

## **Tamil Nadu Maternity Benefit Rules, 1967**

**[16 August 1967]**

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### **SCHEDULE 1 :-** From A

## **Tamil Nadu Maternity Benefit Rules, 1967**

**[16 August 1967]**

1S.R.O. No. A-691 of 1967.-In exercise of the powers conferred by section 28 of the Maternity Benefit Act, 1961 (Central Act 53 of 1961), the Governor of Madras hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section:-

### **1. Short Title And Commencement :-**

- (1) These rules may be called the 2[Tamil Nadu] Maternity Benefit Rules, 1967.
- (2) They extend to the whole of the State of Tamil Nadu.
- (3) They shall come into force on the 1st September, 1967.

### **2. Definitions :-**

In these rules, unless the context otherwise requires,

(a) "Act" means the Maternity Benefit Act, 1961 (Central Act 53 of 1961);

3[(b) " Appellate Authority " means:-

(i) in respect of factories, the Chief Inspector of Factories;

(ii) in respect of plantations, the Chief Inspector of Plantations ;4[\*\*\*]

(iii) in respect of establishments as defined in clause (6) of section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947) and catering establishments as defined in clause (1) of section 2 of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958), the Assistant Commissioners of Labour in the office of the Deputy Commissioners of Labour in their respective jurisdiction;] 5[and]

6(iv) In respect of beedi establishments the Chief Inspector appointed under sub-section (2) of section 6 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966)];

(c) " Form" means a form appended to these rules ;

(d) " Muster Roll" means a muster roll maintained under rule 3;

(e) "Registered Medical Practitioner" means a medical practitioner whose name has been enrolled in a register maintained under any law for the time being in force regulating: the registration of practitioners of medicine;

(f) " Section " means a section of the Act.

Footnote:

1 . Vide Part V of the Fort St. George Gazette, dated the 23rd August. 1967, at p. 650.

2. Subs, by S.R..O. No- A-517 of 1971, dated the 20th May, 1971.

3. Subs, vide by G.O. Ms. No. 2603, Labour and Employment, dated the 19th November, 1981.

4. Omitted by G.O. Ms.No. 210, Labour and Employment, dated the 7th October, 1992,

5. Added ibid.

6. Added by GO. Ms. No. 210, Labour and Employment, dated the 7th October, 1992.

### **3. Muster Roll :-**

(1) The employer of every establishment in which women are employed shall prepare and maintain a muster roll in Form A and

shall enter therein particulars of all women workers from whom notices of confinement have been received.

(2) All entries in the muster roll shall be made in ink and maintained up-to-date and it shall always be available for inspection by the Inspector during working hours.

(3) The employer may enter in the muster roll such other particulars as may be required for any other purpose of the Act.

#### **4. Proof :-**

(1) The fact that a woman is pregnant or has been delivered of a child or has undergone miscarriage or is suffering from illness arising out of pregnancy, delivery, premature birth of a child or miscarriage shall be proved by the production of a certificate in Form B ,

(i) in the case of a plantation, from a Certifying Surgeon notified under section 7 of the Plantations Labour Act, 1951, or a Resident Medical Officer approved by the employer or other doctor serving the estates under the medical scheme approved under the Plantations Labour Act or any other Registered Medical Practitioner ; and

(ii) in the case of an establishment, other than a plantation, from a Registered Medical Practitioner :

Provided that the fact that a woman has been delivered of a child may also be proved by the production of a certified extract from a birth register under the provisions of any law for the time being in force.

(2) The fact of death of a woman or a child may be proved by the production of a certified extract maintained under the provisions of any law for the time being in force or the production of a certificate to that effect in Form C.

#### **5. Payment Of Maternity And Other Benefits :-**

(1) A woman employed in an establishment and entitled to maternity benefit shall give notice to her employer in Form D and the employer shall make payment of the maternity benefit and any other amount due under the Act to the woman concerned, or in case of her death before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 5, to the person nominated by the woman in her notice in Form D.

(2) If the woman dies before receiving the maternity benefit or

other amount due without making a nominee, the employer shall within one month of the date of the death of the woman concerned, report to the appellate authority to ascertain the legal representative to whom the maternity benefit or amount due shall have to be paid. On receipt of this intimation from the employer, the appellate authority shall, after making necessary enquiries, determine the legal representative to whom the maternity benefit or amount due shall have to be paid and inform the employer. On being informed by the appellate authority as to the person who as legal representative is entitled to receive the maternity benefit or amount due, the employer shall pay to such a person maternity benefit or amount due within four weeks from the date of receipt of the communication from the appellate authority.

(3) Whenever the payment referred to in sub-rule (1) is made, a receipt shall be obtained by the employer in Form E from the person to whom the payment is made.

(4) The medical bonus shall be paid along with the second installment of the maternity benefit.

(5) The Maternity benefit or any other amount payable under section 7 shall be paid within two months of the date of death of the woman entitled to receive such benefit or amount.

(6) The wages payable under section 9 shall be paid to the woman entitled to receive such wages within forty-eight hours of production by her of proof under rule 4.

(7) The wages payable under section 10 shall be paid to the woman entitled to receive such wages within forty-eight hours of the production by her of proof under rule 4.

## **6. Break For Nursing Child :-**

Each of the two breaks allowed in section 11 shall be of 15 minutes duration. An extra sufficient period, depending upon the distance to be covered, shall be allowed for the purpose of journey to and from the creche or the place where the children are left by women while on duty, provided that such extra period shall not be of less than 5 minutes and more than 15 minutes duration. If any dispute arises regarding such extra period, the matter shall be referred to the appellate authority for decision.

## **7. Duties And Powers Of The Inspectors :-**

(1) Every Inspector shall at each inspection of an establishment verify,-

- (a) whether due action has been taken on every notice given under section 6 ;
- (b) whether the Muster Roll prescribed under rule 3 is properly maintained ;
- (c) whether there have been any cases of discharge or dismissal or notice of discharge or dismissal in contravention of the provisions of section 12 since the date of last inspection ;
- (d) whether the provisions of sub-section (1) of section 4, sub-sections (5) and (6) of section 6, sections 8, 9, 10, 11, 13 and 19 have been complied with and whether the amounts due have been paid within the prescribed time;
- (e) whether there have been any cases of deprivation of maternity benefit or medical bonus in contravention of sub-section (2) of section 12 ; and
- (f) how far the irregularities pointed out at previous inspections have been remedied and how far orders previously issued have been complied with.

(2) Where an Inspector observes irregularities in contravention of the provisions of the Act or these Rules, he shall by an order in writing require the employer to rectify the irregularities within a period not exceeding: 30 days and to report compliance to the Inspector.

### **8. Acts Which Constitute Gross Misconduct :-**

The following acts shall constitute gross misconduct for purpose of the proviso to clause (a) of sub-section (2) of section 12, namely:-

- (a) willful destruction of employers goods or property;
- (b) assaulting any superior or co-employee at the place of work ;
- (c) criminal offence involving moral turpitude resulting in conviction in a court of law;
- (d) theft, fraud, or dishonesty in connection with the employers business or property ; and
- (e) willful non-observance of safety measures or rules on the subject or willful interference with safety devices or with fire-fighting equipment.

### **9. Appeal Under Section 12 :-**

(1) Every appeal under clause (b) of sub-section (2) of section 12 shall be made to the

appellate authority in Form F.

(2) On an appeal being filed, the appellate authority shall furnish a

copy of the appeal petition to the employer, requiring the employer to furnish a reply. After giving the appellant and the employer an opportunity of being heard and also of filing any documents connected with the appeal, the appellate authority shall give his decision in writing. Where the employer fails to reply or to produce the required documents within the specified period, the appellate authority may declare the employer expert and give his decision.

#### **10. Complaint Under Section 17 :-**

(1) A complaint under sub-section (1) of section 17 shall be made in Form G or

Form H as the case may be.

(2) When a complaint under section 17 is received by the Inspector, he shall in the inquiry under sub-section (2) of the section aforesaid examine the relevant records maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement and if he is satisfied that the maternity benefit or other amount has been wrongfully withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 7, as the case may be, immediately or within a specified period.

#### **11. Appeal Under Section 17 :-**

(1) An appeal against the decision of the Inspector under sub-section (2) of section 17, shall

be made to the appellate authority in Form I together with a copy of the order appealed against.

(2) On receipt of the appeal petition, the appellate authority shall call for from the Inspector, the records relating to the case and after giving the appellant an opportunity of being heard and also seeking such other clarifications as may be required from the Inspector, shall give his decision.

#### **12. Supply Of Forms :-**

The employer shall at request supply free of cost, to every woman employed by him or to the person nominated by her under section 6 or to her legal representative copies of Forms

B, C, D, E, F, G, H and I.

#### **13. Non-Submission Of Notices, Appeals Or Complaints In The Prescribed Forms :-**

Nothing in rules 5, 9 and 10 shall affect the right of a woman entitled to receive maternity benefit or any other amount due under the Act if she fails to submit a notice, appeal or complaint under the said rules, as the case may be, in a prescribed form :

Provided that where a notice, appeal or complaint under the said rules has been submitted by a woman entitled to receive maternity benefit or any other amount due under the Act in a form other than the prescribed form, the authority concerned may, within 15 days of the receipt of such notice, appeal or complaint require the woman to submit the notice, appeal or complaint, as the case may be, in the prescribed form.

#### **14. Records :-**

Records kept under the provisions of the Act and these Rules shall be preserved for a period of two years from the date of last entry made therein.

#### **15. Abstract :-**

The abstract of the provisions of the Act and these rules required to be exhibited under section 19 shall be in Form J r in the language understood by the majority of workers and shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

#### **16. Annual Returns :-**

(1) The employer of every establishment shall on or before 31st day of January in every year submit to the Inspector returns in Form K giving information as to the particulars specified in respect of the preceding year.

(2) If the employer of an establishment to which the Act applies sells, abandons or discontinues the working of the establishment he shall, within one month of the date of sale or abandonment or four months of the date of discontinuance, as the case may be, submit to the Inspector a further return in each of the said forms in respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

#### **SCHEDULE 1**

From A

[See sub-rule (1) of rule 3.]

Muster roll

Name of establishment Address.

(1) Name of woman and age.

(2) Name of husband or father.

(3) Nature of work.

(4) Date on which employed.

(5) Dates with month and year in which she is employed, laid off or not employed :

Month Number of days employed Number of days laid off Number of days not employed

(6) Date of giving notice of pregnancy.

(7) Date of giving notice of delivery.

(8) Date of production of proof of birth.

(9) Date of production of proof of death, if any.

(10) Dates on which payment was made-Amount Date

(a) Maternity benefit paid in advance, of expected delivery.

(b) Subsequent payment of maternity benefit.

(c) Bonus.

(d) Leave wages as per section 9.

(e) Leave wages as per section 10.

10. Number of woman workers who absconded after receiving the first installment of maternity benefit.

(11) Cases where claims were contested in a court of law.

(12) Results of such cases.

(13) Remarks.

Signature of employer.

Date :

From O

(See Rule 16)

Prosecution during the year ending 31st December, 19

Place of employment Number of cases instituted which resulted in conviction

(For mines)

N.B.-Reason for prosecution should be given in full in the Appendix below.

Signature of employer.

Date.....19 .