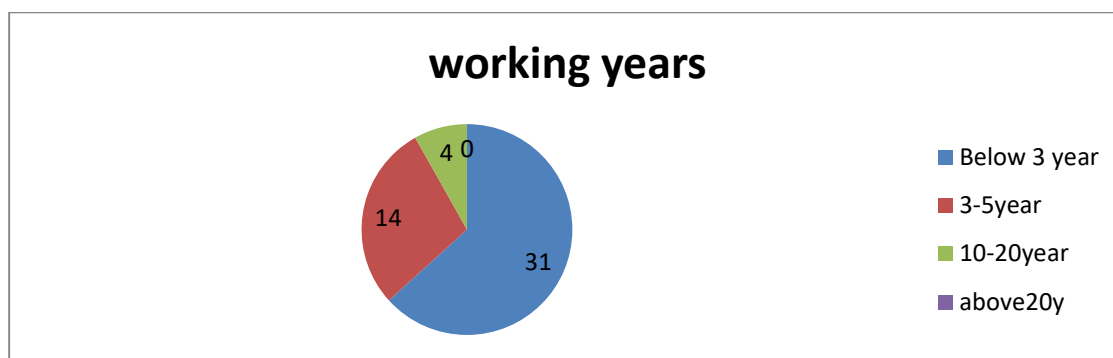


Figure no.5.6

As per field survey data given above in table 5.9, it was found that 63.27% of respondents said that they are working in the brick kilns for less than 3 years, 28.57% of respondents have working experience of 3-5 years, and 8.16% of respondents said that they have working experience of 10-20 years, none of the respondents is having working experience of more than 20 years.

### Amount of Advance

Table 5.7

Serial no.	Amount of Advance	No. of respondent	Percentage
1	Below 5000	0	0
2	5000-10000	2	4.08
3	10000-20000	31	63.27
4	20000-40000	15	30.61

Source: Data Collected from the Field.

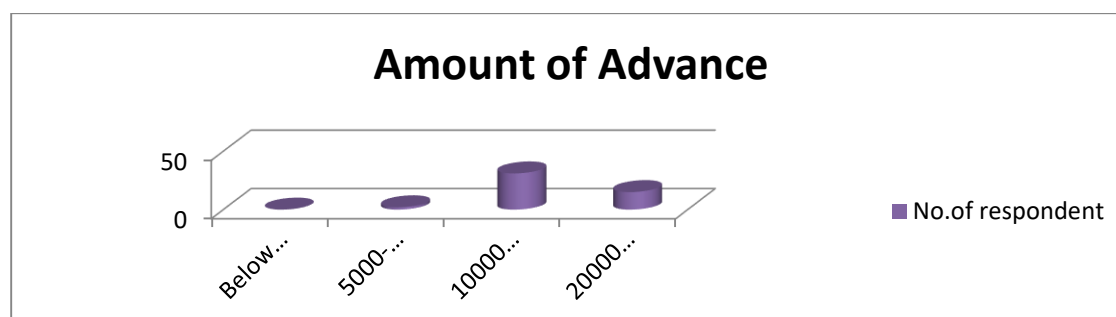


Figure no.5.7

Figure no 5.12 shows the detail regarding the amount of advances taken by the respondents. It articulates that majority of respondents have been advanced ranging from Rs. 10000-20000. It is evident that 63.27% of respondents have taken advances falling in the group of 10000-20000.

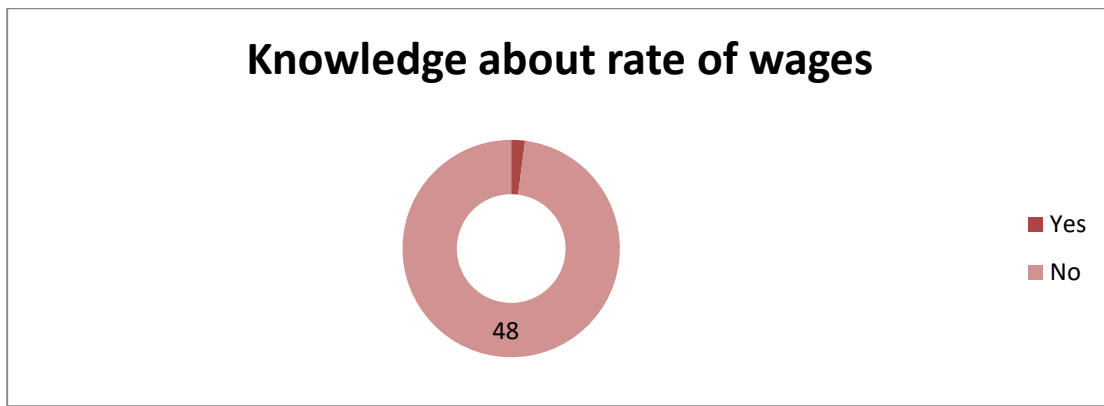
### Knowledge about rate of wages

Table 5.7

Sr.No.	Knowledge about rate of wages	No. of Respondent	Percentage
1	Yes	1	2.04
2	No	48	97.96
	Total	49	100

Source: Data Collected from the Field.





**Figure no.5.7**

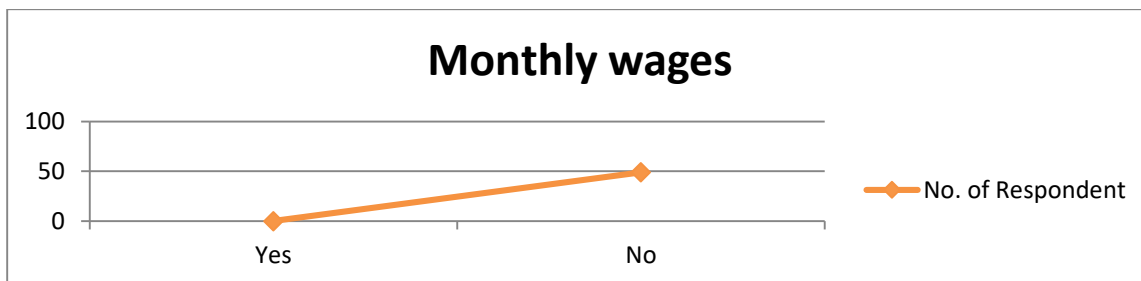
The filed survey shows (figure no. 5.14) shows that the majority of the respondents do not have any knowledge about rate of wages. Only 2.04 % have knowledge about rate of wages but rest of 97.96% respondent have not knowledge about rate of wages. The main factor responsible for the same are illiteracy, ignorance etc.

### Monthly wages

**Table 5.8**

Sr.No.	Monthly wages	No. of Respondent	Percentage
1	Yes	0	0
2	No	49	100
	Total	49	100

*Source: Data Collected from the Field.*



**Figure no.5.8**

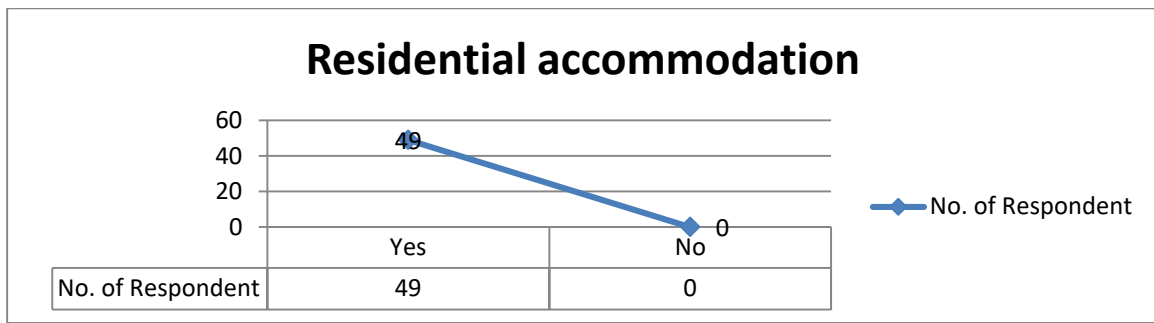
As per field survey data given above in table 5.16, the study finds that the 100% of the respondent were not getting the monthly wages on time. The provision of the Payment of Wages Act, 1936 imposes an obligation on the person responsible for the payment of wages to fix a wages period and such period shall not exceed one month. In addition, the pay must be paid by the end of the tenth day of each month.

### Residential Accommodation

**Table 5.9**

Sr.No.	Residential accommodation	No. of Respondent	Percentage
1	Yes	49	100
2	No	0	0
	Total	49	100

*Source: Data Collected from the Field.*



**Figure no.5.9**

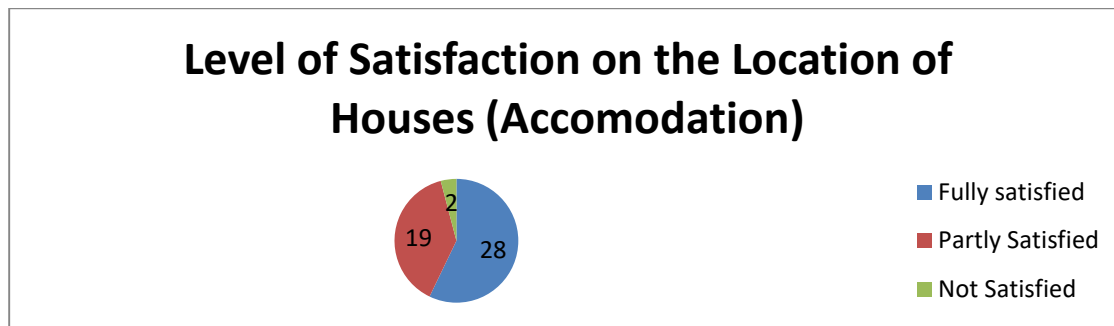
It is evident from the Figure no 5.19 that 100% of the respondents is getting the residential accommodation by the contractor. As per Section 16(d) of the act imposes an obligation on the Contractor to provide and maintain suitable residential accommodation to such workmen during the period of their employment.

### Level of Satisfaction on the Location of Houses (Accommodation)

**Table No.5.10**

Sr.No.	Location of Houses	No. of Respondent	Percentage
1	Fully satisfied	28	57.14
2	Partly Satisfied	19	38.78
3	Not Satisfied	2	4.08
	Total	49	100

Source: Data Collected from the Field.



**Figure no. 5.10**

The status of living place of migrant workers was observed and their opinion on comfort was enquired from the selected respondents and responses are presented in above table no.5.10. The field Survey data shows that the 57.14% of the migrant workers are satisfied, 38.78% are partly satisfied and 4.08% are not satisfied.

**Table 5.11**

### Electricity Facilities

Sr.No.	Electricity Facilities	No. of Respondent	Percentage
1	Yes	49	100
2	No	0	0
	Total	49	100

Source: Data Collected from the Field.

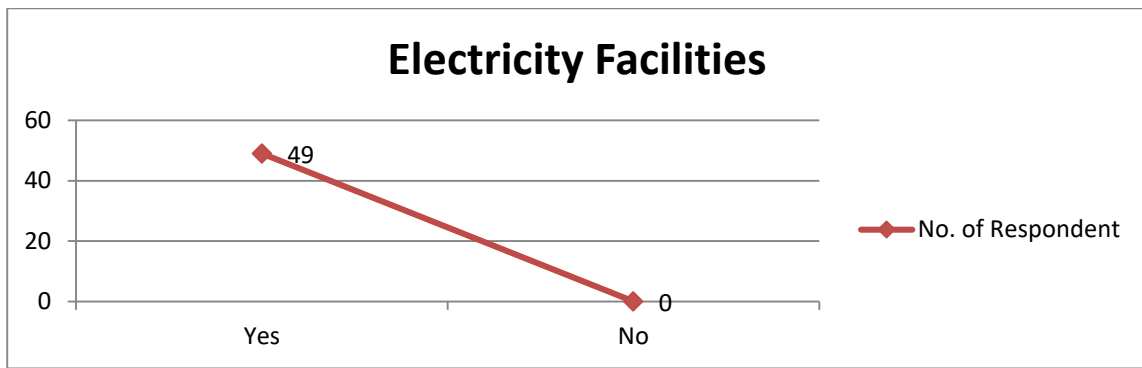


Figure no.5.11

Regarding electricity connection, It was found that majority of the Kiln owner has provided electricity facilities to the workers. 100% respondents are getting electricity connection. It is evident from the Figure no 5.20 that 100% of the respondents is getting electricity connection by the contractor.

### Toilet Facilities

Table 5.12

Sr.No.	Toilet facilities	No. of Respondent	Percentage
1	Yes	49	100
2	No	0	0
	Total	49	100



Figure no.5.12

Table 5.12 indicates that 100 percent of respondent were getting the toilet facilities from the employer.

### Drinking water facilities

Table 5.13

Sr.No.	Drinking water facilities	No. of Respondent	Percentage
1	Yes	49	100
2	No	0	0
	Total	49	100

Source: Data Collected from the Field.

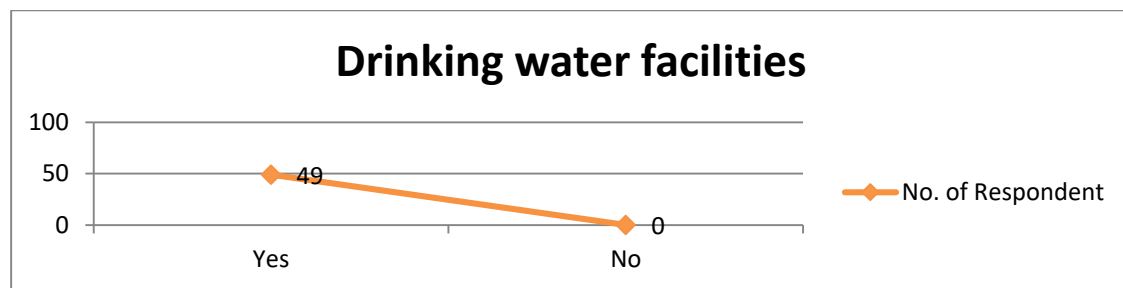


Figure no.5.13

After field survey, it was found that the 100 percent of respondents were getting the drinking water facilities from the employer.

### Level of Satisfaction on the basic services

Table no.5.14

Sr.No.	Level of satisfaction	No. of Respondent	Percentage
1	Fully satisfied	36	73.47
2	Partly Satisfied	13	26.53
3	Not Satisfied	0	0
	Total	49	100

Source: Data Collected from the Field.

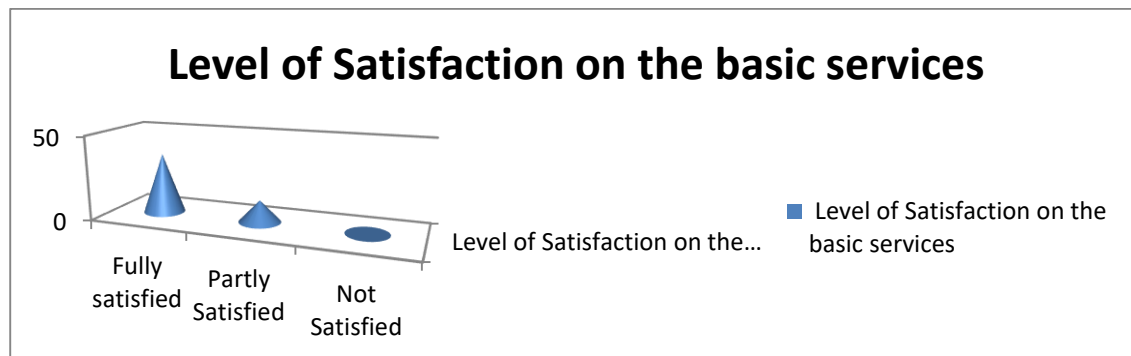


Figure no.5.14

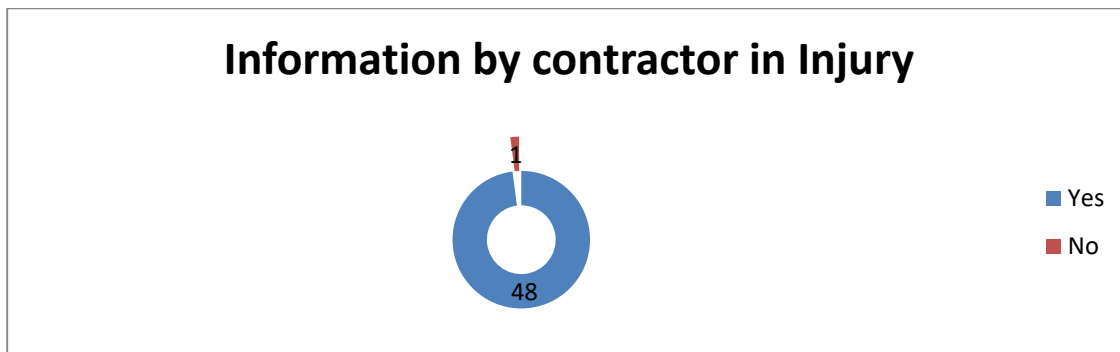
Overall Satisfaction on the availability and utility of the basic services were discussed with the respondents and opinions were presented in above table 5.14 which indicates that 73.47 respondents were full satisfied with the basic service provided by the contractor.

### Information given by contractor to the relatives in case of injury

Table 5.15

Sr.No.	Information by contractor in injury	No. of Respondent	Percentage
1	Yes	48	97.96
2	No	1	2.04
	Total	49	100

Source: Data Collected from the Field.



**Figure no.5.15**

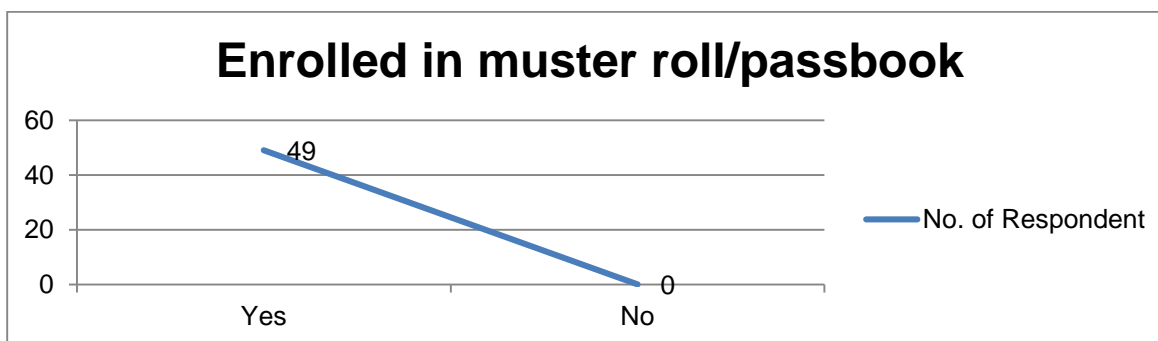
After field survey, it was found that the 48 respondents out of 49 were getting information by contractor to their families in case of injury and 1 respondent was not getting any information by contractor to their families in case of injury. As per Section 16(g) of the Act imposes an obligation on the Contractor to provide Information to the families of injured migrant workers.

### Enrolled in muster roll/Passbook

**Table 5.16**

Sr.No.	Enrolled in muster roll/passbook	No. of Respondent	Percentage
1	Yes	49	100
2	No	0	0
	Total	49	100

*Source: Data Collected from the Field.*



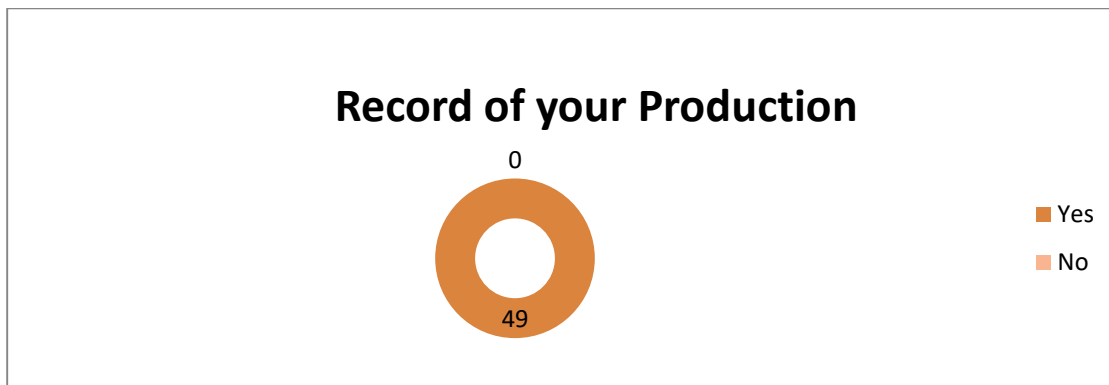
**Figure no.5.16**

Table no.5.16 indicates that 49 respondents out of 49 i.e. 100 per cent respondents were getting enrolled in muster roll/passbook through contractor.

### Do you keep record of your Production?

**Table 5.17**

Sr.No.	Record of your Production	No. of Respondent	Percentage
1	Yes	49	100
2	No	0	0
	Total	49	100



**Figure no.5.17**

As per field survey data given in above table no.5.17, it was found that the 49 respondents out of 49 i.e. 100 per cent respondents were getting records of their production by themselves.

## 6. CONCLUSION

Migration has been an important part of human history because it shaped societies and economies through the mixing of different cultures. For the protection of rights of migrant workers the government of India has enacted various labour legislations especially Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979. However, it is disappointed that field survey revealed, there has been a violation of these laws to some extent. Some of workers till failed to receive wage rates, displacement allowance and holidays as per Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979. Moreover, Sections 4 & 5 of the Payment of Wages Act, 1936 are not implemented properly as the respondents are not receiving their wages within the specified wage period. After the filed survey, it was found that there has been infringement of The Minimum Wages Act, 1948 and The Punjab Minimum Wages Rules, 1950 because many respondents are not paid minimum rate of wages. They are given only Rs. 480/-per 1000 bricks in place of Rs757/-per 1000 bricks as notified by Punjab Government. Further, the provisions of the Factories Act, 1948 were found to be contravened. The respondents were found to work for than the prescribed period and were not paid for overtime work. The reasons for the non-compliance of the laws seems to be unawareness among the workers, lack of regular inspection of brick kiln by the labour inspector and inappropriate penalties prescribed under the law. Keeping in view of these facts, it is suggested that government should organised awareness campaign for sensitize the migrant workers about legal rights and remedies. Government should ensure the regular inspection of brick kilns by labour inspector. Further necessary amendment is made in laws for increasing the penalties.

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