

CHAPTER :Maternity Care and Welfare Provisions.

INTRODUCTION

Maternity Benefit is one of the most important social security protections available to working women.

Pregnancy is a natural biological process, but it requires:

- Physical care
- Medical attention
- Financial security
- Rest and recovery

A woman should not lose her income merely because she becomes pregnant.

Therefore, the Code on Social Security provides maternity benefits to protect the health of:

- ✓ Mother
- ✓ Child
- ✓ Family
- ✓ Employment Security

The law ensures that a woman receives paid leave and protection from hazardous work during pregnancy and after childbirth.

EXAM TIP

Maternity Benefit is a statutory right of eligible women employees.

OBJECTIVES OF MATERNITY BENEFIT LAW

The main objectives are:

1. Protection of Mother

To ensure safe pregnancy and recovery after childbirth.

2. Protection of Child

To ensure proper care of the newborn child.

3. Financial Security

To provide wages during absence from work.

4. Employment Protection

To prevent discrimination against pregnant women.

5. Health and Welfare

To safeguard maternal and child health.

Example

A woman working in a private company becomes pregnant. She requires medical care and rest before and after delivery. The maternity benefit provisions ensure that she continues receiving wages during this period.

EXAM TIP

Purpose of maternity benefit = Health protection + Wage protection.

SECTION 59

EMPLOYMENT OF WOMEN PROHIBITED DURING CERTAIN PERIOD

The law recognizes that immediately after delivery or miscarriage, a woman requires adequate rest and recovery.

Therefore, Section 59 creates a statutory prohibition on employment during a specified period.

SECTION 59(1)

EMPLOYER CANNOT EMPLOY WOMAN

Rule

No employer shall knowingly employ a woman during:

Six Weeks Immediately Following

- Delivery
- Miscarriage
- Medical Termination of Pregnancy (MTP)

Meaning

Even if work is available, the employer cannot engage her during this period.

This prohibition is mandatory.

Example

A woman delivers a baby on 1st July. Her employer cannot require her to resume duties before completion of six weeks from the date of delivery.

EXAM TIP

Employer cannot employ a woman during six weeks after delivery, miscarriage or MTP.

SECTION 59(2)

WOMAN CANNOT WORK

Rule

Not only the employer,

but also the woman herself is prohibited from working during:

Six Weeks Immediately Following

- Delivery
- Miscarriage
- Medical Termination of Pregnancy

Why?

Because this period is considered medically necessary for recovery.

Example

Even if a woman voluntarily wishes to return to work two weeks after childbirth, the law prohibits such employment.

EXAM TIP

Both employer and woman are prohibited from employment during six weeks after delivery.

MEMORY TRICK

"6 Weeks Complete Rest Rule"

Delivery → 6 Weeks No Work

Miscarriage → 6 Weeks No Work

MTP → 6 Weeks No Work

SECTION 59(3)

PROHIBITION OF ARDUOUS WORK DURING PREGNANCY

Meaning

Pregnancy does not automatically stop all work.

However, a pregnant woman must not be compelled to perform hazardous or difficult work.

Condition

The woman must make a request to the employer.

After such request, the employer cannot assign specified categories of work.

Types of Prohibited Work

1. Arduous Work

Work involving heavy physical effort.

Examples

- Lifting heavy loads
- Carrying construction materials
- Heavy industrial work

Example

A pregnant warehouse employee requests lighter duties. The employer cannot require her to lift heavy cartons.

EXAM TIP

Arduous work means work requiring strenuous effort.

2. Work Involving Long Hours of Standing

Continuous standing can adversely affect pregnancy.

Examples

- Standing entire day at a production line
- Continuous standing at counters

Example

A pregnant retail employee cannot be compelled to stand continuously for long hours after making a request.

EXAM TIP

Long hours of standing are prohibited on request of a pregnant woman.

3. Work Affecting Pregnancy

Any work likely to:

- Affect pregnancy
- Affect fetal development
- Cause miscarriage
- Harm mother's health

is prohibited.

Example

A pregnant employee working near toxic chemicals is shifted to safer duties after making a request

EXAM TIP

Work likely to interfere with pregnancy cannot be assigned.

SECTION 59(4)

PERIOD DURING WHICH PROTECTION OPERATES

The protection under Section 59(3) applies during two periods.

FIRST PERIOD

One Month Immediately Before

the six weeks preceding expected delivery.

Simple Understanding

Expected Delivery Date

↓

6 Weeks Before Delivery

↓

One Month Before That

This period receives additional protection.

Example

A woman whose expected delivery date is 1st December receives protection against arduous work during the specified pre-delivery period.

SECOND PERIOD

Any part of the six weeks before expected delivery during which she continues to work.

Example

A woman chooses to work up to four weeks before delivery. During those working weeks, she cannot be assigned hazardous duties.

EXAM TIP

Protection applies before delivery and during any pre-delivery working period.

IMPORTANT DEFINITION

ARDUOUS WORK

The Explanation defines arduous work as:

Work requiring strenuous effort

or

Difficult and tiring work

Examples

Arduous Work	Non-Arduous Work
Carrying Cement Bags	Desk Work
Heavy Machine Handling	Computer Work

Lifting Inventory	Administrative Work
Mining Activities	Documentation Work

Example

Carrying 25 kg cartons repeatedly throughout the day is arduous work.

EXAM TIP

Arduous Work = Difficult + Tiring + Strenuous Work.

SECTION 60

RIGHT TO PAYMENT OF MATERNITY BENEFIT

INTRODUCTION

Section 59 deals with protection from work.

Section 60 deals with:

Payment of Wages During Maternity Leave

This is the core financial benefit available to eligible women employees.

EXAM TIP

Section 60 creates the right to receive maternity benefit.

SECTION 60(1)

RIGHT TO RECEIVE MATERNITY BENEFIT

Every eligible woman is entitled to:

Maternity Benefit

and

Employer is legally liable to pay it.

Rate of Payment

The benefit is payable at:

Average Daily Wage

for the period of actual absence.

Example

A woman proceeds on maternity leave and remains absent from work. During this period she receives maternity benefit based on her average daily wage.

EXAM TIP

Maternity Benefit = Average Daily Wage × Eligible Leave Period.

AVERAGE DAILY WAGE

Meaning

Average Daily Wage means:

Average wages payable for days worked during:

Three Calendar Months

immediately preceding maternity leave.

Minimum Protection

The amount cannot be lower than:

Minimum Wage

under the Code on Wages, 2019.

Numerical Example

Suppose:

Total wages during previous 3 months = ₹90,000

Total days worked = 90

Average Daily Wage

= 90,000 ÷ 90

= ₹1,000 per day

This becomes the basis for maternity benefit calculation.

EXAM TIP

Average Daily Wage is calculated using previous 3 calendar months.

SECTION 60(2)

ELIGIBILITY CONDITION

A woman becomes eligible only if she has actually worked:

At Least 80 Days

during:

12 Months Immediately Preceding

the expected date of delivery.

This is Extremely Important for Exams

Many questions are directly asked from this provision.

Example

A woman has worked for 100 days during the previous 12 months before expected delivery. She satisfies the eligibility condition.

EXAM TIP

Minimum service required = 80 Days in preceding 12 months.

DAYS COUNTED FOR 80 DAYS

The following days are also counted:

Actual Working Days

Lay-Off Days

Paid Holidays

Example

A woman worked 70 days and had 15 paid holidays. Total counted days become 85. She becomes eligible.

EXAM TIP

Paid Holidays and Lay-Off Days count towards 80 days.

SECTION 60(3)

MAXIMUM MATERNITY BENEFIT PERIOD

General Rule

Maximum maternity benefit period:

26 Weeks

Out of 26 Weeks

Not more than:

8 Weeks

can precede expected delivery.

Illustration

Expected Delivery Date = 1 July

Leave may start up to 8 weeks before expected delivery.

Remaining period can be taken after childbirth.

EXAM TIP

Maximum maternity leave = 26 Weeks.

WOMAN HAVING TWO OR MORE SURVIVING CHILDREN

Special rule applies.

Maximum entitlement becomes:

12 Weeks

Out of which:

Maximum 6 Weeks

can precede expected delivery.

Example

A woman already having two living children becomes pregnant again. She is entitled to only 12 weeks maternity benefit.

EXAM TIP

Two or More Surviving Children → Maternity Benefit = 12 Weeks.

(Very Important)

DEATH OF WOMAN DURING MATERNITY PERIOD

If the woman dies:

Benefit is payable only up to:

Date of Death

Example

A woman dies three weeks after childbirth. Benefit is payable only up to her date of death.

EXAM TIP

Woman dies → Benefit payable till date of death.

DEATH OF WOMAN AFTER DELIVERY BUT CHILD SURVIVES

In such case:

Employer remains liable to pay

Entire Maternity Benefit

for the full eligible period.

Example

A woman dies after childbirth but the baby survives. The employer must pay maternity benefit for the entire eligible period.

EXAM TIP

Mother dies but child survives → Full maternity benefit payable.

DEATH OF BOTH MOTHER AND CHILD

If child also dies during the maternity period:

Benefit payable only up to:

Date of Child's Death

Example

Mother dies during delivery and the child dies after one month. Benefit is payable up to the child's death.

EXAM TIP

Mother and child both die → Benefit payable till child's death.

IMPORTANT DEFINITION OF CHILD

For maternity benefit purposes:

Child includes Stillborn Child.

Example

A woman delivers a stillborn child. She remains entitled to maternity benefits under the law.

EXAM TIP

Child includes Stillborn Child.

SUPER REVISION TABLE

Topic	Provision
Employment after Delivery	Prohibited for 6 Weeks
Employment after Miscarriage	Prohibited for 6 Weeks
Employment after MTP	Prohibited for 6 Weeks
Arduous Work	Prohibited on Request
Eligibility	80 Days in 12 Months
Average Daily Wage	Previous 3 Months
Maximum Benefit	26 Weeks
Maximum Pre-Delivery Leave	8 Weeks
If 2 or More Children	12 Weeks
Child Includes	Stillborn Child

SECTION 60(4)

MATERNITY BENEFIT FOR ADOPTIVE MOTHER

WHO IS AN ADOPTIVE MOTHER?

An adoptive mother is a woman who legally adopts a child.

However, this benefit is available only when:

Child is Below 3 Months of Age

at the time of adoption.

BENEFIT AVAILABLE

The adoptive mother is entitled to:

12 Weeks Maternity Benefit

from the date the child is handed over to her.

Why This Benefit?

The law recognizes that even an adopted infant requires:

- Maternal care
- Breastfeeding substitutes
- Bonding
- Continuous attention

Example

A woman legally adopts a 2-month-old baby on 1st January.

She becomes entitled to:

12 Weeks Maternity Leave

from 1st January.

EXAM TIP

Adoption of child below 3 months = 12 weeks maternity benefit.

COMMISSIONING MOTHER

Meaning

A Commissioning Mother means:

A biological mother who uses her egg to create an embryo implanted in another woman (surrogate mother).

After birth, the child is handed over to the biological mother.

Benefit

A commissioning mother is also entitled to:

12 Weeks Maternity Benefit

from the date the child is handed over to her.

Example

A child is born through surrogacy and handed over to the biological mother. She receives 12 weeks maternity benefit.

EXAM TIP

Commissioning Mother = 12 Weeks Maternity Benefit.

MEMORY TRICK

"A.C. = 12"

A = Adoptive Mother

C = Commissioning Mother

= 12 Weeks Leave

SECTION 60(5)

WORK FROM HOME

Introduction

Modern employment often allows work through digital platforms.

Recognizing this reality, the law permits work from home in suitable cases.

Condition

Nature of work should permit working from home.

Employer May Allow

After maternity leave, the employer may permit:

Work From Home

Based On

Mutual agreement between:

- Employer
- Woman Employee

Example

A software engineer completes maternity leave and continues working from home for three additional months by agreement with her employer.

EXAM TIP

Work From Home is based on nature of work and mutual agreement.

SECTION 61

CONTINUANCE OF MATERNITY BENEFIT

Important Rule

A woman receiving maternity benefit under this Chapter will continue receiving it even if:

ESI Chapter Applies

to the establishment.

Till When?

Until she becomes eligible for:

ESI Maternity Benefit under Section 32

Example

A newly covered establishment comes under ESI. Existing maternity benefit entitlement continues until the woman qualifies under ESI provisions.

EXAM TIP

Maternity benefit continues until eligibility under ESI maternity benefit arises.

SECTION 62

NOTICE OF CLAIM FOR MATERNITY BENEFIT

WHY NOTICE IS REQUIRED?

The employer must know:

- Expected absence
- Expected delivery
- Period of leave
- Payment details

SECTION 62(1)

WRITTEN NOTICE

The woman may give:

Written Notice

to her employer.

Contents of Notice

She may specify:

1. Maternity Benefit Claim
2. Nominee
3. Non-working Declaration

Exempl

A pregnant employee submits written notice informing the employer of her expected maternity leave period.

EXAM TIP

Notice of maternity claim is given in writing.

SECTION 62(2)

DATE OF ABSENCE

The notice should mention:

Date From Which Leave Will Begin

Restriction

Cannot be earlier than:

8 Weeks Before Expected Delivery

Example

Expected delivery date = 1 December.

Leave may begin from a date falling within the permissible 8-week period.

EXAM TIP

Notice cannot specify absence earlier than 8 weeks before expected delivery.

SECTION 62(3)

NOTICE AFTER DELIVERY

If notice was not given during pregnancy,

it may be given:

After Delivery

as soon as possible.

Example

A woman unexpectedly delivers earlier than expected and submits notice after childbirth.

EXAM TIP

Notice may be submitted after delivery if not given earlier.

SECTION 62(4)

EMPLOYER'S DUTY

Upon receiving notice,

the employer must allow:

Absence During Maternity Period

Example

After receiving maternity notice, the employer grants maternity leave.

EXAM TIP

Employer must permit maternity absence after notice.

SECTION 62(5)

PAYMENT OF MATERNITY BENEFIT

BEFORE DELIVERY

Benefit for pre-delivery period:

Paid in Advance

upon proof of pregnancy.

AFTER DELIVERY

Remaining benefit:

Paid Within 48 Hours

of producing proof of childbirth.

Example

An employee submits a medical certificate showing pregnancy and receives advance maternity payment.

After delivery, she submits birth proof and receives the remaining payment within 48 hours.

EXAM TIP

Post-delivery payment must be made within 48 hours.

(Very Important)

SECTION 62(6)

FAILURE TO GIVE NOTICE

Important Protection

Failure to give notice does NOT destroy eligibility.

If otherwise entitled,

the woman still receives maternity benefit.

Inspector-Cum-Facilitator Can Intervene

The Inspector may direct payment.

Example

A woman forgets to submit formal notice but satisfies all eligibility conditions. She remains entitled to maternity benefit.

EXAM TIP

Failure to give notice does not automatically cancel maternity benefit.

SECTION 63

PAYMENT IN CASE OF DEATH OF WOMAN

Situation

A woman dies before receiving maternity benefit.

Payment Order

First Preference

Nominee

If No Nominee

Legal Representative

Example

A woman entitled to maternity benefit dies before payment. The amount is paid to the nominee named in the notice.

EXAM TIP

On death, maternity benefit is paid to nominee or legal representative.

SECTION 64

MEDICAL BONUS

Meaning

Medical Bonus is an additional monetary benefit.

When Payable?

When employer does NOT provide:

Free Pre-Natal Care

and

Free Post-Natal Care

Amount

₹3,500

or

higher amount notified by Central Government.

Example

A company provides no maternity healthcare facilities. The eligible employee receives a medical bonus of ₹3,500.

EXAM TIP

Medical Bonus = ₹3,500 (or higher amount notified).

(Very Important)

SECTION 65

LEAVE FOR MISCARRIAGE & TUBECTOMY

LEAVE FOR MISCARRIAGE / MTP

A woman is entitled to:

6 Weeks Leave

with wages at maternity benefit rate.

Example

A woman suffers miscarriage and receives six weeks paid leave.

EXAM TIP

Miscarriage/MTP Leave = 6 Weeks.

LEAVE FOR TUBECTOMY OPERATION

A woman undergoing tubectomy operation receives:

2 Weeks Leave

with wages.

Example

After a tubectomy procedure, a woman receives two weeks paid leave.

EXAM TIP

Tubectomy Leave = 2 Weeks.

(Very Important)

ADDITIONAL LEAVE FOR ILLNESS

If illness arises from:

- Pregnancy
- Delivery
- Premature Birth
- Miscarriage
- MTP

additional leave may be granted.

Maximum Additional Leave

One Month

with wages.

Example

A woman develops post-delivery complications and receives one additional month of leave.

EXAM TIP

Illness related to pregnancy/delivery = Additional 1 Month Leave.

SECTION 66

NURSING BREAKS

Right of Nursing Mother

A woman returning after delivery receives:

Two Nursing Breaks Daily

in addition to normal rest intervals.

Duratio

As prescribed by Central Government.

Till What Age?

Until the child attains:

15 Months

of age.

Example

A woman returning after maternity leave receives two daily breaks to breastfeed her child.

EXAM TIP

Two Nursing Breaks allowed till child attains 15 months.

(Very Important)

SECTION 67

CRECHE FACILITY

Applicability

Every establishment employing:

50 Employees

or such number as prescribed.

Requirement

Must provide:

Creche Facility

within prescribed distance.

Example

A company employing 200 employees establishes a creche facility for employees' children.

EXAM TIP

Creche Facility required where 50 or more employees are employed.

(Very Important)

FOUR VISITS TO CRECHE

Employer must permit:

Four Visits Per Day

to the creche.

This includes normal rest intervals.

Example

A woman employee visits the creche four times during her workday to care for her child.

EXAM TIP

Mother is entitled to four creche visits daily

COMMON CRECHE FACILITY

Establishments may jointly use:

- Government Creche
- Municipal Creche
- NGO Creche
- Common Shared Creche

Example

Several small companies jointly operate a common creche facility.

EXAM TIP

Common Creche Facility is legally permitted.

EMPLOYER'S DUTY TO INFORM WOMEN

Every woman must be informed:

In Writing

and

Electronically

about maternity benefits at the time of appointment.

Example

At joining, a company provides maternity benefit information through email and appointment documents.

EXAM TIP

Women must be informed of maternity benefits at initial appointment.

SECTION 68

DISMISSAL DURING PREGNANCY

Major Protection

Employer cannot:

Dismiss

or

Discharge

a woman because of maternity absence.

Example

An employer terminates a woman because she availed maternity leave. Such action is unlawful.

EXAM TIP

Dismissal due to maternity absence is prohibited

EXCEPTION : GROSS MISCONDUCT

Employer may deny benefit if dismissal is for:

Gross Misconduct

prescribed by Government.

Example

A woman is dismissed for proven serious misconduct unrelated to maternity leave.

EXAM T

Gross Misconduct is an exception.

APPEAL

Time Limit:

60 Days

from communication of dismissal order.

Example

A woman files appeal against denial of maternity benefit within 60 days.

EXAM TIP

Appeal against dismissal/deprivation = 60 Days.

SECTION 69

NO DEDUCTION OF WAGES

No wage deduction because of:

Light Work Assigned

or

Nursing Breaks

Example

An employee receives lighter duties during pregnancy. Her wages cannot be reduced.

EXAM TIP

No wage deduction for nursing breaks or light duties.

SECTION 70

FORFEITURE OF MATERNITY BENEFIT

Rule

If a woman works for remuneration during maternity leave,

she loses maternity benefit for that period.

Example

A woman takes maternity leave but simultaneously works elsewhere for wages. She forfeits maternity benefit for that period.

EXAM TIP

Paid work during maternity leave results in forfeiture of benefit.

SECTION 71

DUTIES OF EMPLOYER

Employer must display:

Abstract of Maternity Provisions

in local language(s)

at a conspicuous place.

Exempl

A factory displays maternity benefit provisions on the notice board.

EXAM TIP

Employer must display maternity provisions prominently.

SECTION 72

POWER OF INSPECTOR-CUM-FACILITATOR

Complaint May Be Made For

Wrongful Non-Payment

Illegal Dismissal

Withholding Benefits

Example

A woman denied maternity benefit files complaint before Inspector-cum-Facilitator.

EXAM TIP

Inspector-cum-Facilitator can order payment of withheld maternity benefits.

APPEAL AGAINST INSPECTOR'S ORDER

Time Limit:

30 Days

Example

An employer aggrieved by Inspector's order files appeal within 30 days.

EXAM TIP

Appeal against Inspector's order = 30 Days.

REVISION TABLE

Provision	Important Point
Adoptive Mother	12 Weeks
Commissioning Mother	12 Weeks
Work From Home	Mutual Agreement
Medical Bonus	₹3,500
Miscarriage Leave	6 Weeks
Tubectomy Leave	2 Weeks

Illness Leave	1 Month
Nursing Breaks	2 Daily
Child Age Limit	15 Months
Creche Facility	50 Employees
Creche Visits	4 Daily
Appeal (Dismissal)	60 Days
Appeal (Inspector Order)	30 Days

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