

GRATUITY (Section 53 of the Code on Social Security)

INTRODUCTION TO GRATUITY

What is Gratuity?

Gratuity is a **lump-sum monetary benefit** paid by an employer to an employee as a reward for long and continuous service rendered to the organization.

It is a form of **social security benefit** and acts as a financial support to employees after they leave employment due to retirement, resignation, death, disablement, or other specified events.

When an employee serves an organization for several years, the employer expresses gratitude by paying a certain amount of money at the time of leaving the job. This payment is called **Gratuity**.

Thus, gratuity is a **thank-you payment by the employer for the services rendered by the employee**.

Why is Gratuity Paid?

The objectives of gratuity are:

1. To reward long and faithful service.
2. To provide financial security after retirement.
3. To support the family in case of death of the employee.
4. To provide relief in case of disablement.
5. To ensure social welfare of workers.

Example

Mr. Raj worked in a private company for 25 years and retired at the age of 60.

The company paid him ₹12 lakh as gratuity.

This amount acts as a retirement benefit and helps him meet future expenses.

EXAM TIP

Gratuity = Reward for long and continuous service + Social Security Benefit.

WHEN IS GRATUITY PAYABLE? [SECTION 53(1)]

Gratuity becomes payable on termination of employment after rendering continuous service of not less than 5 years.

Conditions for Payment of Gratuity

An employee must generally satisfy:

Condition 1

Employment must terminate.

Condition 2

Employee should have rendered continuous service for at least 5 years.

Condition 3

Termination should occur due to any of the specified reasons under Section 53.

Events on Which Gratuity Becomes Payable

The law specifies the following situations:

(a) On Superannuation

Meaning

Superannuation means retirement upon attaining the age fixed by the employer.

It is the normal retirement according to service rules.

Example

A company's retirement age is 60 years.

Mr. Sharma completes 20 years of service and retires at 60 years.

He is entitled to gratuity.

EXAM TIP

Superannuation = Retirement on attaining prescribed age.

(b) On Retirement or Resignation

Retirement

When an employee voluntarily retires before the age of superannuation according to service rules.

Resignation

When an employee voluntarily leaves employment by submitting resignation.

Example

A worker serves for 10 years and resigns to join another company.

Since he completed 5 years of service, gratuity becomes payable.

EXAM TIP

Resignation after 5 years of continuous service = Eligible for gratuity.

(c) On Death or Disablement Due to Accident or Disease

This is an extremely important exception.

The employee need not complete 5 years of service.

Why?

Because the employee or his family should not suffer due to unforeseen circumstances.

Example

An employee dies after serving only 2 years.

Even though 5 years are not completed, gratuity must be paid.

Example

A factory worker loses physical ability due to a serious accident and cannot continue his work.

Gratuity becomes payable immediately.

EXAM TIP

Death or Disablement = No minimum 5-year service required.

(Very Important for ESIC SSO)

(d) Expiry of Fixed-Term Employment

Employees hired for a fixed period are also entitled to gratuity.

Even if 5 years are not completed, gratuity is payable on a pro-rata basis.

Example

An employee is appointed for a 2-year fixed contract.

After completion of the contract, gratuity is payable proportionately.

Example

A company hires an engineer for 3 years under fixed-term employment.

After the contract expires, gratuity must be paid.

EXAM TIP

Fixed-Term Employment = Gratuity on Pro-rata Basis.

(e) Any Event Notified by Central Government

The Central Government may notify additional events where gratuity becomes payable.

Example

Suppose the Central Government later notifies a special category of termination.

Employees covered under that notification will also become eligible for gratuity.

SPECIAL PROVISION FOR WORKING JOURNALISTS

Normally, an employee must complete 5 years of service.

However, for Working Journalists:

Required Service = 3 Years

instead of 5 years.

Who is a Working Journalist?

A journalist covered under the Working Journalists and Other Newspaper Employees Act, 1955.

Example

A newspaper reporter completes 3 years and resigns.

He becomes eligible for gratuity.

EXAM TIP

Working Journalist → 3 Years Service Requirement.

WHEN 5 YEARS SERVICE IS NOT REQUIRED

According to the Second Proviso:

Five years' continuous service is NOT necessary when employment terminates due to:

1. Death
2. Disablement
3. Expiry of Fixed-Term Employment
4. Any notified event

Memory Trick

DDFN Rule

D → Death

D → Disablement

F → Fixed-Term Expiry

N → Notified Event

Example

An employee dies after only 1 year of service.

Gratuity is payable.

EXAM TIP

DDFN = Cases where 5-year condition is waived.

PAYMENT OF GRATUITY ON DEATH

When an employee dies:

First Preference

Nominee receives gratuity.

If No Nominee

Legal heirs receive gratuity.

Minor Nominee or Minor Heir

If nominee/heir is a minor:

1. Amount is deposited with Competent Authority.
2. Authority invests it in prescribed bank/financial institution.
3. Money remains invested until the minor attains majority.

Example

An employee nominated his 12-year-old daughter.

After his death, gratuity amount is deposited and invested until she becomes major.

EXAM TIP

Death → Nominee → Heir → Minor's share deposited with Competent Authority.

CALCULATION OF GRATUITY [SECTION 53(2)]

Basic Formula

For every completed year of service or part exceeding six months:

$\text{Gratuity} = 15 \text{ Days Wages} \times \text{Number of Years of Service}$

Important Rule

Service exceeding 6 months is treated as a full year.

Service up to 6 months is ignored.

Illustration

Service Length	Counted Service
10 years 5 months	10 years

10 years 6 months	10 years
10 years 7 months	11 years
15 years 8 months	16 years

Example

Service = 12 years 8 months

Counted as = 13 years

Example

Service = 8 years 5 months

Counted as = 8 years

EXAM TIP

More than 6 months = Round Up to Next Year.

GRATUITY FORMULA FOR MONTHLY RATED EMPLOYEE

Explanation 3 provides:

15 Days Wages

= Monthly Wage ÷ 26 × 15

Why divide by 26?

Because law assumes 26 working days in a month.

Standard Formula

Gratuity

= Last Drawn Monthly Wage × 15 × Years of Service ÷ 26

Numerical Example 1

Monthly Salary = ₹26,000

Service = 10 years

Step 1:

Daily Wage
= 26,000 ÷ 26
= ₹1,000

Step 2:
15 Days Wage
= 1,000 × 15
= ₹15,000

Step 3:
Gratuity
= 15,000 × 10
= ₹1,50,000

Answer

Gratuity = ₹1,50,000

Most Important Formula

Gratuity = Last Drawn Wage × 15 × Years ÷ 26

PIECE-RATED EMPLOYEE

Meaning

A piece-rated employee is paid according to the quantity of work produced rather than time spent.

Formula

Daily wage is calculated based on average wages received during:

Last 3 Months

before termination.

Overtime wages are excluded.

Example

A worker earns based on units manufactured.

Average earnings during previous 3 months are used for gratuity calculation.

EXAM TIP

Piece-Rated Employee → Average of Last 3 Months Wages (excluding overtime).

SEASONAL EMPLOYEES

Employees working only during a particular season.

Examples:

- Sugar mills
- Tea plantations
- Fruit processing units

Gratuity Rate

7 Days Wages for Each Season

instead of 15 days wages.

Example

A worker works in a sugar factory only during crushing season.

He receives gratuity at 7 days wages per season.

EXAM TIP

Seasonal Employee = 7 Days Wages Per Season.

FIXED-TERM EMPLOYEES

Fixed-term employees receive gratuity on:

Pro-rata Basis

Meaning of Pro-rata

Payment proportional to service rendered.

Example

A fixed-term employee works for 2 years.

Gratuity is paid proportionately for 2 years.

EXAM TIP

Fixed-Term Employment → Pro-rata Gratuity even without 5 years.

` 11 : MAXIMUM GRATUITY LIMIT

According to Section 53(3):

The gratuity amount cannot exceed the limit notified by the Central Government.

Example

If calculated gratuity exceeds the notified ceiling, only the maximum permissible amount is payable.

EXAM TIP

Maximum Gratuity = Amount notified by Central Government.

` 12 : GRATUITY FOR DISABLED EMPLOYEE ON REDUCED WAGES

Section 53(4) provides a special rule.

If an employee becomes disabled and is later employed at reduced wages:

Before Disablement

Use original wages.

After Disablement

Use reduced wages.

Example

Before accident salary = ₹40,000

After accident salary = ₹25,000

Both periods are separately considered while computing gratuity.

EXAM TIP

Disablement + Reduced Wages = Separate treatment before and after disablement.

` 13 : BETTER GRATUITY TERMS

Section 53(5)

The law provides minimum benefits.

Employer may provide better benefits through:

- Award
- Agreement
- Contract

Example

Company policy grants 20 days wages per year instead of 15.

Employee gets the better benefit.

EXAM TIP

Employee can always receive better gratuity than statutory minimum

FORFEITURE OF GRATUITY

Normally gratuity is a statutory right.

However, it can be forfeited in specified cases.

CASE 1 : Damage or Loss to Employer's Property

If termination occurs because employee caused damage due to:

- Wilful act
- Negligence
- Wilful omission

Gratuity may be forfeited to the extent of loss.

Example

An employee intentionally damages machinery worth ₹1 lakh.

Gratuity can be forfeited up to ₹1 lakh.

Example

Negligent handling causes destruction of company property.

Equivalent loss may be deducted.

EXAM TIP

Property Damage → Forfeiture only to extent of actual loss.

CASE 2 : Riotous or Disorderly Conduct

Gratuity may be wholly or partially forfeited.

Example

An employee violently attacks coworkers.

Services are terminated.

Gratuity may be forfeited.

EXAM TIP

Violence or Riotous Conduct → Whole or Partial Forfeiture.

CASE 3 : Offence Involving Moral Turpitude

Gratuity may be wholly or partially forfeited.

Condition:

The offence must be committed during employment.

Meaning of Moral Turpitude

Conduct contrary to honesty, morality, or good character.

Examples:

- Theft
- Fraud
- Embezzlement
- Misappropriation

Example

An employee steals company funds.

Services are terminated.

Gratuity may be forfeited.

Example

An employee commits fraud while performing official duties.

Employer may forfeit gratuity.

EXAM TIP

Moral Turpitude + During Employment = Gratuity may be forfeited.

IMPORTANT EXPLANATIONS

Explanation 1

Employee does NOT include:

Persons holding posts under:

- Central Government
- State Government

if they are governed by another gratuity law or rules.

Example

A state government employee covered by separate pension/gratuity rules is excluded.

EXAM TIP

Government employees covered by other gratuity laws are excluded.

Explanation 2 : Meaning of Disablement

Disablement means:

An incapacity which prevents an employee from performing work that he could perform before accident or disease.

Example

A driver loses eyesight due to disease.

He cannot perform previous duties.

This is disablement.

EXAM TIP

Disablement = Incapable of performing previous work.

Explanation 3 : Formula for Monthly Rated Employee

Fifteen Days Wage

$$= \text{Monthly Wage} \div 26 \times 15$$

This is one of the most important formulas for ESIC SSO.

SUPER REVISION TABLE

Particular	Provision
Normal Service Requirement	5 Years
Working Journalist	3 Years
Death	No 5 Years Required
Disablement	No 5 Years Required
Fixed-Term Expiry	No 5 Years Required
Gratuity Rate	15 Days Wages
Monthly Employee Formula	$\text{Wage} \times 15 \times \text{Years} \div 26$

Seasonal Employee	7 Days Wages Per Season
Piece-Rated Employee	Average of Last 3 Months
Fixed-Term Employee	Pro-rata Basis
Maximum Amount	Notified by Central Government
Property Damage	Forfeiture to extent of loss
Riotous Conduct	Whole/Partial Forfeiture
Moral Turpitude	Whole/Partial Forfeiture
Death Payment	Nominee/Heirs
Minor's Share	Deposited with Competent Authority

What is Continuous Service?

Continuous Service means uninterrupted service rendered by an employee under an employer.

The concept of continuous service is extremely important because **eligibility for gratuity depends upon continuous service.**

An employee is considered to be in continuous service even if there are certain interruptions that are beyond his control.

Why is Continuous Service Important?

Before gratuity is paid, the employer must verify whether the employee has completed the required period of continuous service.

Therefore, understanding continuous service is essential for determining gratuity eligibility.

EXAM TIP

Gratuity eligibility is based on "Continuous Service", not merely physical attendance.

PART A : ACTUAL CONTINUOUS SERVICE [SECTION 54(A)]

An employee is said to be in continuous service if he has been in uninterrupted service during the relevant period.

The service may be uninterrupted either:

- Before commencement of the Code, or
- After commencement of the Code.

Interruptions That Do NOT Break Continuous Service

The following interruptions are legally ignored:

1. Sickness

Absence due to illness.

2. Accident

Absence caused by injury or accident.

3. Leave

Authorized leave period.

4. Absence Without Leave

Provided no formal order treating it as break in service has been passed.

5. Lay-off

Temporary inability of employer to provide work.

6. Strike

Employees stop work collectively.

7. Lock-out

Employer temporarily closes workplace.

8. Cessation of Work

Work stops due to reasons not attributable to employee.

Example

An employee worked continuously for 6 years but remained on medical leave for 3 months due to a serious illness. Those 3 months will still be counted as part of his continuous service, and he remains eligible for gratuity.

EXAM TIP

Sickness, accident, leave, lay-off, strike, lock-out and cessation of work do NOT break continuous service.

PART B : DEEMED CONTINUOUS SERVICE [SECTION 54(B)]

Sometimes an employee may not satisfy the strict definition of continuous service.

In such cases, the law provides a beneficial provision called:

"Deemed Continuous Service"

If an employee has worked for a prescribed minimum number of days, he will be treated as being in continuous service.

DEEMED CONTINUOUS SERVICE FOR ONE YEAR

The employee should have actually worked during the preceding 12 calendar months.

Category 1

Employees Working Below Ground in a Mine

OR

Establishments Working Less Than 6 Days a Week

Required Working Days:

190 Days

Category 2

All Other Employees

Required Working Days:

240 Days

Example

A factory worker has worked for 245 days during the last 12 months. Even though his service contains interruptions, he is deemed to be in continuous service for one year because he crossed the requirement of 240 days.

EXAM TIP

One Year Rule = 240 Days (General) and 190 Days (Mine/less than 6-day establishments).

DEEMED CONTINUOUS SERVICE FOR SIX MONTHS

The employee should have actually worked during the preceding 6 calendar months.

Category 1

Mine Employees or Establishments Working Less Than 6 Days a Week

Required Days:

95 Days

Category 2

All Other Employees

Required Days:

120 Days

Example

An employee has worked for 125 days during the preceding six months. He will be deemed to have completed continuous service for six months.

EXAM TIP

Six Months Rule = 120 Days (General) and 95 Days (Mine/less than 6-day establishments).

DAYS COUNTED AS ACTUALLY WORKED

For calculating 190/240/95/120 days, certain days are also treated as days actually worked.

These provisions are highly important for examinations.

1. Lay-off Days

Days during which the employee is laid off according to law are counted.

Example

A worker was laid off for 20 days due to shortage of raw material. Those 20 days will still be counted while calculating actual working days.

EXAM TIP

Lay-off period counts as actual work.

2. Leave with Full Wages

Leave earned in the previous year and taken with full wages is counted.

Example

An employee took 15 days earned leave with full pay. These days are treated as days actually worked.

EXAM TIP

Paid leave counts as actual work.

3. Temporary Disablement Due to Employment Accident

Absence due to temporary disablement arising out of employment is counted.

Example

A worker suffered an injury in the factory and remained absent for one month. The period will be treated as days actually worked.

EXAM TIP

Employment-related disablement period counts as actual work.

4. Maternity Leave

Maternity leave of a female employee is counted.

Maximum period counted:

26 Weeks

Example

A woman employee availed 26 weeks maternity leave. This entire period will be included while calculating actual working days.

EXAM TIP

Maternity Leave up to 26 weeks counts as actual work.

QUICK REVISION TABLE

Particular	Included as Actual Work?
Lay-off	Yes
Paid Leave	Yes
Temporary Disablement	Yes
Maternity Leave (26 Weeks)	Yes

PART C : CONTINUOUS SERVICE IN SEASONAL ESTABLISHMENTS [SECTION 54(C)]

Seasonal establishments function only during particular seasons of the year.

Examples:

- Sugar Mills
- Tea Processing Units
- Fruit Processing Units
- Cotton Ginning Units

Rule

If the employee actually works for:

At least 75% of the days

on which the establishment was operational,

he is deemed to be in continuous service.

Example

A sugar mill operated for 100 days during the season. An employee worked for 80 days. Since he worked for more than 75% of operational days, he is deemed to be in continuous service.

EXAM TIP

Seasonal Establishment = 75% of Operational Days.

NOMINATION (SECTION 55)

Meaning of Nomination

Nomination means appointing a person who will receive gratuity after the employee's death.

It ensures quick payment and avoids disputes.

WHO MUST MAKE NOMINATION?

Every employee who has completed:

One Year of Service

must make a nomination.

Example

An employee completes one year in the company. He must submit nomination details as prescribed.

EXAM TIP

Nomination becomes compulsory after completion of 1 year service.

DISTRIBUTION AMONG MULTIPLE NOMINEES

An employee may distribute gratuity among more than one nominee.

Example

An employee nominates his wife for 60% gratuity and his son for 40% gratuity.

EXAM TIP

One employee can have more than one nominee.

NOMINATION WHEN EMPLOYEE HAS FAMILY

If the employee has a family at the time of nomination:

Nomination must be made only in favour of one or more family members.

Nomination in favour of outsiders becomes void.

Example

An employee having a wife and children nominates his friend. Such nomination is invalid.

EXAM TIP

Employee having family → Nominee must be family member.

EMPLOYEE HAVING NO FAMILY

If no family exists at the time of nomination:

Nomination may be made in favour of any person.

However, if the employee later acquires a family, a fresh nomination must be made in favour of family members.

Example

A bachelor employee nominates his friend. After marriage, the earlier nomination becomes invalid and he must submit a fresh nomination.

EXAM TIP

Marriage/acquiring family makes earlier outsider nomination invalid.

MODIFICATION OF NOMINATION

The employee can modify nomination at any time through written intimation.

Example

An employee wishes to increase his daughter's share from 30% to 50%. He may modify the nomination accordingly.

EXAM TIP

Nomination can be changed anytime.

DEATH OF NOMINEE BEFORE EMPLOYEE

If nominee dies before the employee:

The nominee's interest reverts back to the employee.

Fresh nomination must be made.

Example

An employee nominated his father. The father dies before him. The employee must file a fresh nomination.

EXAM TIP

Nominee dies first → Fresh nomination required.

SAFE CUSTODY OF NOMINATION

Employer must keep:

- Nomination
- Fresh nomination
- Modified nomination

in safe custody.

Example

The HR department maintains all nomination forms securely in employee records.

EXAM TIP

Employer is responsible for safe custody of nomination forms.

18 : DETERMINATION OF GRATUITY (SECTION 56)

APPLICATION FOR GRATUITY

The eligible employee or authorized person may submit a written application for gratuity.

Example

After retirement, an employee submits a gratuity application to the employer.

EXAM TIP

Employee or authorized person may apply for gratuity.

EMPLOYER'S DUTY TO DETERMINE GRATUITY

Whether application is filed or not:

The employer must determine gratuity once it becomes payable.

The employer must also send written notice to:

1. Employee
2. Competent Authority

Example

An employee retires. Even without application, the employer calculates gratuity and issues notice.

EXAM TIP

Employer must calculate gratuity even if no application is made.

PAYMENT WITHIN 30 DAYS

Employer must pay gratuity within:

30 Days

from the date it becomes payable.

Example

An employee retires on 1st June. The gratuity should normally be paid by 30th June.

EXAM TIP

Gratuity Payment Deadline = 30 Days.

INTEREST ON DELAYED PAYMENT

If payment is delayed:

Employer must pay simple interest.

Interest runs from:

Date gratuity became payable

to

Date of actual payment.

Exception

No interest if:

1. Delay is due to employee's fault; and
2. Employer obtained written permission from competent authority.

Example

Employer delays gratuity payment by 3 months without valid reason. He must pay gratuity along with simple interest.

EXAM TIP

Delayed gratuity = Simple Interest payable.

DISPUTE REGARDING GRATUITY

Dispute may arise regarding:

1. Amount payable
2. Eligibility
3. Person entitled to receive gratuity

Example

Two legal heirs claim gratuity after the employee's death. A dispute arises regarding entitlement.

EXAM TIP

Dispute may relate to amount, eligibility, or recipient.

EMPLOYER'S DUTY DURING DISPUTE

Employer must deposit:

Admitted Amount

with the Competent Authority.

Example

Employer admits ₹4 lakh is payable but disputes an additional claim. He must deposit ₹4 lakh with the authority.

EXAM TIP

Admitted gratuity amount must be deposited with Competent Authority.

POWERS OF COMPETENT AUTHORITY

The Competent Authority has powers similar to a Civil Court.

It can:

1. Summon persons.
2. Examine witnesses on oath.
3. Call documents.
4. Receive affidavit evidence.
5. Issue commissions.

Example

The authority summons employer records to determine correct gratuity.

EXAM TIP

Competent Authority = Powers of Civil Court.

APPEAL

Any aggrieved person may file appeal within:

60 Days

from receipt of order.

Extension possible:

Additional 60 Days

if sufficient cause exists.

Example

An employee dissatisfied with the authority's decision files an appeal within 60 days.

EXAM TIP

Appeal = 60 Days + Further 60 Days Extension.

SPECIAL RULE FOR EMPLOYER'S APPEAL

Employer's appeal is not admitted unless gratuity amount is deposited.

Example

Before filing appeal, the employer deposits the gratuity amount as required by law.

EXAM TIP

Employer Appeal → Deposit of Gratuity Amount Mandatory.

FINAL EXAM REVISION TABLE

Topic	Key Provision
Continuous Service	Uninterrupted service
One Year Rule	240 Days / 190 Days
Six Month Rule	120 Days / 95 Days
Seasonal Establishment	75% Operational Days
Nomination Required	After 1 Year Service
Multiple Nominees	Allowed
Outsider Nomination (Family Exists)	Void
Payment Time	30 Days
Delayed Payment	Simple Interest
Appeal Period	60 Days
Extension	Additional 60 Days
Employer Appeal	Deposit Mandatory

Maternity Leave Counted	Up to 26 Weeks
Competent Authority	Civil Court Powers

What is Compulsory Insurance?

Compulsory Insurance means that an employer must obtain an insurance policy to cover his liability towards gratuity payment.

The insurance company will provide financial support for meeting gratuity obligations.

In simple words:

Employer pays premium → Insurance Company provides gratuity coverage → Employee's gratuity remains protected.

Why Was This Provision Introduced?

The objectives are:

1. To safeguard employees' gratuity benefits.
2. To ensure timely payment of gratuity.
3. To prevent default by employers.
4. To provide financial security to employees.
5. To reduce disputes regarding gratuity payments.

EXAM TIP

Compulsory Insurance protects employees against non-payment of gratuity by employers.

SECTION 57(1) : OBLIGATION TO TAKE INSURANCE

The appropriate Government may notify a date from which compulsory insurance becomes applicable.

From that date, every employer covered by the provision must obtain gratuity insurance.

Who Must Obtain Insurance?

Every employer covered under the Chapter must obtain insurance for gratuity liability.

The insurance must be taken in the prescribed manner.

From Whom Can Insurance Be Taken?

Insurance must be taken from:

Insurance Companies Regulated by IRDAI

(IRDAI = Insurance Regulatory and Development Authority of India)

Only authorized and regulated insurers can provide such insurance.

Example

A private company purchases a gratuity insurance policy from an IRDAI-regulated life insurance company to cover future gratuity liabilities.

EXAM TIP

Gratuity Insurance must be obtained from an IRDAI-regulated insurance company.

EXCLUDED EMPLOYERS

The following employers are generally excluded from compulsory insurance:

- 1. Central Government Establishments**
- 2. State Government Establishments**
- 3. Establishments Under Government Control**

These entities are generally financially backed by the Government and therefore are exempt from mandatory insurance.

Example

A ministry under the Central Government is not required to obtain separate gratuity insurance because it is covered by Government arrangements.

EXAM TIP

Government establishments are generally exempt from compulsory gratuity insurance.

DIFFERENT DATES FOR DIFFERENT ESTABLISHMENTS

The Government may implement compulsory insurance gradually.

Different dates may be notified for:

- Different establishments
- Different classes of establishments
- Different geographical areas

Example

The Government may first apply compulsory insurance to large industries and later extend it to smaller establishments.

EXAM TIP

Government may notify different implementation dates for different establishments.

SECTION 57(2) : EXEMPTION FROM COMPULSORY INSURANCE

The law recognizes that some employers already maintain their own gratuity arrangements.

Therefore, certain employers may be exempted.

CATEGORY 1 : Existing Approved Gratuity Fund

An employer who already has:

Approved Gratuity Fund

and wishes to continue that arrangement may receive exemption.

However, prescribed conditions must be satisfied.

`Example

A company has maintained an approved gratuity fund for many years. Instead of purchasing insurance, it continues the existing fund after obtaining exemption.

EXAM TIP

Approved Gratuity Fund may lead to exemption from compulsory insurance.

CATEGORY 2 : Employers Employing 500 or More Persons

Employers having:

500 or More Employees

may establish an approved gratuity fund and seek exemption from compulsory insurance.

`Example

A large automobile company employing 2,000 workers establishes an approved gratuity fund and becomes exempt from taking separate gratuity insurance.

EXAM TIP

500+ Employees + Approved Gratuity Fund = Possible Exemption.

WHAT IS AN APPROVED GRATUITY FUND?

An Approved Gratuity Fund is a gratuity fund recognized under the Income-tax Act, 1961.

Such funds are maintained specifically for meeting gratuity obligations.

The fund is managed according to prescribed legal requirements.

`Example

A company deposits money regularly into a recognized gratuity fund which is approved under tax laws.

EXAM TIP

Approved Gratuity Fund = Meaning same as under Income-tax Act, 1961.

SECTION 57(3) : REGISTRATION OF ESTABLISHMENT

For effective implementation, every employer must get the establishment registered.

Registration must be done within the prescribed time.

Condition for Registration

An employer cannot obtain registration unless:

Either

Insurance has been taken

OR

Approved Gratuity Fund has been established

`Example

Before obtaining registration, an employer submits proof that gratuity insurance has already been obtained.

EXAM TIP

Registration requires Insurance or Approved Gratuity Fund.

SECTION 57(4) : BOARD OF TRUSTEES

Where an approved gratuity fund exists, the Government may prescribe:

1. Composition of Board of Trustees.
2. Administration of the gratuity fund.

- Recovery mechanism for gratuity payments.

Role of Board of Trustees

The Board manages the gratuity fund.

Its responsibilities generally include:

- Managing contributions
- Maintaining records
- Protecting employee interests
- Ensuring payment of gratuity

Example

A company's gratuity fund is administered by a Board of Trustees consisting of employer and employee representatives.

EXAM TIP

Board of Trustees manages the Approved Gratuity Fund.

RECOVERY OF GRATUITY

The competent authority may recover gratuity from:

1. Insurance Company

or

2. Board of Trustees

depending upon the arrangement adopted.

Example

An employee's gratuity remains unpaid. The competent authority recovers the amount directly from the insurer.

EXAM TIP

Competent Authority may recover gratuity from Insurer or Trustees.

SECTION 57(5) : FAILURE TO PAY PREMIUM OR CONTRIBUTION

The employer must regularly:

Pay Insurance Premium

or

Contribute to Approved Gratuity Fund

Failure to do so attracts liability.

Consequence of Default

The employer becomes immediately liable to pay:

- Gratuity Amount
- Interest for Delay (if applicable)

directly to the Competent Authority.

Example

A company stops paying gratuity insurance premiums. When gratuity becomes payable, the employer must directly deposit the gratuity amount along with applicable interest.

EXAM TIP

Non-payment of Premium/Contribution = Employer directly liable for gratuity and interest.

QUICK REVISION TABLE

Particular	Provision
Compulsory Insurance	Mandatory after notified date
Insurance Provider	IRDAI-Regulated Insurer
Government Establishments	Exempt
Approved Gratuity Fund	Possible Exemption

500+ Employees	Can establish approved gratuity fund
Registration Requirement	Mandatory
Registration Condition	Insurance or Approved Fund
Managed By	Board of Trustees
Recovery Source	Insurer or Trustees
Default in Premium	Employer directly liable

The Government decides these requirements.

Example

The State Government appoints a senior labour officer as Competent Authority for a particular district.

EXAM TIP

Competent Authority is appointed by notification of the Appropriate Government.

CHAPTER 20 : COMPETENT AUTHORITY (SECTION 58)

Introduction

The gratuity law creates a special authority known as the:

Competent Authority

The Competent Authority is responsible for implementing various provisions of the gratuity chapter.

It acts as the primary administrative authority for resolving gratuity-related issues.

SECTION 58(1) : APPOINTMENT OF COMPETENT AUTHORITY

The Appropriate Government may appoint officers as Competent Authorities.

Appointment is made through:

Official Notification

Who Can Be Appointed?

The officer must possess:

- 1. Prescribed Qualifications**
- 2. Prescribed Experience**

AREA OF JURISDICTION

The notification specifies:

Particular Area

for which the Competent Authority will function.

Different authorities may be appointed for different areas.

Example

One authority may handle gratuity matters in Jaipur while another handles matters in Jodhpur.

EXAM TIP

Competent Authority exercises jurisdiction over the area specified in the notification.

SECTION 58(2) : MORE THAN ONE COMPETENT AUTHORITY

Sometimes multiple competent authorities may be appointed for the same area.

In such situations:

The Appropriate Government may distribute work among them.

Distribution may be through:

General Order

or

Special Order

Example

A metropolitan city may have several competent authorities handling different categories of gratuity cases.

EXAM TIP

Where multiple authorities exist, Government regulates distribution of work.

SECTION 58(3) : POWER TO TAKE ASSISTANCE OF EXPERTS

Certain disputes may involve technical issues.

Therefore, the Competent Authority may seek assistance from experts.

Who Can Assist?

Persons having:

Special Knowledge

or

Technical Expertise

relating to the matter under inquiry.

Purpose of Assistance

To help the Competent Authority:

- Conduct inquiry
- Understand technical issues
- Reach a fair decision

Example

A dispute involves complex actuarial calculations of gratuity liability. The Competent Authority seeks assistance from a financial expert before deciding the matter.

EXAM TIP

Competent Authority may take assistance of experts having special knowledge.

SUPER REVISION TABLE : SECTION 58

Particular	Provision
Appointing Authority	Appropriate Government
Mode of Appointment	Notification
Requirement	Qualifications & Experience
Jurisdiction	Specified Area
Multiple Authorities	Government distributes work
Expert Assistance	Permitted
Purpose of Experts	Assist in Inquiry