National Journal of Labour and Industrial Law
Volume 1, Issue 2
(July-December)
www.stmjournals.com

Social Security and India

Dhirendra Narayan Naik*
Deputy Manager (Law), North Eastern Electricity Supply Company of Odisha Limited (NESCO), Balasore, Odisha, India

Abstract
Social security schemes aim to provide security to the sick, needy and unemployed people. It is an assistance provided from their family structure, cast village and religious trusts from time immemorial. It is a dynamic concept and effective social weapon for peace.

Keywords: *Security, social, unemployment, assistance, peace*

***Author for Correspondence** E-mail: dnnaik1974@gmail.com

CONCEPT OF SOCIAL SECURITY

Social security is a very wide concept and it is indispensable for any developing economy more essentially when it is a welfare state. Its scope and application are widened because it strikes at the root of poverty, unemployment and other issues of the society.

In order to appreciate fully the meaning of social security various definitions may be examined:

ILO has defined social security as:
"The security furnishes appropriate organization 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 alone in private combination with fellows." (William Beveridge Report of Social Insurance and Allied Series. ILO Approaches to Social Security, 1942).

In India the National Commission on labour has endorsed the ILO definition of Social Security and observed:

"Social Security envisages that the members of a community should be protected by collective action against social risks causing undue hardship and privatization to individuals whose prime resource can seldom be adequate to meet that."

The first American Conference on Social Security in 1942 held that each country must create, conserve and build up the intellectual, moral and physical vigor of its active generation prepare the way for its future generations and support the generation which has been discharges from productive life. The social security is a genuine and rational economy of human resources and values.

ILO Social Security (minimum standard) Convention defines Social Security as the result achieved by a comprehensive and successful series of measures for protecting the public or large section of it from economic distress that in the absence of such measures would be caused by the stoppage of earning in sickness, unemployment old age and after death; for making available to that same public medical care as needed and for subsidizing families of young children.

British economist Geoffrey Crowther envisages the contents of Social Security as the citizen of a democracy should be guaranteed as of right enough food to maintain his health. He should be assured minimum standard of shelter clothing and fuel. He should be given full and equal opportunity of education. He should have leisure and facilities for enjoying it. He should be secured against risk of unemployment, ill health and old age. Above all the present of children should not be allowed to bring with it miseries for the parents deprivation for the children and poverty for all.

"The security of income to take of earnings when they are interrupted by unemployment sickness accident to provide for retirement through age to provide for retirement through age to provide against loss of support by the death of another person and to meet exceptional expenditure those connected with birth, death and marriage. Primarily social security means income should be associated with treatment design to bring the interruption of earning to an end as soon as possible."

SOCIAL SECURITY LAWS

The major social security laws in India are the following:

(i) *The Workmen's Compensation Act, 1923 (WC Act):* It requires payment of compensation to the workman or his family in cases of employment related injuries resulting in death or disability.

(ii) *The Employees' State Insurance Act, 1948 (ESI Act):* It covers factories and establishments with 10 or more employees and provides for comprehensive medical care to the employees and their families as well as cash benefits during sickness and maternity, and monthly payments in case of death or disablement.

(iii) *The Employees' Provident Funds & Miscellaneous Provident Act, 1952 (EPF & MP Act):* It applies to specific scheduled factories and establishments employing 20 or more employees and ensures terminal benefits to provident fund, superannuation pension, and family pension in case of death during service. Separate laws exist for similar benefits for the workers in the coal mines and tea plantations.

(iv) *The Maternity Benefit Act, 1961 (M.B. Act):* It provides for 12 weeks wages during maternity as well as paid leave in certain other related contingencies.

(v) *The Payment of Gratuity Act, 1972 (P.G. Act):* It provides 15 days wages for each year of service to employees who have worked for five years or more in establishment having a minimum of 10 workers.

SOCIAL SECURITY TO THE WORKERS: IN THE ORGANIZED SECTOR

Social Security for the workers in the Organized Sector is assured through five Central Acts, namely, the Workmen's Compensation Act, the ESI Act, the EPF & MP Act, the Payment of Gratuity Act and the Maternity Benefit Act. Also, there are a large number of welfare funds for certain specified segments of workers such as cine workers, beedi workers, construction workers and many others [1].

SOCIAL SECURITY COVERAGE IN INDIA

Most of the social security schemes in developed countries are linked to wage employment. In India our situation is entirely different from that of developed countries. The key differences of social security coverage in developed as well as developing countries are:

i) 92% of the workforce is in the informal sector which is largely unrecorded and the system of pay roll deduction is difficult to apply.
ii) We do not have an existing universal society security system
iii) We do not face the problem of exit rate from the workplace being higher than the replacement rate. On the contrary, lack of employment opportunities is the key concern

According to the estimates, 1/8th of the world's older people live in India. A majority of them depend on transfers from their children. Addressing social security concerns with particular reference to retirement income for workers within the coverage gap has been exercising policy makers across the world. In India the coverage gap i.e., workers who do not have access to any formal scheme for old-age income provisioning constitute about 92% of the estimated workforce of 400 million people. Hence the global debate and evaluation of options for closing the coverage gap is of special significances to India. The gradual breakdown of the family system has only underscored the urgency to evolve an appropriate policy that would help current participants in the labour force to build up a minimum retirement income for themselves [2].

SOCIAL INSURANCE AND SOCIAL ASSITANCE

Social security is a very comprehensive term. As there are two faces of the same coin, likewise, the two important means of providing social security are social insurance and social assistance. Both of them are parts of social security system.

SOCIAL INSURANCE

Social Insurance is one of the means to prevent an individual from falling to the clutches of poverty and to help him in times of emergencies. Insurance involves the setting aside of some amount of money to provide compensation against loss resulting from a misfortune. Thus, social insurance is a co-operative device which aims at granting adequate benefits to the insured on the compulsory basis in times of sickness, unemployment and other emergencies. Sir William Beveridge has defined social insurance as giving in returns for contribution benefits upto substance level as of right and without means test so that individual may build freely upon it. Thus, social insurance implies both that it is compulsory and that men stand together with their fellows.

This is based on the principles of compulsory mutual aid. The principal elements of social insurance are:

i) Social insurance is shared between employers and workers and financed by contributions, also, state participation in the form of a supplementary contribution or other subsidy from the general revenue.
ii) Surplus funds are not needed to pay, and current benefits are invested to earn further income.
iii) Participation is compulsory with few exceptions.
iv) Contributions are collected in special funds out of which benefits are paid.
v) The contribution and benefit rates are often related to what the person is or has been earning.
vi) A person's right to benefit is secured by his contribution record without any test of need or means.

SOCIAL ASSISTANCE

Social assistance refers to the assistance contributed by the society to the needy persons voluntarily without placing any obligation on them to make any contribution to be entitled to relief such as maternity benefit, workmen's compensation and old age pension, etc. Thus, one may say that a social assistance scheme provides benefits for persons of small means granted as of right in amount sufficient to meet a minimum standard of need and financed from taxation.

Social assistance comprises of the unilateral obligations of the community towards its dependent group through various social security programs. It is provided by the society or the government to the needy people. The principal features of social assistance are (1) the whole cost of the Program is met by the State and local units of Government (2) benefits are paid as of legal right in prescribed categories of need (3) in assessing need, a person's other income and resources are taken into account and certain resources such as a reasonable level of personal savings are disregarded (4) the benefit grant is designed to bring a person's total income up to a community determined maximum taking into account other factors such as family size and unavoidable fixed obligations such as rent grants are not related to applicant's previous earnings or customary standard of living. The difference between social insurance and social assistance are as follows:

a) Social assistance is completely the government's affair while social insurance is partly financed by the State.
b) Social assistance is given gratis while social insurance is granted to those persons who pay a contribution.
c) Besides, a social insurance does not insist upon a means test and benefits are granted without it while social assistance is granted only if certain conditions prescribed by the Government are fulfilled.

SOCIAL INSURANCE AND COMMERCIAL INSURANCE

Commercial Insurance is fundamentally different from Social insurance. The social insurance aims to achieve the maintenance of minimum standard of living whereas there exists no such motive in case of Commercial Insurance. Also, while commercial insurance provides against an individual's risk only, Social Insurance is undertaken to meet a chain of contingencies of diverse nature and intensity. Moreover, in social insurance the benefits received by the beneficiaries are usually much larger than the contribution that are required to pay towards the fund for the purpose whereas in Commercial Insurance, the policy benefits are according to premium paid. The commercial insurance is necessarily voluntary while social insurance is generally compulsory [3].

SIGNIFICANCE OF SOCIAL SECURITY

Social security is regarded as one of the dynamic concepts of present era which has tremendous influence in the formulation of social as well as economic policy. As the nuclear missile is the most effective weapon of war, so also social security is the most effective weapon of peace. It is the security that the state furnishes against the risks which, as individual of small means, cannot stand up by himself or even in private combination with his fellows. It originally signifies the measures during the period when wage earning capacity of a worker is adversely affected during industrial disability, unemployment, sickness or old age.

There are two stages of dependency during human life i.e. childhood and old age. In the superseding period, during adult life, there are times when an individual cannot earn a living. In such situations, the social security system aims to help individuals. It is now considered as an essential chapter of all National Programs in all advanced countries of the world to curb the issues of poverty, unemployment and disease.

India, as a developing country, needs social security provisions where, in view of the transition taking place, traditional values associated with small communities, joint family and security mechanism in-built in these social institutions, social structure and social organizations which used to provide security for the needy, is gradually vanishing. Besides, the countries of Asian Pacific region including India, faces problem which are enumerated as follows:

- High density of population as compared to that obtaining in western countries.
- Low rate of literacy and numeracy, low aspirations and low label of awareness.
- Meager resources and poor economies with low per capital GDP of US $ 200 to 300 compared with US $ 15000 to US $ 20 000 in developed countries.
- An average of 2 percent rate of growth of population.
- Low wages.
- Low skills.
- Large rural population, which is also scattered and fragmented, mainly engaged in agriculture and vulnerable to the pressure of migration from rural to urban areas.
- Lack of strong administrative infrastructure.
- Lack of professionally and educated and trained manpower.
- Heavy fiscal deficit and the current account deficit rendering Governments of countries of the region finance social security schemes on a long-term basis entirely on their own.
- There are also some problems specific to women which are as given as under:
- More women are contract and casual workers engaged in series of activities in the informal sector.
- Women get wages invariably lower that men which also remain static for a long time.
- More women are in rural areas and below poverty line.
- Women’s rate of literacy and numeracy is invariable lower.
- More women than men are unskilled.
- Women face much greater seasonal fluctuations in employment and earnings than men.

In view of such problems and in a pre-dominantly peasant economy with low per capita income, considerable under-employment and total unemployment, wide economic inequalities, highly limited opportunities etc. an individual’s capacity and efforts to improvise his standard of living will be inadequate. The State has therefore, initiated action in this field.

The Constitution of India, in its Preamble, proclaims:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST SECULAR DEMOCRATIC REPUBLIC AND TO SECURE TO ALL ITS CITIZENS:

JUSTICE, social, economic and political:
LIBERTY of thought, expression belief faith and worship,

EQUALITY of status and of opportunity;
The Directive principles of state policy as embodied in Part IV of the Indian Constitution further stipulates as hereunder:

Article 38 State to secure a social order for the promotion of welfare of the people-

1) "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social economic and political shall inform all the institutions of the national life" [4].
2) "The State shall, in particular, strive to minimize the inequalities in income, and end over to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations."

Article 41 : Right to work, to educate and to public assistance in certain cases- "The state shall within the limits of its economic capacity and development make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age sickness and disablement and in other cases of undeserved want" [5].

In view of Constitutional mandate in a self-proclaimed socialist and democratic country, the study of social security bears great importance.

CONCLUSION

In view of the constitutional mandate and country like India being a socialistic democratic country, social security bears great importance. Hence Study / Research on social security is necessary.

REFERENCES

1. Rep Mishra, Economy & Labour, P. 180, Manak Publication
2. Report of the National commission of Labour, 1969 P-162.
3. Civil court Manual. Vol. 10, P 11. The Madras Law Journal Office (1991)
4. Ibid P593
5. Ibid P604

Cite this Article
Dhirendra Narayan Naik. Social Security and India. *National Journal of Labour and Industrial Law*. June 2018; 1(2): 11–15p.

