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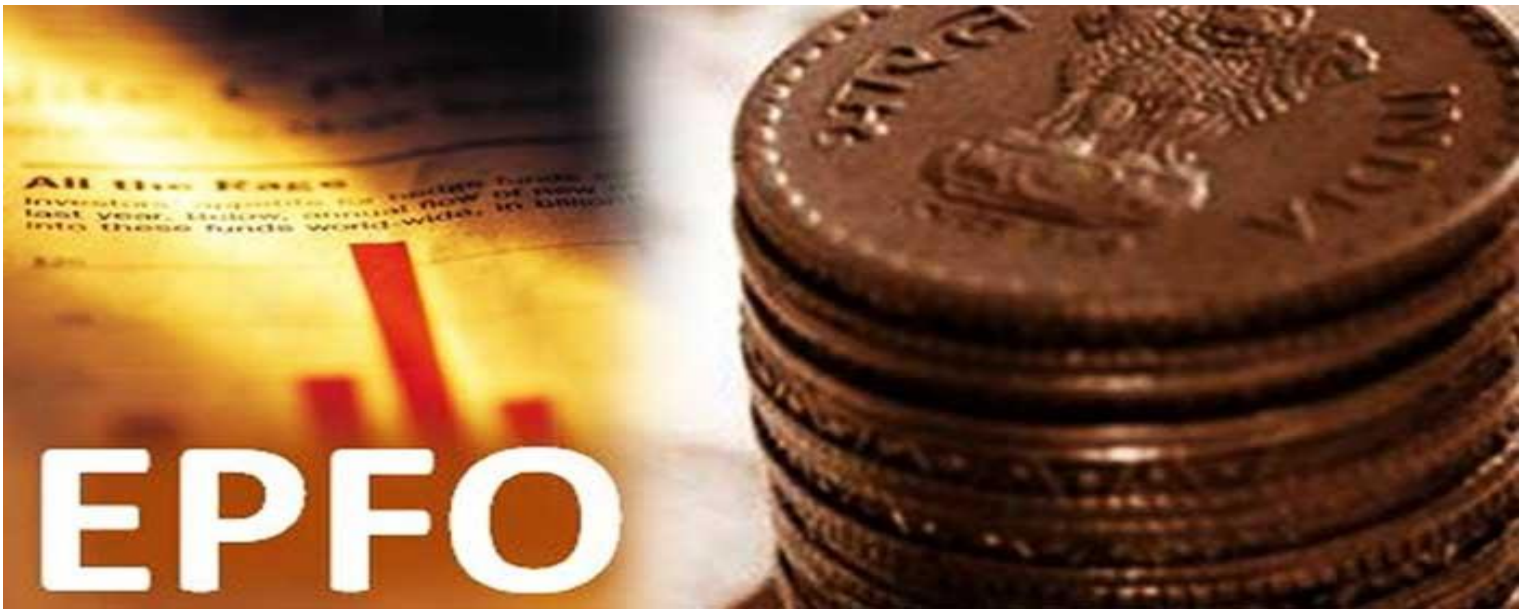
CHARTERED ACCOUNTANTS

HR & PAYROLL NEWSLETTER MARCH 2018

HIGHLIGHTS



EPFO goes paperless

Employees' Provident Fund Organisation (EPFO) has set a target for becoming an electronic paper-free organisation with effect from August 15, 2018.

To achieve this target, EPFO has launched a campaign for 100% seeding of Aadhaar and bank accounts with Universal Account Number (UAN) so that all claims will be submitted only through online mode.

According to a press release, awareness programmes with representatives of trade unions and employers will be conducted during the campaign. Employers are called to get their e-sign duly registered and submit joint declaration for corrections of employees' profiles.

EPFO makes online claims mandatory: Provident Fund withdrawals above Rs 10 lakh

Currently, EPFO subscribers have the option of filing online as well as manual claims for provident fund withdrawals.

EPFO has made mandatory to file online claims for provident fund withdrawals above INR 10 lakhs. EPFO has also made it mandatory to file online claims for withdrawals of above Rs 5 lakh under the Employees Pension Scheme 1995. Thus in such case of EPF and EPS withdrawal claims, the claim form must be accepted through **online** mode only.

Government UMANG Mobile App- Added Aadhar linking with UAN Service

EPFO has launched a new facility for the PF members through which the PF members can link their UAN with Aadhar number using through Umang app.

EPFO Replaces Form 2 with E-Nomination

In a new initiative, the EPFO has come out with e-nomination to replace the physical Form 2. Members can nominate through the Member portal. This new electronic process will replace all previous physical nominations.

The EPF Form 2 is for the purpose of declaration and nomination under the Employees' Provident Funds and Employees' Family Pension schemes.

The e-nomination option is available only for subscribers whose Aadhaar details are linked into the EPFO portal. Also, similar to physical nominations, e-nominations can also be modified.

EPFO Releases the Interest Rate for FY 2017-18

EPFO has recommended the rate of interest on employee's provident fund to 8.55 per cent (from 8.65 per cent in the previous fiscal) for its currently enrolled subscribers.

AMENDMENDMENTS/ CIRCULARS/ NOTIFICATIONS

Tamil Nadu Factories Rules Amendment- Introducing Compliance through Online Portal And Extension Of Registration And Renewal Upto Ten Years

The Government of Tamil Nadu has amended the Tamil Nadu Factories Rules, 1950 and made the following changes:

(1) Compliances can be now done online by submitting relevant Forms as per the Rule such as (i) Approval Of Site, (ii) Construction Or Extension Of A Factory, (iii) Registration And Grant Of Licence, (iv) Renewal Of Registration,(v) Amendment Of Licence, (vi)Annual Returns and (vii) Half Yearly Returns,

(2) The registration and renewal of the factory license can be made for ten years consecutively now from the earlier tenure of five years and

(3) Annual Return Form 22 has been amended with relevant changes.

The Apprentices (Maharashtra Amendment) Act, 2017

The Government of Maharashtra has issued Apprentices (Maharashtra Amendment) Act, 2017 ("Amendment Act") on 9th February, 2018 amending Apprentices Act, 1961 ("Principal Act"), in its application to the State of Maharashtra.

The amendments have been made towards the Section 6 (Period of apprenticeship training), Section 7(Termination of apprenticeship contract), Section 8(Number of apprentices for a designated trade and optional trade), Section 13(Payment to apprentices) and Section 21(Holding of test and grant of certificate and conclusion of training). The State Government shall by separate notification release the effective dates for said amendments.

EPFO offers Life Insurance INR 2.5 Lakh to INR 6 Lakh

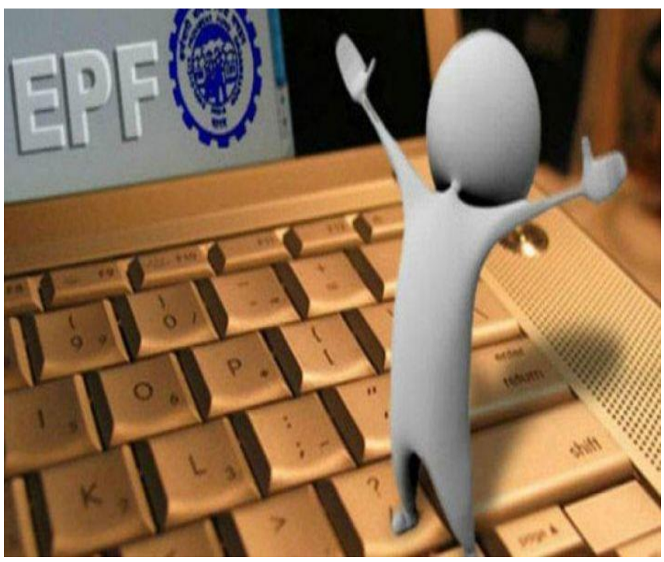
Under new changes, now EPF offers Life Insurance of INR 2.5 lakh to INR 6 lakh.

Earlier the limit of minimum insurance benefit was INR 1.5 lakh and the maximum was INR 6 lakh.

The Rajasthan Minimum Wages Notification

The Government of Rajasthan has released the minimum rates of wages effective 1st January 2018 to 30th June, 2018:

Categories of Employees	Monthly Minimum Rates of Wages (INR)
Unskilled	5,538
Semi-Skilled	5,798
Skilled	6,058



KERALA HIGH COURT

Secretary, State Government, Labour Department rep. by The Director of Insurance Medical Services, ESI Scheme Trivendrum vs. S. Gopakumar s/o Soman Pillaji & Ors.

Facts of the case

The Applicant is an insured person registered at ESI dispensary, Chathannur, Kollam under the Act and is working at Steel Industries Kerala Ltd., Kowdiar, Thiruvananthapuram. The applicant's wife sustained right hip joint problem out of a fall and she was initially taken to the ESI Hospital, Peroorkkada, from where she was referred to the Medical College Hospital, Thiruvananthapuram. Later, she was taken to Lakeshore Hospital, Kochi and had undergone treatment there and incurred an amount of Rs. 3,19,324.69 by way of medical bills. A claim was lodged before the Insurance Corporation for getting reimbursement of the said amount.

The Insurance Corporation allowed only an amount of Rupees one lakh alleging that the applicant is eligible only for reimbursement of medical expenses calculated as per Central Government Health Scheme (for short 'CGHS') and rejected the claim for the balance amount, which has necessitated the filing of the Insurance Case before the Employees' Insurance Court, Kollam.

Applicant's contention

An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the State Government or by the Corporation, and an insured person or, such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

Nothing in the Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim re-imbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations."

Respondent's contention

The respondent contented that even by admitting the claim made by the applicant, an amount of Rs. 90,000 alone is entitled to by the applicant as it is the maximum amount that can be granted under CGHS, however an amount of Rupees one lakh was granted.

The second contention raised is that the applicant's wife had undergone treatment in a hospital without having reference from the ESI Hospital or from the Medical College Hospital. But it was admitted that she was referred by the ESI Hospital, on an earlier occasion, to the Medical College Hospital, Thiruvanan-thapuram. It was also submitted that the Lakeshore Hospital, wherein she had undergone treatment, is not an empanelled hospital and there was no tie up with the said hospital either by the Corporation or by the State Government at that time.

High Court's Judgement

As per Sections 56 and 58, there is no such requirement mandating that the treatment should be taken by the party concerned from a hospital empanelled by either the Corporation or the State Government. But as per the language employed in Sections 56 and 58 would show that it is their liability to provide medical facility to the insured and his/her family members.

When there is a tie up with some other hospitals, either by the State Government or by the Corporation, it really amounts to extending the medical facility by the Corporation or the State Government, as the case may be, to :he party concerned, the insured or the family members of the insured. The party need not pay any amount to the tie up hospital, either by way of medical bill or otherwise, in connection with the treatment undergone. It is equally good as providing medical treatment by hospitals run by the ESI Corporation or the State Government, as the case may be. What has to be noted is the extension of medical facility to the injured or the ailing person, as the case may be, through a tie up by the Government or the Corporation with other hospitals. In that case, it would definitely come either under Section 56 or under Section 58 of the Act as the State Government/ Corporation has extended the facility to the required person.

The discharge certificate issued by the Medical College Hospital which stated that the patient needs Revision Arthritis and there is no such facility available in the Medical College Hospital, Thiruvananthapuram and she was referred by the ESI Hospital, Peroorkkada. It is true that there is no further reference of the applicant's wife either from the ESI Hospital, Peroorkkada or from the Medical College Hospital, Thiruvananthapuram to any particular hospital empaneled or tied up with the Government or the ESI Corporation. But, as per the certificate the first referred hospital did not have such facility to meet the medical requirement of the applicant's wife. When there is no medical facility required by the patient in an empanelled hospital or in any hospital run by the Corporation or the Government, as the case may be, the treatment taken by the patient from a hospital having such facility cannot be rejected. Only when there is evidence to show that the required medical facility was available either in the hospital run by the Corporation or the Government or in the empanelled hospital and non-user of the said facility by the insured or his/her family members, they are not entitled to claim reimbursement of the medical treatment expenditure. Certainly, the burden lies on the Corporation/Government to show and prove that the required medical facility was available either in the hospital run by the Corporation / Government or in the empanelled hospital. No materials were placed before us to discharge the said burden either by the Corporation or by the Government. Needless to say that if there is no such facility available in any of the tied up hospitals or ESI Hospitals/Government Hospitals, it cannot be said that they have extended the medical facility to the wife of the applicant in consonance with Sections 56 and 58 of the Act. In fact, there is no extension of such medical facility to the applicant's wife. If that be so, they are liable to reimburse the entire medical expenses. Hence, we could not find any reason for interference with the impugned judgment rendered by the Employee's Insurance Court.

Comments

As per Section 57 of the Employees State Insurance Act, 1948, the State Government or ESIC is to fix a scale for reimbursement of any medical benefit. No provision is there in Section 57 the Act to adopt CGHS rates. As per Sections 56 and 58 of the Act, the ESIC or State Government is liable to provide medical facility to the insured and his family members.

Insured is not liable to pay any amount to tie-up hospital. When there is no facility either in ESI run hospital or in tie-up hospital, treatment taken from another hospital having required facility cannot be rejected.

The applicant is entitled to seek remedy under Section 75 of the ESI Act, 1948 for partly reimbursement of medical bill by the ESI Corporation. Thus the ESI Corporation is liable to reimburse the entire medical expenses incurred by the insured in a private hospital if it has failed to prove on record that the facility for the treatment taken by the wife of the insured was available in its own run hospital or in any tie up hospital

COMPLIANCE TRACKER – MARCH 2018

Compliance Calendar – March 2018 – Key dates

Due Date	Period	Nature of transaction	Existing rules	Mode
		T D S		
07/03/2018	Monthly	TDS Payment	Income Tax Act, 1961	Online
		P F		
15/03/2018	Monthly	Remittance of Contribution	EPF & MP Act, 1952	Online
		E S I		
15/03/2018	Monthly	Remittance of Contribution	ESIC Act, 1948	Online
		PROFESSIONAL TAX – STATES		
10/03/2018	Monthly	Andhra Pradesh, Telangana & Madhya Pradesh	State-wise regulations	Online
15/03/2018	Monthly	Gujarat	Gujarat PT regulations	By Challan
31/03/2018	Half Yearly	Tamil Nadu	Tamilnadu PT regulations	By Challan & online
20/03/2018	Monthly	Karnataka	Karnataka PT regulations	By Challan & online
21/03/2018	Monthly	West Bengal	West Bengal PT regulations	By Challan
31/03/2018	Monthly	Assam & Orissa	State-wise regulations	By Challan
***31/03/2018**	Monthly/Yearly	Maharashtra	Maharashtra PT regulations	Online

*** Entities having the Professional tax liability of more than Rs.50,000 are required to file monthly professional tax return before the last date of each month and those entities having a tax liability of less than Rs.50,000 in the previous year are required to file tax return annually i.e on or before the 31st of March.**

GET IN TOUCH

Do write us back your Feedback/Queries/Comments, if any at taxhelpdesk@llca.net

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