



# AN EVALUATION OF SOCIAL SECURITY RELATED TO UNORGANISED SECTOR WORKERS IN INDIA

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## ABSTRACT:

The concept of social security has evolved over a period of time. In the primitive societies it was mankind's prime need to protect himself/herself from the vagaries of nature like earthquakes, famines or even finding shelter and food in his day to day life. Societal groups were formed to confront and brave such hazards which turned into community living and formation of villages and also bringing in the concept of a family. These institutions provided whatever limited social security those societies needed and served them adequately.

Social security to the workers would involve providing or framing such schemes or services or facilities and amenities which can enable the workers to lead a decent minimum standard of life and having financial/economic security to fall back upon in the event of losing job for whatsoever may be the reason in the circumstances beyond their control. The workers must be given the wages and other services which will enable them and the members of their family to lead a decent life. The social security is an instrument for social transformation and good governance.

The recommendations of the NCEUS's report, amongst other, include that any worker registered with the National Social Security Scheme for the unorganized workers, on payment of prescribed contribution, shall be entitled to National Minimum Social Security benefits including health insurance, maternity benefit, insurance to cover natural and death due to accident, old age pension to Below Poverty Line (BPL) workers above the age of 60 years and Provident Fund for above poverty line (APL) workers.

Though the Government has taken several initiatives i.e. legislative measures and welfare schemes/programmes to improve the lot of this segment of working class, still the coverage is miniscule.

The National Common Minimum Programme (NCMP) of the present Government highlights the commitment of the Government towards the welfare and well being of all workers, particularly, in the unorganised sector.

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**KEY TERMS: Unorganised Workers, Unorganised Sector, Social Security, Natural Disasters, Trade Union.**

## INTRODUCTION

As an unorganised worker play a pivotal role in society, so they need special attention. Most socially and economically deprived sections of the society are engaged in informal economic activities. The government realised the pivotal role performed by unorganised sector in the economy. Therefore, many legislations and schemes are initiated by the government for the benefit of unorganised workers.

Further various social security measures provided by industrial units to their employees in the form of pension, provident fund and gratuity. Non-statutory benefits also provided to workers such as medical facilities, food, canteens etc. These benefits help in motivating the workers for their active contribution in the prosperity of the industry and when the workers are fully satisfied with the conditions of service, then they give their best efforts for the growth of the society.

The unorganized sector workers are those who have not been able to pursue their common interests due to constraints like casual nature of employment, invariably absence of definite employer-employee relationship, ignorance, illiteracy, etc. The unorganised workers are also generally low paid and a majority of them are devoid of any of the social security benefits like life and medical insurance, health care, maternity benefits, and old age pension etc. which are available to the workers in the organised sector under the Employees State Insurance Act, 1948; the Employees Provident Funds and Other Miscellaneous Provisions Act, 1952 and the Factories Act, 1948 etc.

## OBJECTIVE OF THE STUDY:

The unorganised sector workers are backbone of our economy but according to their works, the workers do not getting as much as they deserve. There are the following objectives of the study-

- To know about unorganised sector workers.
- To evaluate social security acts under they get benefitted.
- To evaluate Social security scheme for unorganised sector workers.
- To know problems of unorganised sectors workers
- Role of Indian Judiciary for the protection of the rights of the unorganised worker

## RESEARCH METHODOLOGY

This study is based on secondary data. The data has been collected from internet website of indiankanoon.org, website of Government of India (Ministry of Labour) and reports of planning commission of India.

## SCOPE OF THE STUDY

The present study is an attempt to make an enquiry into the various facets of employee welfare and social security measures in unorganized workers in India. The scope of the present study is both wide and narrow. It is wide because it covers almost all the components of welfare and social security measures. The scope of the study could also be viewed as narrow for it covers only one unorganized sector. This need not be a limitation of the study as an in-depth enquiry lends itself to incisive analysis and comprehensive coverage to get better insight into the issue relating employee welfare and social security.

## LITERATURE REVIEW

The concept of social security has evolved over time. One of its earliest mentions was in the Beveridge Committee Report in 1942, where it was described as “freedom of want,” and its provisions were limited to maintenance of employment, children’s allowances, and comprehensive health services (Majumdar & Borbora, 2013). Subsequently, in 1952, the International Labour Organisation (ILO) proposed a more nuanced understanding of social security- as protective measures against social and economic distress. These included protective measures against abrupt reduction or stoppage in income resulting from sickness, maternity, employment injury, unemployment, disability, old-age death, and provision for medical care (ILO, 1952).

ILO’s approach to social security was criticised for being limited to the experience of developed countries (Sarkar, 2004). Developing countries, generally speaking, had (and continue to have) a much larger informal sector, higher levels of poverty, low levels of industrialisation, among other constraints. They require a wider conception of social security. Jean Drèze and Amartya Sen argue that, in developing countries, social security should be seen more broadly as pro-poor measures implemented through public means (Sen & Drèze, 1989). Thus, in developing countries like India, social security is best understood as pro-poor

measures that can be: a) promotional, aiming to augment income, such as through the Mahatama Gandhi National Rural Employment Guarantee Act (MGNREGA);

b) preventive, aiming to forestall economic distress, such as through Provident Funds (PF); and c) protective, aiming to ensure relief from certain external shocks, such as remuneration provided through insurance schemes in the case of injury or death of a primary breadwinner (Sarkar, 2004).

Despite the large size of India's informal sector, in practice, most social security provisions remain limited to formal employment. Before we explore the state of social security in the informal sector and associated challenges, we first clarify what is meant by 'informality'. We then take a brief look at key informal labour market statistics in India, to better understand its scope and significance.

## Definitions

There are various definitions given by different Commission and others. But here we will be discussing the most important definitions.

According to the report of the **National Commission on Labour in 1969**.

'**Unorganized workers**' are other groups of workers who are not covered under the definition and can organise in pursuit of a common goal due to force such as:-

1. Casual nature of employment.
2. Ignorance and illiteracy.
3. Establishment of small size with the low capital invested per person employed.
4. Scattered nature of establishments.
5. Muscular strength of the employer operating either singly or in combination.

**National Commission** also gives some categories of workers, which can be categorised as unorganised workers, which are the following:

- Contract-based worker and it also includes workers engaged in the construction work.
- Daily –based worker in civil construction works.
- Informal (casual) labour.
- Labour engaged in small industry.
- Handloom/ power worm workers.
- Beedi and cigar workers.
- Employed in shops and commercial establishments.
- Sweepers and scavengers.
- Workers in teaberries.
- Labourers engaged in agriculture works and farming works
- Tribal labour.
- Other unprotected labour.

These categories are only 'illustrative' and are not exhaustive.

According to the **Unorganized Workers Social Security Act, 2008**

“Unorganized sector means an enterprise which is engaged in the production or sale of the food or in providing services of any kind owned by individuals or self-employed workers and where the number of worker working is less than 10 in number.”

Unorganised Workers: “**unorganised workers**” means as follows.

- A home-based worker.
- Self-employed worker.
- Nature of employment, contract, casual and bonded labour wage worker in the unorganised sector.

It also includes a worker in the organised sector who is not covered by any acts mentioned in schedule II of the Act”.

Based on the distinctiveness, the government has classified the unorganised workforce exclusively in four categories.

- **In terms of employment** like construction workers, waiver, fisheries, workers of the paper mill, sawmill etc.
- **The labourers which are most in exploited**-Head and shoulder loaders, scavengers, variety of labour works.
- **Labourers who are providing service**-Hotel boy, Midwives, Air Hostesses, barber, masseur etc.

Apart from category described above handicrafts, artisans, cobblers, handloom weavers, physically handicapped self-employed persons, lady tailors, a rickshaw puller, carpenters, tannery labour, power loom workers and urban poor, Truck and Auto drivers also come under the ambit of unorganised labour.

## **PROBLEMS FACED BY THE WORKERS**

As being the weaker section of the society they face many challenges. They are as follows.

- **Low wages**– Wages is only the factor for which any person/employer works. As the labourer is getting meager/half or less wages. As there is the Minimum Wages Act defines the minimum wage, which needs to be paid to the worker, but the worker fails to get minimum wages. **The Supreme Court of India ruled that employing workers at wage rates below the statutory minimum wage levels is considered as the forced labour and is the infringement of Article 23 of the Constitution of India** even though economic compulsion might drive one to volunteer to work below the statutory minimum wage.
- **No Knowledge about Work Hazardous and Occupational Safety**-The working conditions in the unorganised sector is the leading cause to have an adverse effect on the health conditions of workers. Concerning home workers, most of the studies reported that labourers suffer from health problems.

- The health problems are mostly related to respiratory due to **inhalation of the tobacco dust and body ache, or due to the peculiar posture** that has to be maintained at all times of work. **Unguarded machinery**, various toxic chemical coal, dust lime, dust blaze, the raw material for synthetic generation leads to the death of many unorganised workers because the working conditions are more severe and knowledge of occupational health and safety is negligible.
- **Maximum workers are living in deplorable conditions:**-They live in unsanitary conditions and likewise battle with sewer seepage framework overflowing drainage system, flooding and storms. They live in a slum area. The facilities such as washing, urinal, toilets facilities at work are found to be below standard. It could be said that no such facilities were provided to workers in the industries.
- **Extended Hours of Work:**-Long hours of work in the unorganised sector **beyond the labour and regulatory norms** are standard in India. In the agricultural sector, there are **no fixed hours of work** as there are no laws to act as guidelines for the working conditions of agricultural labourers.
- In the case of **non-agricultural sectors** such as fireworks, matchmaking, power looms and so on, workers started their work very early in the morning at 6:00 a.m and continue till the evening. In the handloom sector, the work is organised in such a way that wages were based on **12-15 hours of work per day**. A large number of workers and the labourers are illiterate and as a result, the employers exploit the labourer by forcing them to work for extra hours. Due to long working, social isolation of migrant workers, high level of unemployment, illiteracy and lack of awareness are the major hurdles in organising themselves.
- **No Knowledge About the Trade Union or Labour Union:**-Not many but most are not aware of the existence of Trade Union and their rules. The primary purpose of the establishment of the Trade Union is to settle the dispute that may arise between the employer and employee. **Trade Union** means a Trade Union which is for the time registered under the **Trade Unions Act,1926**. Trade Union which can be analysed into the following ingredients.

**Trade Union** means any combination whether temporary or permanent made to regulate the relations between workmen and employer, workmen and workmen, employer and employees.

While imposing restrictive conditions on the conduct of any trade or business. But this Act shall not affect.

1. Any agreement between partners as to their business,
  2. Any agreement between an employer and those employed by him as to such employment,
  3. Any agreement in consideration of the sale of the goodwill of a business or instruction in any profession, trade or handicraft.
- **High Level of insecurity is common**-Social security means which provide amenities and assurance to the workers. For instance, the employment of the agricultural sector is irregular and

unassured. This is due to the availability of work to them only for about three months and remaining nine months; they are mostly unemployed and suffer from starvation.

- **Seasonal Employment**-The workers are employed as a seasonal employer. They are employed only for a particular season and remain unemployed during the remaining year. Employment is only for 3-4 months. In India **Mahatma Gandhi National Rural Workers Employment Guarantee Act,2005** aims to provide employment security by guaranteeing at least 100 days of work in the most backward districts of the country who can perform manually.
- **Women and children are unprotected and get meager or half/Low wages:** Article 39(d) of Constitution of India talks about Equal pay for equal work means that all the person should get equal wages irrespective of their age, sex if they work for the same hours. The children are forced to work at hotels, dhaba for low wages.
- Children and women are paid **low wages** as compared to male despite working for the same hours. Children and female workers work as household labour at the house of the people living in the urban area. Such child labourers are subject to **long working hours** and involved in the **hazardous sectors** such as carpet weaving, cloth printing, explosives and fireworks, cigarette making, printing and soldering process in electronic industries.
- **Harassment issues at the workplace for women- Sexual Harassment** is a big issue that occurs at the workplace. A safe workplace is women's legal right, but it has been neglected. They still experience a wide range of physical and psychological ailments due to **eve-teasing and sexual harassment**. In spite of the Act that was enacted in the year 2013 still, the woman is being assaulted at their workplace.
- **Vulnerable Labour Groups**:-The study group on the construction of the **First National Commission on Labour as well Second National Commission (2002)** observed that on quarries, brick-kilns as well as in big construction sites a system of bondage exists and get extended from one generation to the next through labour.
- The bonded labour involves a debtor-creditor relationship in this system, the creditor advances loan to the labourer and put him in bondage until the loan is returned. The repayment of debt is so arranged that the servant cannot repay it during his lifetime before ensuring lifelong service for the master. It is this feature which differentiates bonded labour from unpaid forced labour.
- **Insecurity due to natural disasters**:-There are many natural disasters like floods, droughts, earthquakes, famine etc. which also have a devastating impact on the informal sectors. Natural disasters do not wipe out the productive base of the informal sector, but can also affect the limited household assets of the owner.

## **SOCIAL SECURITY TO UNORGANISED WORKERS**

Social security is essential for the welfare and provides certainty to the workers. Social security measures have manifold benefits in promoting the workers, increasing the production level of industry and develop the feeling of surety among the workers. It was also helpful for eradicating poverty to some extent. Social security is a fundamental human right (Though not one of the **Constitutional Fundamental Right**).

The **Planning Commission** constituted a working group on Social Security during the process of the 12th Five Year Plan. In India out a total workforce of **45.9 crores, 94%** is in the unorganised sector, and the remaining only 6% is in the organised sector.

The workers in the organised sector are covered under social security legislation like employees Provident Funds, **Miscellaneous Provisions Act, 1952 and Employees State Insurance Act, 1948**. The working groups of Planning Commission constituted subgroups in its first meeting to discuss the issues. Taking the benefits of subgroups the working groups have formulated its recommendations. It is hoped that these recommendations would be useful for the formulation of the twelfth five-year plan.

### **Unorganised Social Security Act, 2008**

In the era of liberalisation, globalisation, and privatisation the country has been a drastic change in the business environment and nature of employment. These changes created many issues in social security measures.

In this regard, the issue of social security to the growing sector of unorganised workers draws more attention in emerging India. The government enacted much social security legislation for the welfare of unorganised workers also formulated many schemes. Unorganised **Workers Social Security Act 2008** is one of the significant activities which is exclusively for the protection of unorganised workers.

The mechanism under the Act provides a three-tier system for the implementation of the law.

### **National Social Security Board**

The **Union Government constitutes the National Social Security Board** with the union minister for Labour and Employment as Chairperson, members nominated by The Union Government consisting of seven each representing workers and employers from unorganized sector, an eminent person from civil society, two members from the House Of the People, one member from the Rajya Sabha and also five each members representing Ministries from the Central And the State Governments. It is multiple parties' composition who performs the following functions, as follows.

1. They give a recommendation to the Union Government about suitable schemes for the unorganised workers.
2. Advise the Union Government on matters arising out of the administration of the act.
3. To monitor the social security schemes which are formulated for unorganised workers?
4. Review the registration and issue identity cards to the unorganised workers.
5. Review the record of functions performed by the State Government at the state level.
6. Review the expenditure from the funds under various schemes.



7. Undertake another work as assigned by the central Government.

### **State Social Security Board**

The State Government at the state level is empowered to constitute the Social Security Board for the objective of proper implementation of the Act. Function and Composition of State Social Security are the same as the National Social Security Board.

The Social Security Boards, which are entrusted with the responsibility of implementation of the act, are just advisory in nature and are not empowered to perform many functions except monitoring and review.

The Boards are not empowered to take decisions on their own. It is up to the Government to accept the recommendations of the board or not. For effective Implementation of any Act and consistent delivery of social security rights to the workers, a well-defined administrative mechanism is very essential, which is missing in the Unorganized Social Security Act itself.

### **Workers Facilitation Centres**

The Act also provides for the constitution of “**Workers Facilitation Centres**” by the State Governments to disseminate information social security schemes, assist unorganized workers for the registration and facilitate the enrollment of the registered unorganized workers for social security schemes, but the Act is silent about at which level these workers facilitation centers are to be created.

### **Social Security Schemes:**

Subsection 1 of Section 3 of the Act states that Union Government and State Government shall formulate schemes from time to time covering health and maternity relief, old age protection, life and disability and another benefit which may be notified by the central government.

For the workers engaged in the Unorganised sector, social security benefits are being addressed through the Unorganised Workers’ Social Security Act, 2008. The Act empowers the Central Government to provide Social Security benefits to unorganised sector workers by formulating suitable welfare schemes on matters relating to (i) life and disability cover, (ii) health and maternity benefits, (iii) old age protection and (iv) any other benefit as may be determined by the Central Government. The State Governments are also empowered to formulate suitable welfare schemes on the matters regarding housing, provident funds, educational schemes, skill upgradation, old age homes etc.

### **Life and disability**

Life and disability cover is provided through Pradhan Mantri Jeevan Jyoti Yojana (PMJJBY) and Pradhan Mantri Surksha Bima Yojana (PMSBY). Benefits under the schemes are for Rs.2 lakh on death due to any cause & permanent disability, Rs.1.0 Lakh on partial disability and Rs.4 lakh on death due to accident to the unorganised workers at the annual premium of Rs.342/- (Rs.330/- for PMJJBY + Rs.12/- for PMSBY) depending upon their eligibility.

The eligible Unorganised Workers can avail the scheme from their respective banks at annual premium of Rs. 342/-. As on 30.12.2020, 9.70 and 21.87 crore people have been enrolled under PMJJBY and PMSBY respectively.

### **Health and maternity**

The health and maternity benefits are addressed through Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana (AB-PMJAY) which is a universal health scheme administrated by the National Health Authority. The number of eligible beneficiaries under Social Economic Caste Census (SECC) of 2011 on the basis of select deprivation and occupational criteria across rural and urban areas is 10.74 Crore families (50 crore people). The Scheme gives flexibility to States/UTs to run their own health protection scheme in alliance with AB-PMJAY. The States/UTs implementing AB-PMJAY have further expanded the coverage of the scheme to include 13.13 crore families (65 crore people).

### **Old age protection**

For old age protection to unorganised sector workers including traders, shopkeepers and self-employed persons, the Government has launched two flagship schemes namely Pradhan Mantri Shram Yogi Maan-Dhan Yojana (PM-SYM) and National Pension Scheme for Traders, Shopkeeper and Self-Employed Persons (NPS- Traders). Under the schemes, beneficiaries are entitled to receive minimum monthly assured pension of Rs.3000/- after attaining the age of 60 years. The workers in the age group of 18-40 years whose monthly income is below Rs.15000/- can join the PM-SYM scheme and Traders, shopkeepers and self-employed persons whose annual turnover is not exceeding Rs.1.5 crore can join NPS – Traders scheme. These are voluntary and contributory pension schemes and monthly contribution ranges from Rs.55 to Rs.200 depending upon the entry age of the beneficiary. Under both the schemes, 50% monthly contribution is payable by the beneficiary and equal matching contribution is paid by the Central Government. Both the schemes are being implemented in all the States/UTs of India. The details of numbers of beneficiaries as on 28.02.2021 under PMSYM and NPS Traders, 44.90 Lakh and 43,700 respectively.

### **The Code on Social Security, 2020**

The Code on Social Security was passed by the Parliament in September 2020. Under this Code, social security is defined as "*...the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code.*" It consolidates and rationalises 10 existing legislations

**Table 1: Labour Laws under Social Security Code**

Sr.No	Labour Laws
1	The Employees' Compensation Act,1923
2	The Maternity Benefit Act,1961
3	The Payment of Gratuity Act,1972
4	The Unorganised Workers; Social Security Act,2008
5	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act,1976
6	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act,1976
7	The Beedi Workers Welfare Cess Act, 1976
8	The Beedi Workers Welfare Fund Act, 1976
9	The Cine Workers Welfare Fund Act,1981
10	The Building and Others Construction Workers Cess Act,1996

Source: The Social Security Code, 2020. Available online at:

[https://labour.gov.in/sites/default/files/SS\\_Code\\_Gazette.pdf](https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf)

**The Code on Social Security, 2020, directs the Union and the state governments to consider designing welfare schemes to provide social security to gig economy workers such as, online-platform based taxi drivers, delivery persons, etc.**

The Code provisions for the Union government to introduce social security schemes for workers. Such social security measures include schemes such as: Employees' Provident Scheme; Employees' Pension Scheme; schemes for the benefit of unorganised workers, etc. It also directs governments to take into account the welfare of gig economy workers such as for-hire drivers or delivery persons. There are multiple thresholds for eligibility in different schemes, depending on the number of workers employed in the establishment and the income being drawn. As per the Code, to provide social security for unorganised workers, gig workers and platform workers, the Union government can frame suitable welfare schemes on matters relating to life and disability cover, health and maternity benefit, old age protection, and education. Similarly, the state governments can frame schemes on aspects such as provident fund, employment injury benefit, and housing, educational schemes for children, etc.

The Code, much like the erstwhile Unorganised Workers Social Security Act (UWSSA), stipulates the formation of national and state-level Social Security Boards to recommend schemes for unorganised workers. Similar to the Code on Wages, this Code also introduces Inspector-cum-Facilitators and a quasi-judicial appellate authority to adjudicate over disputes.

## ROLE OF INDIAN JUDICIARY FOR THE PROTECTION OF THE RIGHTS OF THE UNORGANISED WORKER

Sometimes due to failure of proper implementation of legislations judiciary come forward for the protection of the rights of unorganised workers. Unorganised workers indeed remain outside the purview of social security measures.

Indian Judiciary played a pivotal role in the development of modern jurisprudence and made a significant contribution to the protection of interests of weaker section of society which could be reflected from several decisions. Judiciary also tried to extend the benefits of labour welfare measurements such as the Employees Compensation Act, Payment of Gratuity Act, Employees State Insurance Act, Employees Provident Fund etc.

Judiciary has exclusive responsibility for the protection of interest of a weaker section of society. Through various judgments, the Supreme Court of India emphasised on Right to Livelihood as an inherent part of Right to Life.

In the case of *Rural Litigation and Entitlement Kendra, Dehradun v. Uttar Pradesh* [1],

The court stated that the right to life under Article 21 of the Constitution of India also includes the right to livelihood.

In the case of *People Union for Democratic Rights v. Union Of India*[2],

The court held that beggar is also a kind of forced labour and it is a violation of the right to live with dignity, respect and fundamental human rights. If any person is taking the service of any labour and does not pay the minimum wages, then it is a violation of Article 23 of the Constitution of India.

In the case of *Sanjit Roy v State Of Rajasthan*[3],

It was held that payment of wages lower than the minimum wage to the person employed on famine relief work is violative of Article 23. Whenever Any labour or service is taken by the state from any person, who is affected by drought and scarcity condition the state cannot pay him less wage than the minimum wages on the ground that it is given help to them to meet famine situation. The state cannot take advantage of their helplessness.

In the case of *Deena vs Union of India*[4],

The court held that the labour work that is taken from the prisoners it without paying sufficient wages is considered forced labour, and it is an infringement of Article 23 of The Constitution.

The prisoners have the right to claim the reasonable wages for their service rendered, and the court must enforce the claim of labourers.

In the case of *Bandhua Mukti Morcha v. Union Of India*[5]

The court held that whenever the public interest litigation if initiated alleging the practice of bonded labour, the government needs to accept it as the opportunities and to examine the issues or problem of labour and make efforts to eradicate the practice of bonded labour and protect the labours. Article 23 of the Constitution of India, which prohibits the practice of bonded labour protects and helps the labours to earn for their livelihood.

In the case of *Neeraja Chaudhary v. State of Madhya Pradesh*[6]

Justice Bhagwati held that it is not sufficient for the Government to find about the existence of bonded labour, but it is also necessary that the labourers should be rehabilitated because if they are not rehabilitated, then they would be driven to despair, poverty and helplessness.

Article 21 states that bonded labour should be identified and efforts need to be made by the Government to complete rehabilitation of the labourers. Directive Principles of State policy was enacted as the guidelines for the government. Under DPSP, the State Government needs to provide a basic human dignity to bonded labour and if it is not fulfilled, then it will result in the infringement of Article 21 of the Constitution.

## **JUDICIAL TRENDS CONCERNING THE EXTENSION OF THE BENEFITS OF SOCIAL SECURITY SCHEMES TO UNORGANISED WORKERS**

In the case of Daily Rated Casual Labour V. Union Of India[7], it was held that whenever the employees are classified into the casual and regular employees. Leads to the infringement of Article 14 and Article 16 of the Constitution. It is also against the spirit of Article 7 of the International Covenant on Economic, Social And Cultural Rights, 1966. When the labourers are not paid minimum wages as prescribed by the Minimum Wages Act, then it amounts to exploitation of labour. The court also stated that the Government should be the model employer and not take advantage of its dominant position.

In the case of State V. Banwari[8],

The High Court of Allahabad stated that “The person cannot refuse to render the services merely on the ground that such labours belong to the Scheduled Caste. This is done to protect the interest of weaker sections of society.

In the case of Siddheshwar, Hubli v Employees State Insurance Corporation,

The court has widened the definition of the employee under this act and also states that this Act applies even to those persons whose services are lent to the principal employer.

In the landmark case M.C Mehta v State of Tamil Nadu[9],

The Supreme Court of India gave order to the Government to do a survey and to stop the child labour in the matchstick and cracker factories. The court also directed that the minimum wage paid by the subcontractors under **Minimum Wages Act** should be directly paid and the provisions of section 21 of the **Contract Labour Act, 1970** should be observed.

In the case of Delhi Jal Board v. National Campaign For Dignity and Rights of Sewerage and Allied Workers[10]

Neither the lawmakers nor those entrusted with the duty of implementing laws enacted for the welfare of unorganized workers have put in place appropriate mechanism for the protection of persons employed by or through contractors to whom service meant to benefit the public at large are outsourced by state and its agencies for doing workers, which are inherently hazardous and dangerous to live nor have they made provision for payment of reasonable, compensation in the event of death.

Therefore Judiciary is active to take all necessary steps for **protection of the rights of unorganised workers** and **implementing social security welfare schemes** and also extend the advantages of various labour welfare legislation.

## CONCLUSION

As many problems are faced by unorganised workers such as low wages, exploitation of workers, cruel conditions of workers etc. so the legislative system of India protects the rights of the unorganised workers with the help of various articles covered under the constitution of India.

The Government of India took a step by enacted a legislation 'Unorganized Social Security Act, 2008' for providing underlying social security to the unorganised workers who work in an unorganised sector. In pursuance of this Act, the Government of India has implemented numerous schemes such as Aam Admi Bima Yojana (Life Insurance), old age pension scheme, Rashtriya Swasthya Bima Yojana (health insurance) etc.

Life and disability cover is provided through Pradhan Mantri Jeevan Jyoti Yojana (PMJJBY) and Pradhan Mantri Surksha Bima Yojana (PMSBY) in 9<sup>th</sup> may 2015, these cover are provided in very nominal amount of contribution.

The Central Government, under the requisite section and the State Government under the specified section, has been empowered to make the rules for the smooth functioning.

The Central Government has power under section 11 to give direction to the State Government and National Board for the proper implementation of the provisions of this Act.

On the basis of past experience the government needs to make or formulate a mechanism in registration of unrecognized labour and also ensure that the existing social security scheme must be availed by unorganised sector workers so that their social and economic condition will enhance/uplift.



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