



OFFENCES AND PENALTIES FOR CRIMINAL LIABILITIES
OF EMPLOYERS UNDER
INDIAN LABOUR LEGISLATIONS
RELATED TO WAGES AND INDUSTRIAL RELATIONS

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Abstract:

Criminal liability is a legal concept that holds individuals responsible for their actions or omissions if they are found to have committed a criminal act. Criminal liability differs from civil liability, which is based on the breach of a contract or tort. To be considered criminally liable, an individual must have acted with intention or negligently. Criminal liability is a complex concept that can have far-reaching legal implications. This article will provide an in-depth look at the concept of criminal liabilities under Indian labour legislations and their legal consequences that may result from it.

The employer defined under various labour legislations is statutorily responsible for making of payment of wages at specified time, paying rates of wages which is not less than the notified minimum rates of wages, overtime wages for the additional hours of works, providing weekly day of rest for their employees, providing statutory bonus amount to their employees, payment of gratuity amount after termination or superannuation of employees and maintaining health, safety, welfare measures in the workplace.. Employers are the custodians of most of the statutory provisions and hence they need to abide by the laws with diligence. Any negligence on their behalf, i.e., any violation of the legal provisions can result in criminal offences.

Labor laws are regulations that govern the relationship between employers and employees, ensuring fair treatment, protection of workers' rights, and promoting a healthy and productive work environment. For businesses, staying labor law compliant is not just a legal obligation but also a strategic decision that can have significant implications on their operations, reputation, and overall success.

Key Words: Criminal liability, Offences, Employer.

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Introduction:

Labour law is the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, working people and their organizations. As such, it mediates many aspects of the relationship between trade unions, employers and employees. In other words, Labour law defines the rights and obligations as workers, union members and employers in the workplace.

Generally, labour law covers:

- Wages- Payment of specified wages, payment of wages not less than the minimum rates of wages and the bonus;
- Industrial relations – certification of unions, labour-management relations, collective bargaining and unfair labour practices;
- Workplace health and safety;
- Employment standards, including general holidays, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay.

The provisions of the labour legislations related to wages and industrial relations cover most of the workers working under organized and unorganised structure, therefore in this article an effort made to consolidate the offences and penalty structure for criminal liabilities of employer mentioned under wage and industrial relation related labour statutes.

For the purpose of this article, I am taking into consideration the labour legislations related to wages and industrial relations. This article brings out in detail about the object and applicability of the Statute, type of criminal liabilities of the employers, nature of violation, AND consequence of violations.

(I) Criminal liabilities of employer under labour legislations related to WAGES:

<u>STATUTE :1 MINIMUM WAGES ACT 1948</u>	
OBJECT OF THE ACT:	To prevent exploitation of labour and to provide for fixing Minimum rates of wages in certain employments. The employments are those which are included in the schedule and are referred to as 'Scheduled Employments'.
APPLICABILITY OF THE ACT:	To all scheduled employments.

S.N	Type of Violation	Section	Concerned Responsibility Lies Upon		Nature of Violation	Nature and Consequence of Violation	T r i a l
1	Pays to any employee less than the minimum rates of wages fixed for that employee's class of work.	S.22	In case of Factory	Factory Manager	Criminal	Imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:	J M F C
			In any scheduled employment under the control of any Government in India .	Head of the Department			
2	Contravenes any rule or order made under section 13 . (Failure of working hour fixation/day of rest/payment of wage for working on the day of rest)	S.22 A	In any scheduled employment under any local authority.	Chief Executive Officer	Criminal		J M F C
			In case of company.	Every person who at the time the offence was committed, & as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. CEO/ DIRECTOR			
3	Failure to maintain the Registers.	S.22 A	In case of Factory	Manager	Criminal		
			In any scheduled employment under the control of any	Head of the Department			

			Government in India .				
			In any scheduled employment under any local authority.	Chief Executive Officer			
			In case of company.	Every person who at the time the offence was committed, & as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. CEO/ DIRECTOR			
<u>STATUTE :2 PAYMENT OF WAGES ACT 1936</u>							
OBJECT OF THE ACT:			An Act to regulate the payment of wages of certain classes of employed persons, whereas it is expedient to regulate the payment of wages to certain classes of employed persons.				
APPLICABILITY OF THE ACT:			Factories , Industrial or Other Establishments,				
S. No	Type of Violation	Applicable Section	Concerned Responsibility Lies Upon		Nature of Violation	Nature and Consequence of Violation	T R I A L
1	<ul style="list-style-type: none"> Untimely payment of wages to existing or terminated employee 	S 20(1)	In case of Factories	Factory Manager	Criminal	Fine of not less than Rs.1500 and maximum upto Rs.7500.	JM FC
			In case of Industrial or other establishment	Who is responsible for the supervision			

	<ul style="list-style-type: none"> Unlawful deduction of from the wages by the employer Unlawful fine imposition on an employed person by the employer Wrong deductions for absence from duty or for damage or loss made or for services rendered or for recovering given advances and loans. 			and control of such purpose (CEO/Manager/Other Officer)			
			In case of Contractor	Person designated by such contractor.			
2	<ul style="list-style-type: none"> Wrong wage period fixation Improper day for payment Wrong mode of payment, i.e., not using proper currency standard Improper maintenance of registers for fines and all realizations and simultaneously not using 	S 20(2)	In case of Factories	Factory Manager	Criminal	Fine upto Rs.3750.	JM FC
			In case of Industrial or other establishment	Who is responsible for the supervision and control of such purpose (CEO/Manager/Other Officer)			
			In case of Contractor	Person designated by such contractor.			

	<p>the realized money for beneficial purpose of the persons employed</p> <ul style="list-style-type: none"> • Not maintaining register for deduction of damage and loss • Not displaying act abstract as notice 						
3	<ul style="list-style-type: none"> • Not designating the nominated person as per S 3 	S 20(A)	Employer , i.e who is responsible for such designation or nomination	Criminal	Fine upto Rs.3750.	JM FC	
4	<ul style="list-style-type: none"> • Not maintaining registers and records • Intentional refusal to present information and return • Intentional presentation of false information • Giving wrong answers to questions which are important to obtain information 	S 20(3)	Any person designated by the employer for performing such responsibilities.	Criminal	Fine minimum of Rs.1500 to Maximum of Rs.7500.	JM FC	

5	<ul style="list-style-type: none"> Obstructing the inspector in performing his duties Not producing registers or records on demand by the inspector Preventing any other person for necessary examination by the inspection in line with the act 	S 20(4)	Any person responsible for such duties. (Can be anybody in an establishment)	Criminal	Fine minimum of Rs.1500 to Maximum of Rs.7500.	JM FC
6	<ul style="list-style-type: none"> Repetition of guilt for same offence under the act. 	S 20(5)	Any person responsible for such duties. (Can be anybody in an establishment)	Criminal	Imprisonment of minimum of 1 month to maximum of 6 month AND Fine minimum of Rs.3750 to Maximum of Rs.22500.	JM FC
7	<ul style="list-style-type: none"> Failure or willful negligence to pay wage to any employed person within the stipulated date 	S 20(6)	Any person responsible for such duties. (Can be anybody in an establishment)	Criminal	Fine upto Rs.750 for each day of failure or willful negligence	JM FC

STATUTE :3 PAYMENT OF BONUS ACT 1965						
OBJECT OF THE ACT:			An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity.			
APPLICABILITY OF THE ACT:			Factories and Establishments employing ten or more persons.			
S. No	Type of Violation	Applicable Section	Concerned Responsibility Lies Upon	Nature of Violation	Nature and Consequence of Violation	
1	<ul style="list-style-type: none"> • Non payment of minimum bonus • Illegal deduction Of certain amounts from payable bonus • Non payment of bonus within the prescribed time limit • Non maintenanc e of registers and records • Non production of records to the inspectors • Obstruction to inspectors 	<p>S 28</p> <p>S 29</p>	Any person responsible for such duties. (Can be anybody in an establishment)	Criminal	prisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.	J M F C

II) Criminal liabilities of employer under labour legislations related INDUSTRIAL RELATIONS

STATUTE : 1) INDUSTRIAL DISPUTES ACT 1947						
OBJECT OF THE ACT:		<p>The objective of the Industrial Disputes Act is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.</p> <p>The Act also lays down:</p> <p>(a) The provision for payment of compensation to the Workman on account of closure or lay off or retrenchment.</p> <p>(b) The procedure for prior permission of appropriate Government for laying off or retrenching the workers or closing down industrial establishments.</p> <p>© Unfair labour practices on part of an employer or a trade union or workers.</p>				
APPLICABILITY OF THE ACT:		<p>The Industrial Disputes Act extends to whole of India and applies to every industrial establishment carrying on any business, trade, manufacture or distribution of goods and services irrespective of the number of workmen employed therein.</p> <p>Every person employed in an establishment for hire or reward including contract labour, apprentices and part time employees to do any manual, clerical, skilled, unskilled, technical, operational or supervisory work, is covered by the Act.</p> <p>This Act though does not apply to persons mainly in managerial or administrative capacity, persons engaged in a supervisory capacity and drawing more than 10,000 p.m or executing managerial functions and persons subject to Army Act, Air Force and Navy Act or those in police service or officer or employee of a prison.</p>				
S.N	Type of Violation	Section	Concerned Responsibility Lies Upon	Nature of Violation	Nature and Consequence of Violation	Trial Of Offences
1	Lay-Off or Retrenchment without prior permission – Contravening the provisions of Section 25-M or 25-(N)	25-Q	Employer	Criminal	Workman entitled to all benefits as if they had not been laid off. Employer shall be punishable with imprisonment upto 1 month and / or fine upto Rs. 1000.	Metropolitan Magistrate or JMFC
2	Illegal Closure: - Closing down an undertaking without complying with the	25-R(1)	Employer	Criminal	Workman entitled to all benefits as if there had not been any	Metropolitan Magistrate or JMFC

	provisions of Section 25-O(1)				closure. Employer shall be punishable with imprisonment upto 6 month and / or fine upto Rs. 5000.	
3	Contravening an order refusing permission to close down the undertaking under Section 25- O or a direction given under Section 25-P	R(2)	Employer	Criminal	Workman entitled to all benefits as if there had not been any closure. Employer shall be punishable with imprisonment upto 1 year and / or fine upto Rs. 5000, with a further fine of upto 2000 Rs for each day of contravention after conviction	Metropolitan Magistrate or JMFC
4	Committing an Unfair Labour Practice.	25-T, 25-U	Employer	Criminal	Imprisonment upto 6 months and / or fine upto Rs. 1000.	Metropolitan Magistrate or JMFC
5	Illegal strikes by a workman – workman who commences, continues or otherwise acts in furtherance, of, a strike which is illegal under that Act	26 (1)	Employer	Criminal	Imprisonment for 1 month and / or fine upto Rs. 50.	Metropolitan Magistrate or JMFC
6	Illegal lockout – employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act	26 (2)	Employer	Criminal	Continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act Imprisonment for 1 month and /	Metropolitan Magistrate or JMFC

					or fine upto Rs. 1000.	
7	Instigation – Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under that Act	27	Employer	Criminal	Imprisonment for 6 month and / or fine upto Rs. 1000.	Metropolitan Magistrate or JMFC
8	Financial Assistance to a Strike – Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out	28	Employer	Criminal	Imprisonment for 6 month and / or fine upto Rs. 1000.	Metropolitan Magistrate or JMFC
9	Breach of settlement or award binding under the act	29	Employer	Criminal	Imprisonment for 6 month and / or fine , an additional fine of Rs. 200 per day if breach continues after conviction.	Metropolitan Magistrate or JMFC
10	Disclosing confidential information in contravention of the provisions of Section 21	30	Employer	Criminal	Imprisonment for 6 month and / or fine Rs. 1000.	Metropolitan Magistrate or JMFC
11	Closing down any undertaking without complying with the provisions of Section 25- FFA	30-A	Employer	Criminal	Imprisonment for 6 month and / or fine Rs. 1000.	Metropolitan Magistrate or JMFC
12	Contravention of Section 33 – Service conditions remaining unchanged during pendency of proceedings	31(1)	Employer	Criminal	Imprisonment for 6 month and / or fine Rs. 1000.	Metropolitan Magistrate or JMFC
13	Contravening any other provision where specific	31(2)	Employer	Criminal	Fine upto Rs. 100.	Metropolitan Magistrate

penalty is not provided for.					te or JMFC
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<u>STATUTE : 2) TRADE UNIONS ACT 1923</u>						
OBJECT OF THE ACT:			The Trade Unions Act, 1926 provides for registration of trade unions with a view to render lawful 12illfully12ng of labour to enable collective bargaining. It also confers on a registered trade union certain protection and privileges.			
APPLICABILITY OF THE ACT:			The Act extends to the whole of India and applies to all kinds of unions of workers and associations of employers, which aim at 12illfully12ng labour management relations. A Trade Union is a combination whether temporary or permanent, formed for regulating the relations not only between workmen and employers but also between workmen and workmen or between employers and employers.			
S. No	Type of Violation	Applicable Section	Concerned Responsibility Lies Upon	Nature of Violation	Nature and Consequence of Violation	Trial Of Offences
1	If the registered trade union/ its office bearers or members fail to give any notice or send any statement as required under the Act.	31 (1)	Office bearer of trade Union	Criminal	Fine upto Rs. 5 plus additional fine upto Rs. 5 per week in case of continuing offence. (Maximum fine imposable Rs. 50)	Preside ncy Magistr ate or JMFC
2	If any person 12illfully makes any false entry in the annual statement of the union or its rules.	31 (2)	Office bearer of trade Union	Criminal	Fine upto Rs. 500.	Preside ncy Magistr ate or JMFC
3	If any person, with intent to deceive, gives an incorrect copy of rules of the union to any member or a prospective member.	32	Office bearer of trade Union	Criminal	Fine upto Rs. 200.	Preside ncy Magistr ate or JMFC
<u>STATUTE : 3) INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946</u>						

OBJECT OF THE ACT:			To provide regular standing orders for workers, factories, and working relationship. To ensure that the employee 13inimize13s the terms and conditions of the employees and thus to 13inimize exploitation of the workers.			
APPLICABILITY OF THE ACT:			Every industrial establishment wherein 50 or more (in many States it is 50 or more).			
S. No	Type of Violation	Applicable Section	Concerned Responsibility Lies Upon	Nature of Violation	Nature and Consequence of Violation	Trial Of Offences
1	Failure of employer to submit draft Standing Orders	13 (1)	Employer	Criminal	Fine of Rs.5000 and Rs.200 for every day on continuation of offence. Fine of Rs.100 on contravention and on continuation of offence Rs.25 for every day.	Metropolitan Magistrate or JMFC
2	Who does any act in Contravention of the standly orders finally certified wnder this Act.	13 (2)	Employer	Criminal	Fine which may extend to Rs. 100 In case of containing o offence with further fine which may extent to Rs 25 for every day.	Metropolitan Magistrate or JMFC

Conclusion:

One of the primary reasons for staying labor law compliant is to adhere to the legal framework established by the government. Labor laws vary across jurisdictions but generally cover areas such as minimum wage, working hours, overtime, workplace safety, anti-discrimination, and leave entitlements. Failing to comply with these laws can lead to penalties, fines, and legal actions that can be detrimental to a business. By staying compliant, organizations can avoid costly legal battles and maintain a positive relationship with regulatory authorities. Therefore it is crucial for employer to prioritize labor law compliance and avoid criminal liabilities.

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Laws and Regulations

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