



Social security need and benefits in India– A constitutional basis

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Abstract

“Life must not be judged on how long it is, but on how valuable it is”.

Every life is precious on earth and every form on the planet has a specific purpose. Trees, animals, birds, humans, insects all contribute to the growth of the planet and other lives in their own way. Human Life is a great gift as it is the most precious and powerful of the existing life forms. The true value of life lies in protecting others and helping them. In this aspect state plays an important role in protecting the environment and protecting people.

The preamble of the Indian constitution plays a vital role in the democratic country. It contains ideals that the constitution seeks to achieve. The preamble is an introduction of the constitution. The preamble ensures justice, liberty, equality, and fraternity among citizens. As long as human life exists on earth, the concept of social security also exists on the earth. Social security in India includes a variety of statutory insurances and social grant schemes. Social security is the protection that a society provides to individuals and to ensure access to health care and to guarantee income security, particularly in case of old age, unemployment, sickness, injury, maternity etc.

Is there any provision of social security under the Indian constitution? What is the history of social security in India? what are the constitution provisions in India relating to social security? what are the social security schemes in India? This paper presents the importance of social security and its benefits under the Indian constitution.

Keywords: social security, constitution of India, preamble, protection

Introduction

Social security means any of the measures established by legislation to maintain individual or family income or to provide income when some or all sources of income are disrupted or terminated or when exceptionally heavy expenditures have to be incurred.

“Social security is the security that society furnishes through appropriate organisations against certain risks to which its members are exposed. These risks are essentially contingencies against which the individual of small means cannot effectively provide by his own ability or foresight or even in private combination with colleagues^[9]”

Social security may provide cash benefits for persons faced with sickness and disability, unemployment, crop failure, loss of marital partner, maternity responsibility for the care of the young children or retirement from work.

Social security measures may be provided in cash or kind for medical need, rehabilitation, domestic help during illness at home, legal aid, funeral expenses.

social security measures act as facilitator, it helps people to plan their own future through insurance and assistance

India's social security system is composed of schemes and programs spread throughout a variety of laws and regulations. However, the government controls social security in India.

The word social security is a measure of safety and protection from danger or loss. Thus, the phrase social security refers to the measures of safety provided to the needy for their protection and releasing them free from agony.

The concept of social security is not new and references of such measures are to be found in the ancient and mediaeval history where certain social and religious groups have endeavoured to provide for similar security system for the

underprivileged or downtrodden people living in the same society. Therefore, the realisation of a moral, pious and religious responsibility of the society towards the weak sections of people is not unknown. However, with the passage of time and growing sense of civil and ethical responsibility of a civilised society, the government and non-governmental efforts for the protection of the needy and to make them free from want also received social recognition.

In the field of industrial relations, the phrase social security refers to those measures which are provided under the labour laws for the safety and protection of the employees from the most common hazards of their occupational life.

Historical background and development of social security

Traditional sources- all people throughout of all human history have faced the uncertainty brought on by unemployment, illness, disability, death, and old age in the realm of economics, these inevitable facets of life are said to be the threat in one's economic security.

For the ancient Greeks economic security took the form of amphorae of olive oil. olive oil was very nutritious and could be stored for relatively long periods. To provide for themselves in times of need the Greeks stockpiled olive oil and this was their form of economic security.

In medieval Europe the feudal system was the basis of economic security with the feudal lords were responsible for the economic survival of the serfs working on the estate. The feudal lord had economic security only so long as they fit enough to provide their labour. During the Middle Ages the idea of charity as a formal economic arrangement also appeared for the first time.

Family members and relatives have always felt some degree of responsibility to one another and to the extent that the family had resources to draw upon, this was often a source of economic security for those who were depended and lived on farms.

The rise of formal system of economic security

As societies grew in economic and social complexity, and as isolated farms gave way to cities and villages. Europe witnessed the development of formal organisations of various types that sought to protect the economic security of their members probably the earliest of these organisations were guilds formed during the Middle Ages by merchant's or craftsmen. Individuals who had a common trade or business banded together into mutual aid societies or guilds. These guilds regulated production and employment and also provided a range of benefits to their members including financial help in times of poverty or illness and contributions to help defray and expenses when a member died.

Out of the tradition of guilds emerged the friendly societies. These organisations began appearing in England in the 16th century. Again, organised around a common trade and business, the friendly societies would evolve into what we now call fraternal organisations and were the forerunners of modern trade unions.

In addition to the types of economic security provided by the guilds, the fraternal organisations and some trade unions would begin the practice of providing life insurance to their members. The friendly societies and fraternal organisations would grow dramatically following the industrial revolution. But the beginning of the 19th century one out of every nine Englishmen belongs to one of these organisations.

International labour organisation and the social security

The International labour organisation, since its inception in the year 1919, has been continuously contributing to the cause of social security. It pointed out that there was no social security legislation in any country prior to 1919 and therefore adopted a convention in 1919 on maternity benefit for the protection of woman worker. Subsequently during the period from 1921-1935, the ILO adopted a many as fifteen conventions on social security.

The Philadelphia declaration in the year 1944 further resolved to take steps for the execution of social security measures to provide a basic income to all in need of such protection and comprehensive medical care between 1962-70 the ILO adopted four conventions which mostly revised the earliest declarations. The ILO, in all has adopted 22 conventions relating to social security which received 521 ratifications from the member countries. The ILO published a monumental work on "Approaches to social security. An international survey which was intended to prepare the way for the planning of a complete social security programmes in the readiness for post-war reconstruction.

Evolution of social security in India

In India the demand for compensation was raised as far back in 1855. The Government took the initiatives to pass the Indian fatal accidents act of 1855, under which the employers could be sued for compensation in case of death of a workman due to accident ^[10].

Political philosophers have laid much stress on solution of this problem by legislative means Industrial risks are of so

wide magnitude that it is not possible for an individual workman with meagre means to deal with them effectively. It is for this reason collective effort and social legislation is essential to provide with compensation to the aggrieved workmen ^[11]

In India the employee's compensation Act 1923 is considered as a first step in the direction of social security to the employees in case of personal injury arising out of and in course of employment.

The Whitley commission in 1931 observed that the industrial worker in India, is attached to his native village, where joint family system, to certain extent, provided a cover to the worker in times of need.

Social security- concept defined by national commission of labour (NCL)

The concept of social security is based on ideas of human dignity and social justice. The underlying idea behind social security measures is that a citizen who has contributed or a likely to contribute to his/her country's welfare should be given protection against certain hazards. The concept of social security, thus is based on the ideals of human dignity and socio-economic justice

(NCL) (1969) has defined the social security as follows:

"Social security envisages that the members of a community shall be protected by collective action against social risk causing undue hardship and deprivation to individuals whose private resources can seldom be adequate to meet them."

The wages provided to the employees. Particularly of the lower level may not be sufficient to meet their needs like medical children, education, maternity need of women employees etc. Therefore, govt of various countries insist the employees against the social evils. In addition, govts also provide social security measures to the people.

Social security: constitutional provisions

Social security and labour welfare fall under concurrent list, it means both union and state government can make laws on

1. old age pensions and maternity benefits
2. workmen compensation
3. employers' liability
4. provident funds
5. welfare of labour including conditions of workers
6. employment and unemployment
7. social security and insurance

The concept of social security is one of the principles of directive principals of state policy which is enshrined under directive principles of state policy (Article 36-51)

Classification of directive principles of state policy

1. social and economic charter
2. social security charter
3. community welfare charter.

Article 38 and 39 embody distributive justice. Social order based on justice consists of diverse principles essential for the orderly growth and development of personality of every citizen. Article 38 provides that the state shall strive to promote the welfare of the people by securing and protecting, and social order in which justice-social economic and political-shall inform all the institutions of national life. This directive only reaffirms what has already

been said in the preamble according to which the function of the Republic is to secure to all its citizens, social economic and political justice.

Article 39: - principles of policy to be followed by the state for securing economic justice

- a. Equal right of men and women to adequate means of livelihood.
- b. Distribution of ownership and control of the material resources of the community to the common good.
- c. To ensure that the economic system should not result in concentration of wealth and means of production to the common good.
- d. Equal pay for equal work for both men and women.
- e. To protect health and strength of workers.
- f. The children were given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that the childhood and youth are protected against exploitation and against moral and material abandonment.

Equal pay for equal work: - pursuant to Article 39(d) parliament has enacted the equal pay for equal work though not a fundamental right is a constitutional goal and therefore capable of enforcement through constitutional remedies under Article 32 of the constitution. The doctrine of equal pay for equal work is equally applicable to persons employed on a daily wage basis. They were also entitled to the same wages as other permanent employees in the department employed to do the identical work.

1. Social security charter: Participation of workers in management of Industries Article 43-A requires the state to take suitable legislations or in any other way to secure the participation of workers in the management of undertakings, establishment or other organisations engaged in any industry.
2. Right to work, education and public assistance in certain cases: - Article 41 directs the state to ensure the people within the limit of its economic capacity and development (a) employment (b) education (c) public assistance in cases of unemployment, old age sickness and disablement.
3. Just and human conditions of work: - Article 42 directs the state to make provision for securing just human conditions and for maternity relief.
4. Living wage for workers: - Article 43 requires that state to try to secure by suitable legislation or economic organisation or in any other way to all workers agriculture, industrial or otherwise a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities Art 43 refers to a living wage and not minimum wage.
5. Provisions for early childhood care and education to children below the age of 6 yrs.: - Article 45 required the state to make provisions for free and compulsory education for all children until they complete the age of 14 yrs. The object was to abolish illiteracy from the country. The right to education flows directly from right to life.
6. Duty to raise the standard of living and improvement of health: - Article 47 imposes duty upon the state to raise the level of nutrition and standard of living of its people and the improvement of the public health. In particular the state should bring about prohibition of consumption

except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

7. Promotion of educational and economic interest of weaker sections: -Article 46 enjoins the states to promote with special care the children education and economic interest of the weaker sections of the people, and in particular of the scheduled castes and scheduled tribes, and to protect them from social injustice and of all forms of exploitation.
8. Equal justice and free legal aid to economically backward classes: - Article 39-A, directs the state to ensure that the operation of the legal system to promote justice, on a basis of equal opportunities and shall in particular provide free legal aid, by suitable legislation or schemes or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. This article was added to the constitution pursuant to the new policy of the govt to give legal aid to economically backward classes of people.

Social security legislations in India

1. The employees' compensation act 1923
object: To provide for the payment by certain class of employers to their employees of compensation for injury by accident.
2. Employees state insurance act 1948
object: To provide health insurance for industrial workers
3. Employees provident fund and miscellaneous provisions act 1952
Object: pension scheme after post retirement
4. The Factories act 1948
object: To eradicate the most glaring evils of the working conditions and accordingly the protection was provided to children and women on a priority basis.
5. The child labour prohibition act 1986:
object: To eradicate any kind of child abuse in the form of employment and prohibit the employment, who have not completed 14 years of age
6. The Maternity benefit act 1961
object: To protect the women employees at the time of her maternity, miscarriage or medical termination of pregnancy.

Conclusion

The government from time to time, basing on the needs of the society is making legislations for the protection of people, they are sickness benefits, maternity benefits, employment injury, disability, old age, death etc. The importance of social security is a step towards the goal of a welfare state and enable the workers to become more efficient to protect themselves, Lack of social security results in the reduction of production and prevents the formation of a strong and efficient labour force. Therefore, social security measures are not burden but productive investments which yields good dividends.

Suggestions

1. The concept of social security is not only the duty of the state, but the citizens should also be aware of the schemes which are introduced by the government
2. Awareness programmes should be conducted by the government to avail the benefits by the citizens of India

3. Medical camps and awareness programmes should be conducted in the rural areas to educate women, children, old age persons to avail the schemes of the government.

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