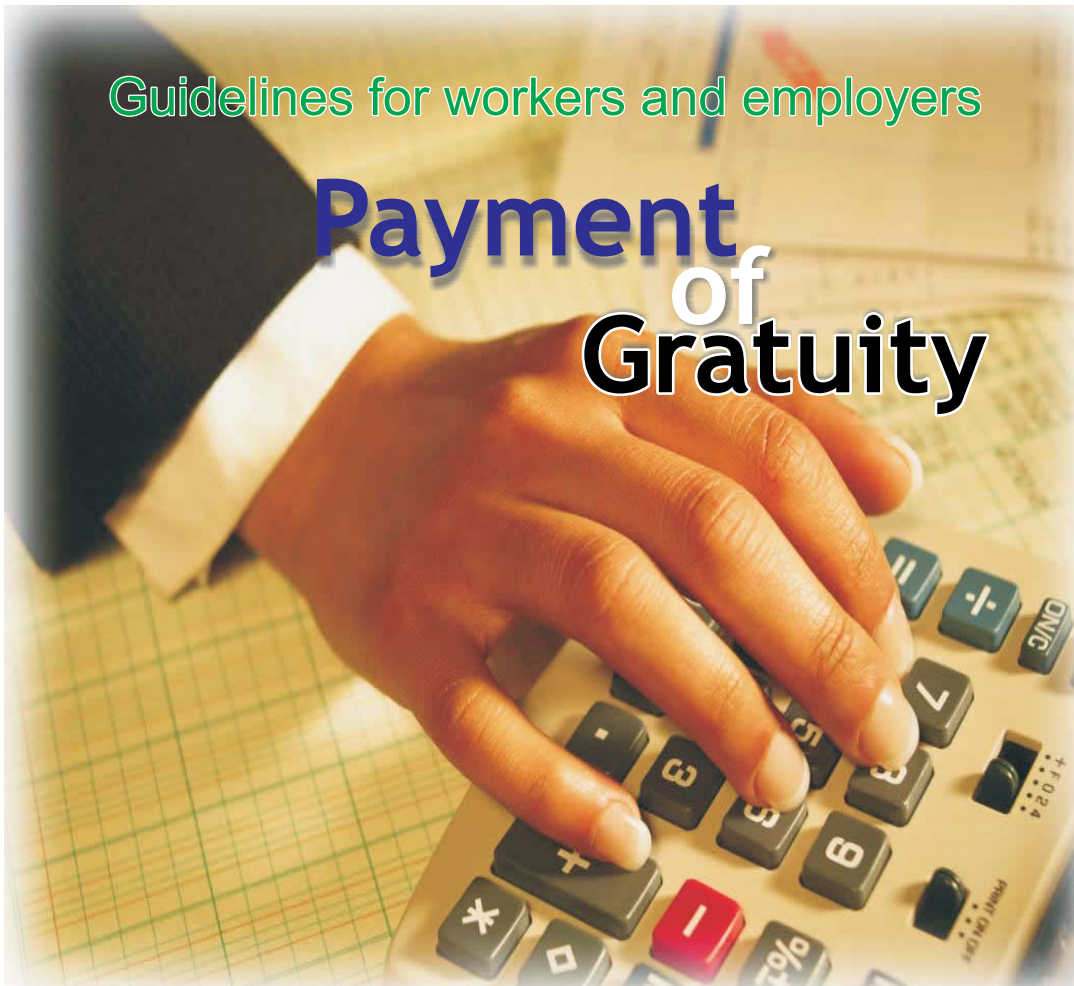


Guidelines for workers and employers

Payment of Gratuity



Labour & Human Resource Department
Government of the Punjab



What is the Payment of Wages Act, 1936 framed for?

Gratuity is the monetary benefit which an employee gets on the completion of employment. An employee is entitled to get gratuity upon:

- a) an entity's decision to terminate an employee's employment.
- b) employees terminated due to misconduct are not eligible to receive gratuity.
- c) an employee's decision to accept voluntary redundancy in exchange for benefits.
- d) death of the employee while in service of an employer

Which employees are eligible to claim gratuity?

The definition of employee who is eligible to receive gratuity is provided in the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. According to this definition, the eligible employees are called as "workmen". A workman is a person employed in industrial or commercial establishment doing any skilled or unskilled manual or clerical work for hire or reward.

Qualifying Age for eligibility?

There is no age requirement to qualify for gratuity. However a person must be of minimum age of employment (14 years)

Service requirements for eligibility?

In order to be eligible for gratuity, the employee (workman) must have completed at least 12 months of service for the industrial or commercial establishment from which he/she claims gratuity.

Which establishments have to pay gratuity?

All commercial and industrial establishments where twenty (20) workmen (in case of commercial establishment) and fifty (50) workmen (in case of industrial establishment) are employed are responsible for the payment of gratuity.

The commercial establishments include those entities involved in the business of advertising, commission, or forwarding, a clerical department of a factory, a joint stock company, insurance company, a bank, a broker's office or stock exchange, a club, a hotel, a restaurant, a cinema, and also other establishments which are declared by the Government by notification in the official gazette.

The industrial establishments include factories, railways (those operations registered as factories), a construction company, a work related to repairs, ornamenting, packing and other processes relating manufacturing is called an industrial establishment.

Are monetary benefits affected by gratuity?

The gratuity does not affect other monetary benefits accrued to the employee under various labour laws like bonus, provident fund, compensation, encashment of leaves etc.

How to calculate gratuity

The calculation of gratuity is dependent on the wages being drawn by the employee at the time of stoppage of service as well as on the length of service rendered by him/her.

A claim for gratuity is calculated on the basis of wages drawn by an employee (workman) in the last month before he claims gratuity or in case of piece-rated work, the monthly rate of earnings in previous 12 months.

For each year of service, 30 days of wages are calculated as gratuity to which the worker is entitled at the end of his service. Any length of service higher than 6 months over the number of years of service is considered as one year for the purpose of calculating gratuity, while any length of service less than 6 months over the years of service is not included while calculating gratuity.

What is the 'wage' for calculation of gratuity?

Wage for the purpose of calculating gratuity is the highest pay drawn during the last month of service including all permanent and regular allowances.

These include Cost of Living Allowance, House Rent Allowance, Conveyance Allowance and any other allowances regularly paid with the salary are part of the wages. Any temporary relief or contingent and unpredictable payments provided by the employer are not part of wages for calculation of gratuity.

An illustrated example of calculation of gratuity are given below:

Date of joining:	01 Jan, 2000
Date of resigning:	31 August, 2010
Gross salary paid in August, 2010:	Rs. 20,000
Temporary flood relief in the above gross salary:	Rs. 3,000

Bonus paid on 30 June, 2010:	Rs, 30,000
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To calculate gratuity

Last drawn one month wage ÷ Twenty six (26) days = wage for one day

One day wage x 30 days = One year's gratuity

One year gratuity X total service of a workman = Total calculated gratuity of a workman.

In above case it would be

Wage for one day = $20,000 \div 26$ days = Rs. 769.23

Gratuity for one year = 769.23×30 = Rs. 23077

Gratuity for 11 years of service = 23077×11 = Rs. 253,847

Laws related to Gratuity

The main law which governs the terms and conditions of gratuity is the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. Other laws which provide coverage to gratuity include: Payment of Wages Act, 1936 Factories Act, 1934 Shops & Establishments Ordinance, 1969 In addition special laws related to mine workers, newspaper employees and transport workers also are pertinent.

Who receives gratuity in case of death of employee?

If a workman dies under the employment of an employer his or her dependent(s) shall be paid gratuity through Commissioner Workmen Compensation. Any relative of a deceased namely a widow, minor son, unmarried daughter, or a widowed mother are the dependents.

Where to file the claim?

Normally the workman should apply to his/her employer for provision of gratuity. In case there is dispute due to non or less payment of gratuity, the claim can be lodged in the court of Commissioner Workman Compensation in the relevant jurisdiction. Who is also (Authority under payment of wages). The Commissioner Workman Compensation is an officer of the Directorate of Labour Welfare and at least one Commissioner has been designated in each office of the District Officer Labour in all districts of Punjab.



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