

SOS POLITICAL SCIENCE AND PUBLIC
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MBA HRD IV SEM
PAPER- HRD 403
SUBJECT NAME: LABOUR LAW

TOPIC NAME:
THE PAYMENT OF WAGES ACT, 1936

PAYMENT OF WAGES ACT, 1936



PAYMENT OF WAGES ACT, 1936

Evolution of concept of wages in India.

In the earlier days, the imposition of fine was a fairly general practice in perennial factories and railways. There used to be other deductions from the wages paid to the workers, such as for medical treatment, education, interest on advances of the workers' own wages, charities, and religious purposes selected by the employer. An important feature which added to the embarrassment of the workers at various places was paid. There was no uniformity in the payment of wages. Long comparatively the longer period in respect of which wages were intervals between wage payments invariability added to the in convenience of the workers.

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The Royal Commission on Labour in its report (1931) recommended, among other things, that legislation on deduction from wages and fines was necessary and desirable. The commission examined the delays in the payment of wages and the practice of deductions from the wages of an employed person. In the light of its recommendations, the Government of India introduced a Bill seeking to regular the delays and deduction in the payment of wages to industrial and plantation labour. The Bill was passed in 1936 and the Act came into force from 28th March, 1937. In exercise of the powers conferred under the Act, the Maharashtra Government framed rules known as the Maharashtra Payment of Wages Rules, 1936.

PAYMENT OF WAGES ACT, 1936

INTRODUCTION

- ▶ Recommended by Royal Commission of labour to regulate delays & deductions in payment of wages to industrial plantation labour.
- ▶ Act came into force from 28th March 1937
- ▶ On same grounds, Maharashtra Payment of Wages Rules passed in 1963.
- ▶ This Act is in 3 parts:

PART I

- Regulation and payment of wages

PART II

- Specifies head under which deductions can be made.

PART III

- Provides machinery enforcing specific claims

PAYMENT OF WAGES ACT, 1936

The Act is in three parts.

1. Part I deals with the regular and payment of wages by the employer.
2. Part 2 specifies the heads under which deduction can be made from wages.
3. Part 3 provides a machinery for enforcing specific claim arising out of delayed payments, deduction from wages, appeals, etc. It is a self – contained Act and provides its own machinery for the disposal of the claims. The Act contains 26 sections.

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OBJECT OF THE ACT

- ▶ To regulate the payment of wages to certain classes of employees in industry in particular form and at regular intervals.
- ▶ To prevent unauthorised deductions from the wages.
- ▶ Merely concerned with fixation of wage periods and not fixation of wages.

APPLICABILITY

- Applicable to persons employed in any **factory, railway & such other establishments** – wherein **State Government** can **extend provision of Act by Notification** after giving **3 months notice** to that effect.
- Persons drawing **less than Rs.6,500 per month** in respect of a **wage period** are covered under this Act.

PAYMENT OF WAGES ACT, 1936

DEFINITIONS/ MEANINGS

- ▶ 1. WAGES: Remuneration – Salary, allowance / otherwise expressed in terms of money, payable to person employed in respect of work done.
- Includes Wage payable under –
 - a. Award, Settlement or order of court.
 - b. Overtime work, holidays, leave period.
 - c. Termination of employee wherein payment is mandatory under any law.
 - d. Any scheme framed under any law for the time being in force.
- Excludes :
 - a. Any bonus- profit sharing or otherwise which is not a part of settlement or order of court.
 - b. Service/ Amenity provided by the company in general or by special order of state government.

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- c. Any travelling expense
 - d. Gratuity payable on termination
 - e. Special expenses entailed on employee
 - f. Provident fund and pension and outstanding interest contributed by employer.
- 2. EMPLOYER: *Includes*: Legal representative of deceased employer.



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DEFINITION OF WAGES

Wages :-

'Wages' means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment. Simply stated **'wages'** means all remuneration due to any worker or employee if the terms of contract of employment are fulfilled. The definition of 'wages' includes the following:

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the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

- (e) Any sum to which the person employed is entitled under any scheme framed under any law for the time being in force.

The expression 'wages' does not include:

- (1) Any bonus (whether under a scheme of profit-sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;

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- (2) The value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government:
- (3) Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon:
- (4) Any travelling allowance or the value of any travelling concession:

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WAGE PAYMENT

- The responsibility for the payment of wages under the ACT is of the employer or his representative.
- Wages may be payable daily, weekly, fortnightly and monthly. Should not extend a period longer than one month
- If there are 1000 person employed in a company there the wage shall be paid before the 7th day
- If there are more than 1,000 employed the wage shall be paid before the 10th day.
- Terminated employee is entitled to receive the wage earned by him before the expiry of the 2nd working day from the day on which his service has been terminated (**Section 5(2)**).

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DEDUCTIONS FROM WAGES

- *DEDUCTION*: 'SUBTRACT', 'TAKE AWAY', 'WITH HOLD'
- *WAGE DEDUCTIONS*: No Specific definition for deduction.
- *However the Act DOES SPECIFY THE HEADS FROM SECTION 7-13 Under which deductions can be made.*
- *Only those deductions that are authorised BY/UNDER The ACT can be levied.*



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LIST OF AUTHORISED/PERMISSABLE DEDUCTIONS

- ▶ Deduction for FINES
- ▶ Deduction for ABSENCE FROM DUTY
- ▶ Deduction for DAMAGE/LOSS
- ▶ Deduction for HOUSE ACCOMODATION
- ▶ Deduction for AMMENITIES + SERVICES
- ▶ Deduction for RECOVERY OF ADVANCES
- ▶ Deduction for RECOVERY LOANS MADE FOR THE WELFARE OF LABOUR
- ▶ Deduction for RECOVERY LOANS GRANTED FOR HOUSE BUILDING
- ▶ Deduction for PAYMENT TO CO-OPERATIVE SOCITIES AND INSURABLE SERVICES



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- ▶ Deduction Of INCOME TAX
- ▶ Deduction made UNDER ORDERS OF COURT
- ▶ Deduction for CONTRIBUTION TO PROVIDENT FUND
- ▶ Deduction for CONSTITUTION OF A WELFARE FUND FOR EMPLOYED PERSON + FAMILY MEMBERS
- ▶ Deduction in respect of FEES PAYABLE FOR MEMBERSHIP TO TRADE UNION
- ▶ Deduction for PAYMENT OF INSURANCE PREMIA ON FIDELITY GUARANTEE BONDS
- ▶ Deduction for RECOVERY OF LOSSES SUSTAINED BY RAILWAY ADMINISTRATION
- ▶ Deduction for CONTRIBUTION TO PRIME MINISTERS NATIONAL RELIEF FUND

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MAINTENANCE OF REGISTERS AND RECORDS (SECTION-13 A)

- 1) Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such forms as may be prescribed.
- 2) every register and record required to be maintained under this section shall, for the purpose of this act, be preserved for a period of three years after the last entry made therein.

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AUTHORITIES

- ▶ **Under Section 14 of this Act the appointment of Inspector is done.**
- ▶ **Act provides the appointment of person to be authority to hear decide any specified area claim arising out of deduction from wages or delay in payment wages under section 15.**
- ▶ **There are three distinct categories of person prescribe as authorities:**
 - **A presiding officer of labour court.**
 - **Any commissioner for workmen's compensation.**
 - **Other office with experience as judge of civil court or a stipendiary.**

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CLAIM AND APPEAL



- ▶ **Claims arising out of deduction & Delay of wages and penalty for *malicious* claims will be heard and decided by the authority appointed by government.**
- ▶ **The authority under the act can only adjudicate upon the claim regarding the deduction & Delay in payment wages.**
- ▶ **The appeal lies against the decision of the authority to a court of small causes in a metropolitan town and before the District Court within the period of 1 month.**
- ▶ **The employer can appeal provided the total amount deducted exceeds Rs 300.**
- ▶ **The authority have all the power of a civil court under the Civil Procedure Code (Sec 17, 17A & 18)**

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PENALTIES



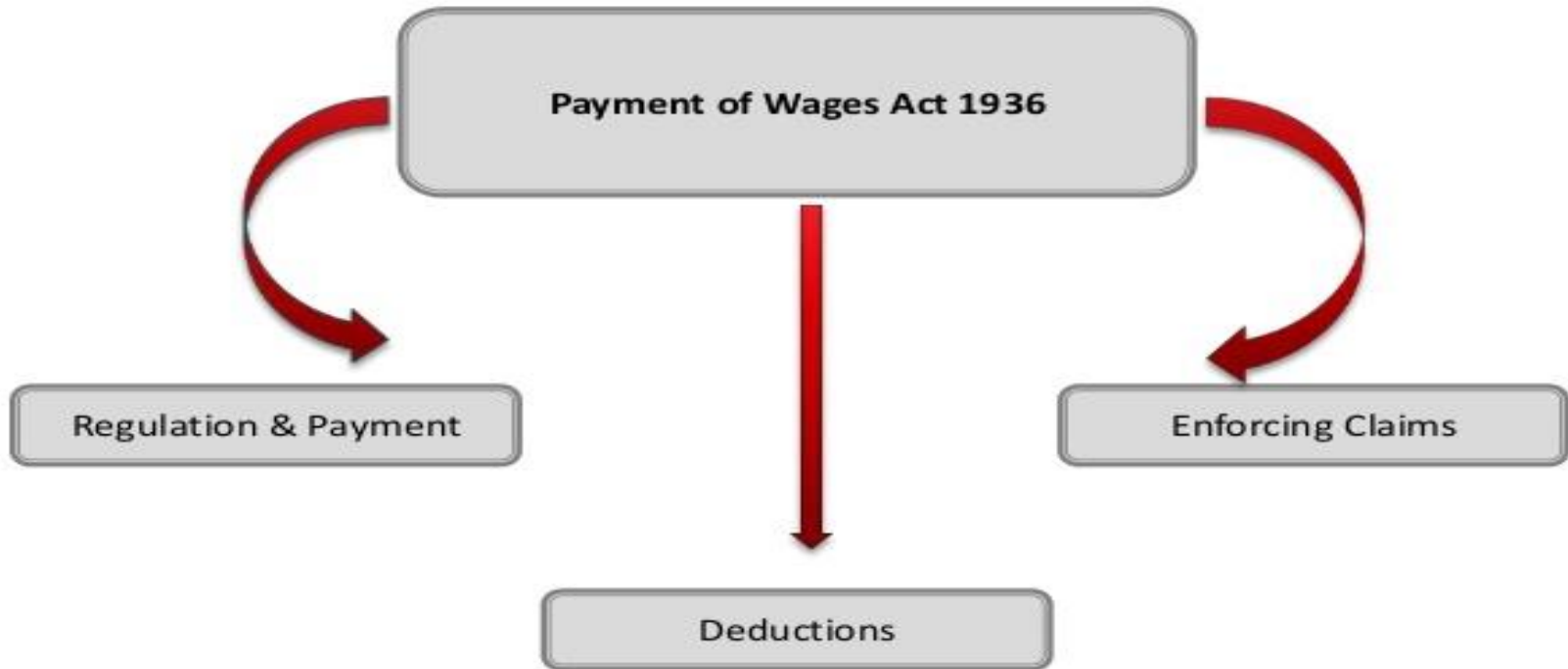
- ▶ Whoever being required under this Act to Registers, maintain or to furnish any information
 - (a) *Fails to maintain* such register or record; or
 - (b) *Willfully refuses* or without lawful excuse *neglects to furnish* such *information* or return; or
 - (c) *Willfully furnishes information* which he knows *to be false*; or *refuses to answer* or willfully *gives a false answer* to any *question* necessary for obtaining any information required to be furnished under this Act; Shall, for each such offence, be *punishable with fine* which shall *not be less than 200 rupees* but may extend *to 1000 rupees*.

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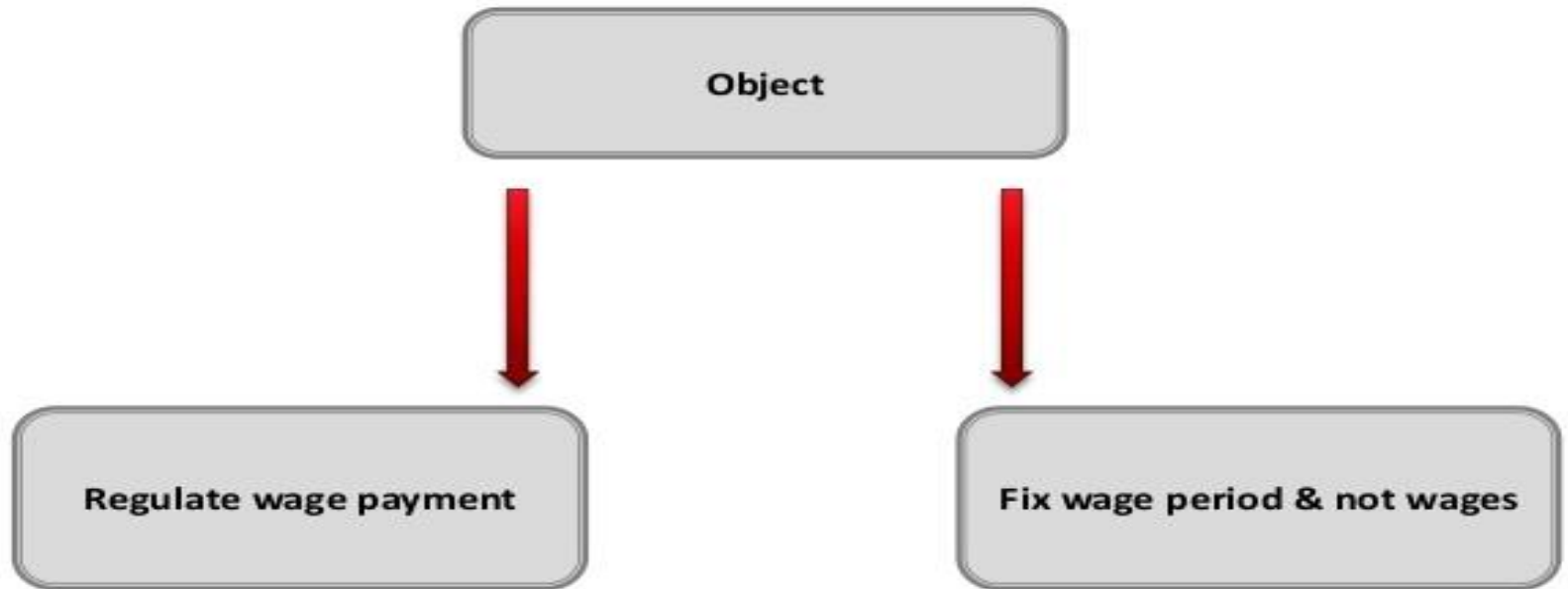
OBLIGATIONS

- ▶ To fix wage period not exceeding one month.
- ▶ To pay wages in cash or by cheque after taking written authorization of the employed person
- ▶ To pay wages on any working day
- ▶ To make deductions permissible only under section 7 from wages of the employed person
- ▶ To ensure the deductions do not exceed 75% where payment to a cooperative society has to be made, in any other cases, deductions do not exceed 50%
- ▶ Not to impose fines exceeding 3% of wages of the employees
- ▶ To recover fines within 60 days of the date of offence.
- ▶ To display abstract of the Act and the Rules in English and in language understood by the majority of workmen.
- ▶ To maintain:
 - a. Register of fines
 - b. Register of wages
 - c. Register of deductions for damage or loss
 - d. Register of advances

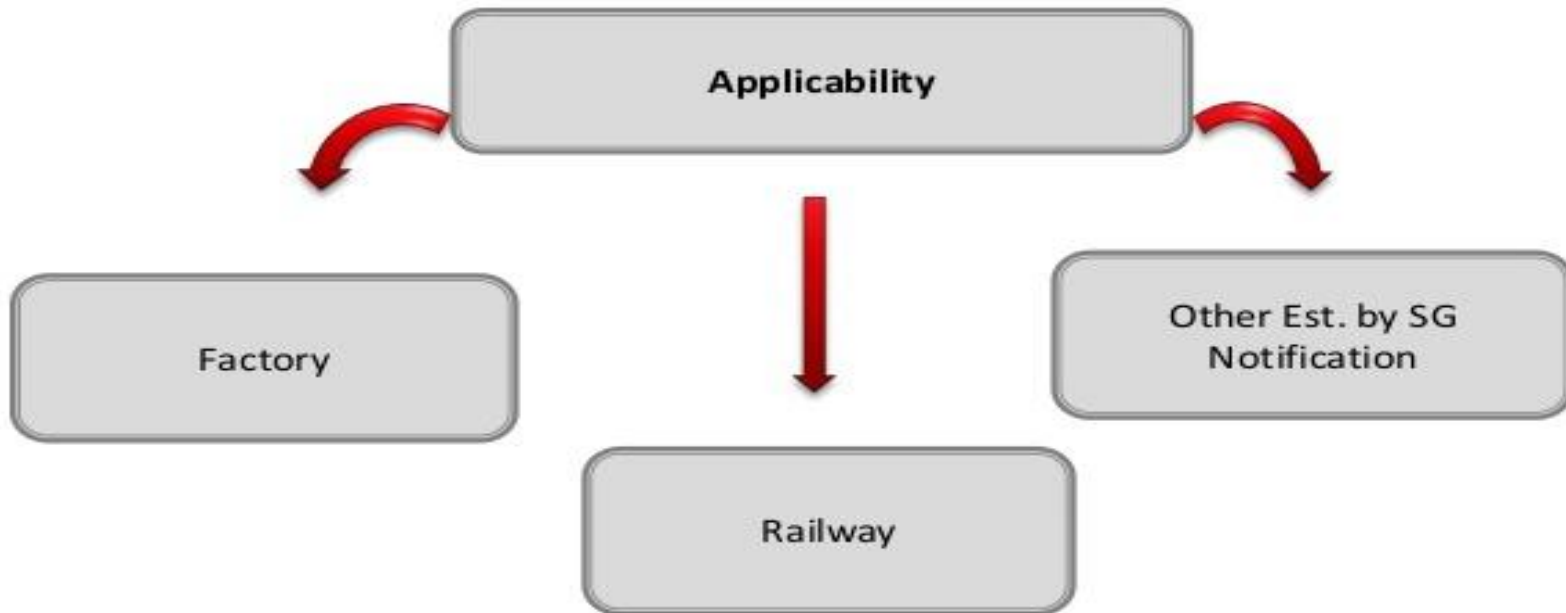
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Note: Act applies where wages payable for period where wages do not exceed Rs. 6500/-

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Wages

Remuneration payable to person employed in respect of his employment or work done

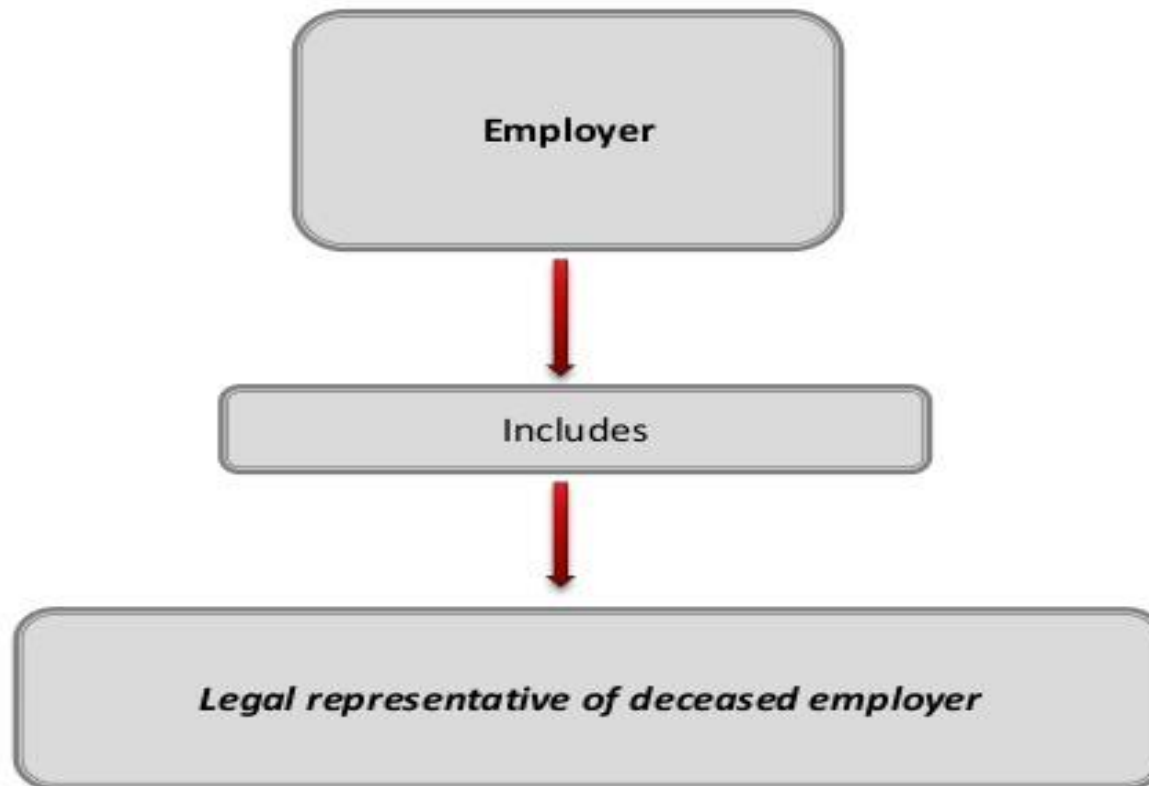
Includes

- Rem. under award/settlement
- Overtime/holiday/leave
- Sum payable on termination
- Any scheme under law

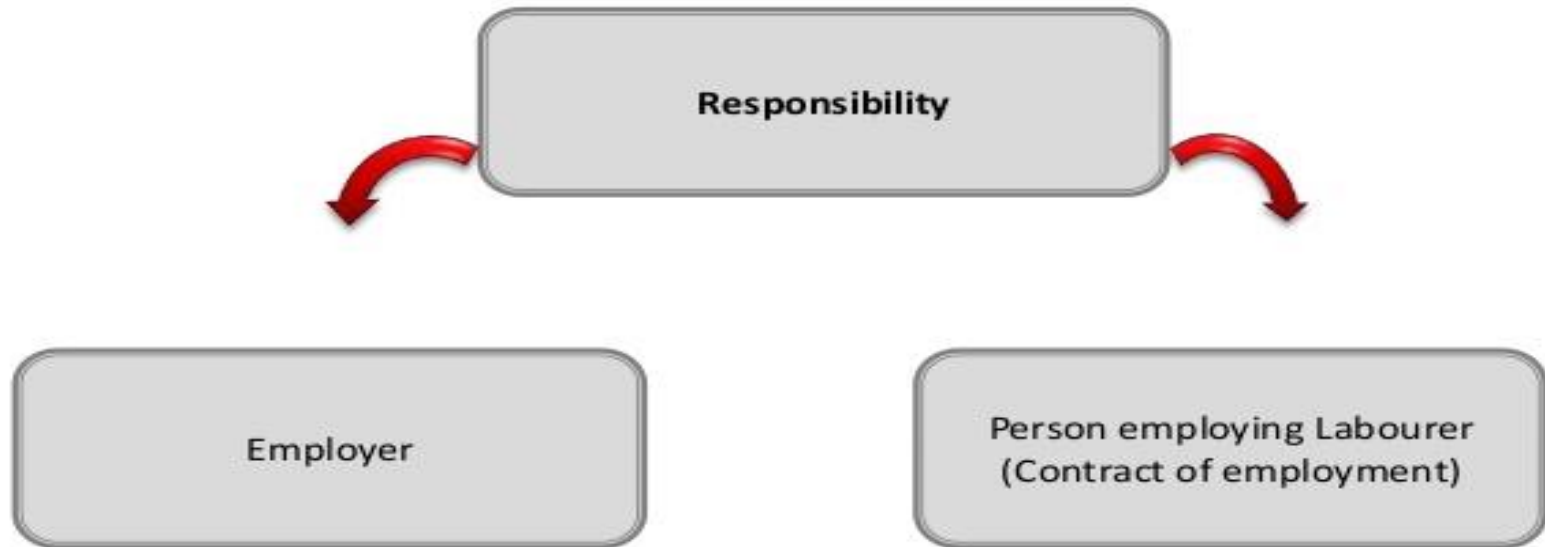
Excludes

- Bonus not forming part of terms
- General/Special order of SG
- Employers Contri. To PF/Pension & Interest there upon
- Travel Concession
- Sum paid to defray expense due to employment
- Gratuity

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Wage Period

≤

1 Month

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Less than 1000 persons

≤

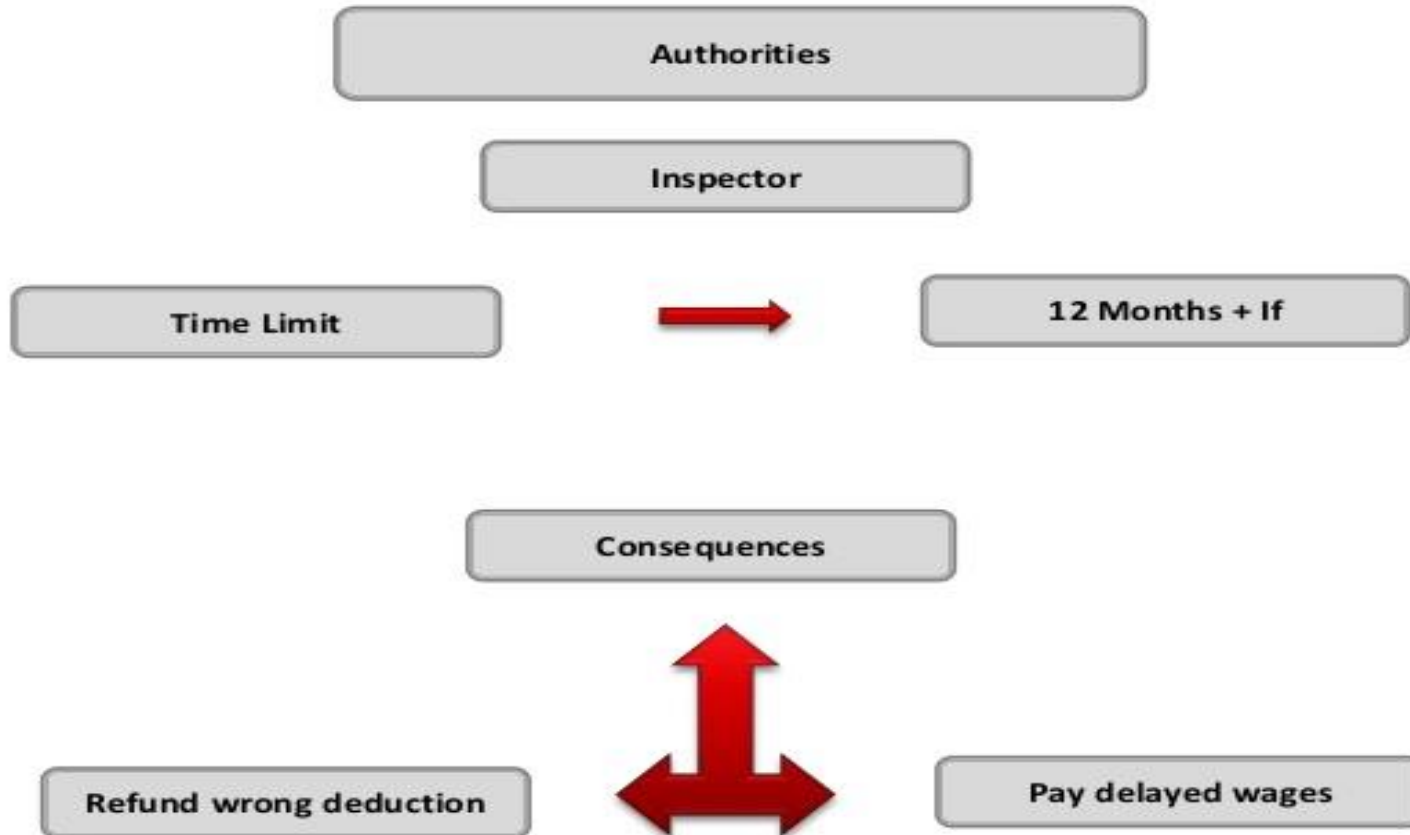
7th day from expiry

Other cases

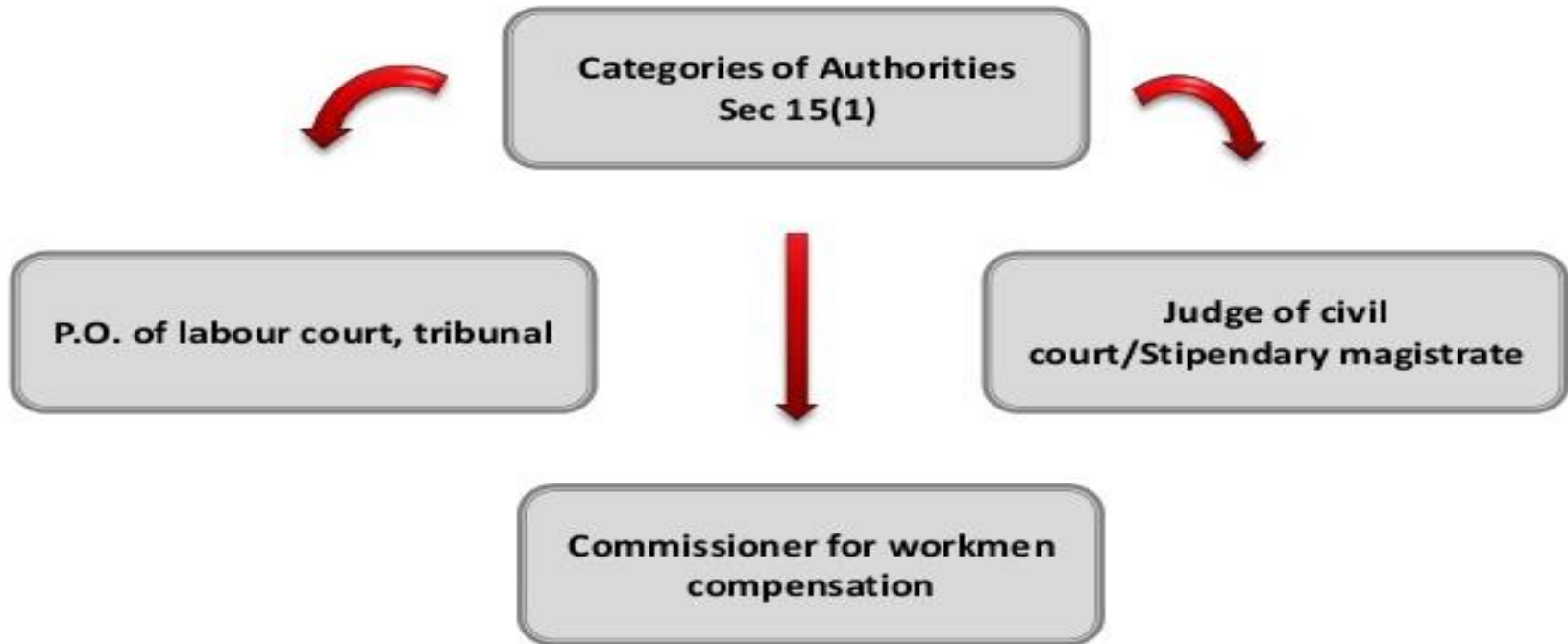
≤

10th day from expiry

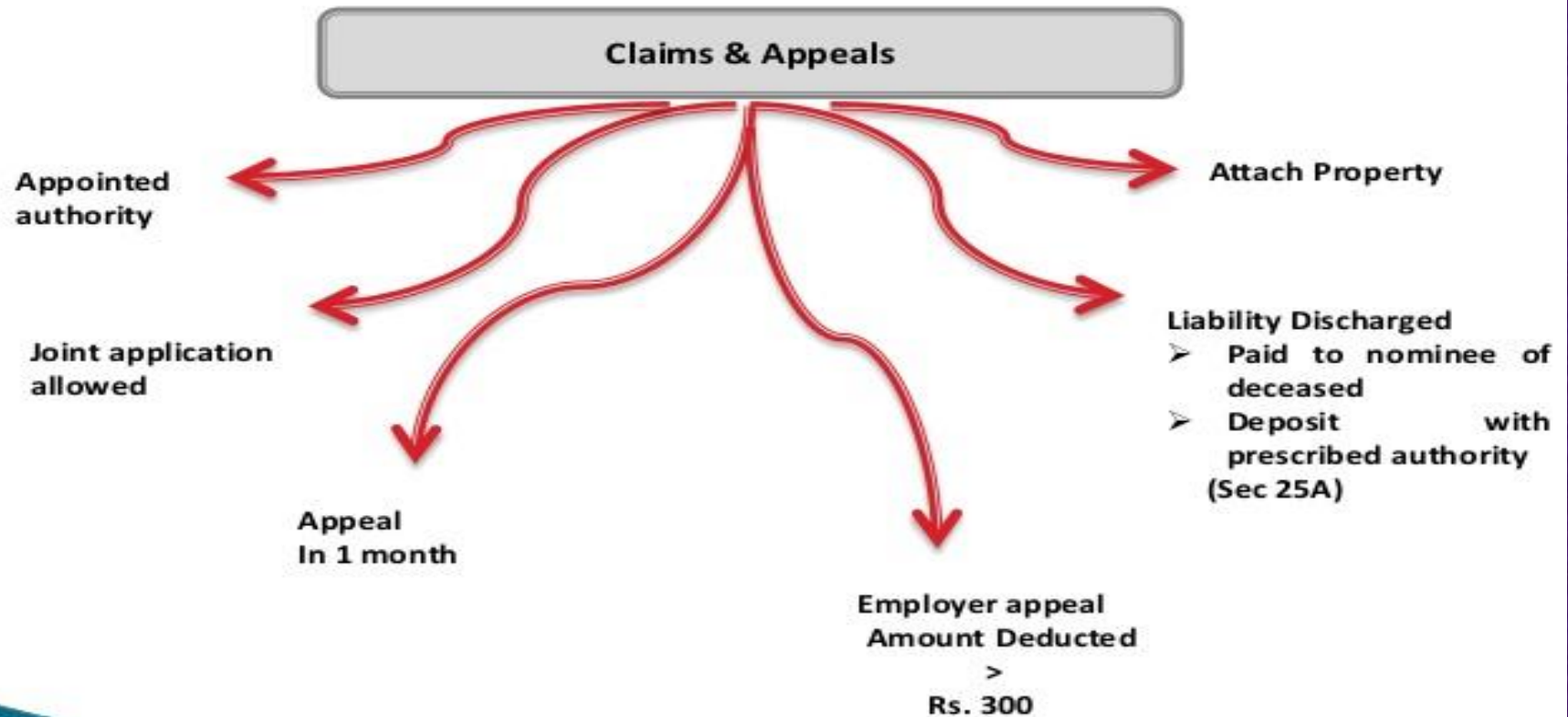
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Offences & Penalties



**Penalties &
Trial of offences**



**Jurisdiction of court
Barred**

- 1. Recovery of wages**
- 2. Deduction from wages
(Sec 21)**



Thank you