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Nature Of Ex-Gratia, Customary Bonus And Festival Bonus Under Payment Of Bonus Act,(1965)

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Abstract

The bonus system is a crucial part of labor law, helping to fairly distribute profits and maintain harmony in the workplace. While the Payment of Bonus Act of 1965 established a legal framework for mandatory bonuses, non-mandatory payments, such as ex gratia, customary, and festival bonuses, are still important in how industries operate. Despite their widespread application, these classifications exist within a legal gray area, thereby generating a multitude of disputes and interpretative challenges between employers and employees. This study delves deeply into the nature, magnitude, and legal status of these three types of bonuses.

Conversely, this research investigates customary bonuses, a practice that, when characterized by consistency, uniformity, and established expectations, can potentially evolve into a legally binding entitlement. Furthermore, the study analyzes festival bonuses, specifically within India's socioeconomic framework, where cultural conventions shape work behaviors, thereby complicating the distinction between obligatory and discretionary payments. Through a critical analysis of the interplay between legal statutes and judicial rulings, the study illustrates how courts have adjudicated conflicts concerning the categorization and legal validity of these bonuses.

The study further investigates the ramifications of these payments on labor relations, collective bargaining dynamics, and employee morale, underscoring their significance beyond mere financial compensation. It also addresses critical concerns, such as the potential for ex-gratia payments to circumvent mandatory bonus requirements, the difficulties inherent in defining customary practices, and the absence of explicit legislative direction regarding festival bonuses. Through doctrinal and case law analyses, the research underscores the necessity for enhanced legal precision and policy intervention. Consequently, to foster transparency, mitigate litigation, and cultivate equitable employer-employee interactions within the evolving

landscape of Indian labor law, the paper's concluding section offers recommendations for aligning statutory and non-statutory bonus practices.

Keywords: Bonus act ,1965, Profit sharing, Employment benefits, Labour welfare, Wage policy, Custom

INTRODUCTION:

Bonus is having been important for workers in India for time. It helps make sure that workers get a share of the money the company makes. The Payment of Bonus Act of 1965 was a step in making sure bonus payments are fair and that there are not as many problems between employers and employees. This Act says that workers have to get an maximum bonus based on how well the company does. In real life companies often give workers extra money like ex-gratia, customary bonus and festival bonus. They are important for how people get along at work. They also raise some big questions about what they mean and if workers can count on getting them. Ex-gratia payments are usually made because the company wants to and workers cannot force them to pay. Customary bonuses are different because they have been happening for a time and after a while, they can become something that companies have to do.

Festival bonuses are very common in India during Diwali and Pongal. They are in an area because sometimes they are voluntary and sometimes, they are customary. The problem is that there are no rules for these kinds of bonuses. This means that people get into a lot of arguments. The courts have to step and decide what is fair when it comes to these bonuses. The courts have to figure out if workers have a right to these bonus payments or if it is up, to the company to decide. The thing is these bonuses are a deal and the courts have to decide if workers should get them or not. The courts are looking at these bonuses. Trying to determine if they are something that workers are entitled to or if the company gets to decide who gets them and who does not.

This paper will examine what ex-gratia, customary bonus and festival bonus really mean. These terms are important in law and everyday life. Ex-gratia, bonus and festival bonus are types of bonus payments. Companies and workers deal with these payments. Understanding them helps to keep relationships good and avoid conflicts. It will also consider if we need rules. These rules should make sure everything is fair and consistent, at work. The goal is to look at how bonus payments work. Ex-gratia, bonus and festival bonus are key here. They are part of how companies and workers interact. Good relationships and avoiding conflicts are important. Ex-gratia, bonus and festival bonus help achieve this.

WHAT IS BONUS?

Bonus is considered as “reward” or any additional payment made to their monthly remuneration, given by the employer to the employee in any establishment. The basic objective to give the bonus is to share the profit earned by the organisation amongst the employees. Any payment made in kind is perquisite, not a bonus. The Minimum bonus will be provided 8.33% of the salary during the year, or one hundred rupees will be given in case of employees above 15 years and sixty rupees in case of employees below 15 years, whichever is higher. The maximum bonus is 20% of salary during the accounting year.

TYPES OF BONUS:

Bonus in India can broadly be classified into statutory and non-statutory bonus

- statutory bonus
 - governed by the act
 - mandatory
 - based on profit or productivity
- non-statutory bonus
 - ex-gratia bonus
 - customary bonus
 - festival bonus

EX-GRATIA BONUS:

ex gratia payment is a type of payment made by an association, government, etc., to an existent for damages or claims without incurring any legal obligation. "Ex gratia" means "by favor" or "by virtue of grace" in Latin. Ex gratia payments aren't common since companies or other associations are generally only willing to cover the payments under legal enforcement. Still, some associations use ex gratia payments to express their goodwill to maintain good long-term connections with the payment receivers. For illustration, a company felt a bad time and decided to lay off a large number of workers.

In addition to compensating the workers according to legal terms, the company may also pay redundant quantities to show its benevolence. It can help the company to lower the negative effect of the job cuts on its public image. Ex gratia payments aren't taxable in India unless

they're made in lieu of payment or stipend. The quantum of the payment isn't limited, but it's generally hung on the existent's or group's requirements and circumstances.

FEATURES OF EX-GRATIA BONUS:

- Voluntary payments
- No monetary limit
- Goodwill gesture
- Taxation

CUSTOMARY BONUS:

A customary bonus is a type of payment that companies make because they have been doing it for a time. It is not something they do out of kindness like ex-gratia payments. Customary bonus is something that employees can expect to get because the company has been paying it to them for a while. When a company pays a bonus to its employees at the time every year it becomes something that employees think they should get. This is because the company has been doing it for long that it is now part of what employees expect when they work there. The thing about bonus is that it shows how the rules about work and employment change over time to fit the needs of companies and employees. What a company does as a thing to do can become something that employees think they have a right to get. This is especially true, in some industries where people have been doing things the way for a long time and where employees count on these payments as part of their regular income. Customary bonus is a part of Indian labour law because it is based on what companies have been doing for a long time.

FEATURES OF CUSTOMARY BONUS:

- Based on custom and usage
- Paid regularly over years
- Accepted by both employer and employees

LEGAL RECOGNITION OF CUSTOMARY BONUS:

customary bonus is recognized under: **Section 17¹** of the Act This section allows:

¹ Payment of Bonus Act 1965, s 17.

Adjustment of customary bonus paid earlier against statutory bonus payable. This clearly indicates that the law acknowledges customary bonus as a distinct category.

FESTIVAL BONUS:

The festival bonus is a way for employers to show they care about the festivals of their employees. In India festivals are a deal and people spend a lot of money during these times. When it is time for religious or cultural holidays like Diwali, Pongal or Durga Puja employers may give a festival bonus to their employees. Employers want to help their employees with the costs of festivals. So, they give festival bonuses to show they are supportive. This also helps to make the relationship between employers and employees better.

The Payment of Bonus Act of 1965 does not have rules for festival bonuses. Now many companies give festival bonuses to their employees. Employees start to expect these bonuses every year. They think of festival bonuses as a part of their yearly benefits. This is especially true in companies where festival bonuses have been given for years. The festival bonus becomes something that employees expect to get. This expectation is important when it comes to the rules, about festival bonuses and the festival bonus itself.

Purpose:

- To help employees meet festive expenses
- To promote goodwill and loyalty

COMPARATIVE ANALYSIS OF EX-GRATIA, CUSTOMARY BONUS AND FESTIVAL BONUS UNDER THE PAYMENT OF BONUS ACT, (1965)

Ex gratia payments, bonuses and festival bonuses are not required by law. They have legal standings and how enforceable they are Ex gratia bonuses are given out of goodwill. Employers decide whether to give them or not Employees do not automatically have a right to them. For employees to claim these ex gratia bonuses there needs to be a contract. There needs to be a history of the employer giving them. A customary bonus is different. It is given regularly over a period. Employees start to expect these bonuses. This expectation can become a right that is protected by law. Court decisions like Muir Mills Co. Ltd. V. Suti Mills Mazdoor Union² have shown that regular payments can create a right to them.

² Muir Mills Co Ltd v Suti Mills Mazdoor Union AIR 1955 SC 170.

Festival bonuses are like a mix of bonuses and ex gratia payments. They are usually given during holidays like Pongal or Diwali. They are given as a goodwill gesture. If they are given regularly over a time they might be seen as customary bonuses. These would then be required by law. A court decision in *Graham Trading Co. Ltd V Its Workmen* said that regularly giving festival bonuses could create a law /rule. The main difference between these bonuses is that ex gratia bonuses are optional. Customary bonuses are based on practice. Festival bonuses depend on whether they're given regularly or not.

Understanding this difference is important for workers and employers. They need to know their rights and responsibilities, under labor law. Ex gratia payments are discretionary. Customary bonuses are based on established practice. Festival bonuses can become enforceable if they are given regularly.

RELATED CASE LAWS:

- 1) **Grahams Trading Co. (India) Ltd. V. Its Workmen³** is a case where the Supreme Court talked about the rules for bonus classification. The Court said that a bonus given as a gift even if it is given for many years does not mean the employer has to give it by law because it is something they choose to do. The Court also made some important rules to figure out when these payments become a usual bonus. These rules are: it has to be given for a time it has to be given every year without stopping it has to be given even when the company is losing money and it has to be the same amount every time. This case also said that bonuses given during festivals like Puja or Diwali bonus often become a bonus because of old social and work practices.
- 2) **Baidyanath Ayurveda Bhawan Mazdoor Union v. Management⁴** is another case where the Court looked at these bonuses. The Court said that these bonuses come from cultural traditions not just from how much money the company is making. It said that festival bonuses might still have to be paid even when the company is losing money if it has become a practice. This decision shows that taking care of workers is important for reasons and, for keeping everyone at work happy.
- 3) **Kamgar Sabha v. Abulbhai Faizullahai⁵** In this case the supreme court observed that “bonus” is a word of many generous connotations. There is profit based bonus which

³ *Grahams Trading Co (India) Ltd v Its Workmen* (1960) 1 LLJ 1 (SC).

⁴ *Baidyanath Ayurveda Bhawan Mazdoor Union v Management* (1969) 2 LLJ 437 (SC).

⁵ *Kamgar Sabha v Abdulbhai Faizullahai* (1976) 4 SCC 832.

is one specified kind of claim and perhaps the most common. There is customary or traditional bonus which has its emergence from long. There is attendance bonus. The bonus act speaks and speaks as whole code on the sole subjects of profit -based bonus but is silent and cannot, annihilate by implication, other distinct and different kinds of bonus such as the one oriented on custom.

- 4) **Hukam Chand jute mills Ltd v. Second industrial tribunal, West Bengal**⁶ The Supreme Court held that the claim for customary bonus isn't affected by 1976 Amendment Act. In fact, it has left Section 17 complete which refers to puja bonus or another customary bonus. Section 31A speaks about productivity bonus but says nothing about other kinds of gratuities. The argument that all agreements inconsistent with the provisions of the Act become inoperative has no substance vis-a-vis customary bonus. Conceptually statutory bonus and customary bonus operate in two fields and don't conflict with each other

CONCLUSION:

To conclude the difference between-gratia, customary bonus and fest bonus is truly important under the Payment of Bonus Act 1965 and Indian labour laws. The Act basically deals with bonus but these non-statutory gratuities are valid because of fairness, usual practice and court opinions. Ex-gratia payments are voluntary. Not needed by law. They do n't give workers any right unless it's stated in their contract or has been done in the once constantly. On the hand customary bonus isn't easily defined in the law but courts say it's enforceable if it has been given for a long time slightly and without interruption. This creates an expectation. Festival bonus can be either a payment or come a regular obligation that can be enforced depending on how it's paid.

Courts have constantly said that whether these payments are voluntary or regular depends on factors like how they're given the employers intention. If it's a condition of service. So, the type of bonus cannot be decided by its name but by looking at the data and conduct of the parties. In terms understanding and classifying these gratuities rightly are pivotal for ensuring legal clarity reducing work disputes and keeping a fair relationship between employers and workers following the principles of fairness and justice, at work.

⁶ Hukumchand Jute Mills Ltd v Second Industrial Tribunal, West Bengal (1979) 3 SCC 371.