UPDATES

Karnataka Compulsory Gratuity Insurance Rules notified

20 February 2024

Partner: *Apeksha Mattoo*, **Counsel**: *Rina Goyal*, **Associate**: *Maitreya Sharma*

1 Introduction

Section 4A of the Payment of Gratuity Act, 1972 (**Gratuity Act**) imposes an obligation on employers of establishments with ten or more employees to procure insurance in order to cover their liability of paying gratuity to exiting employees. However, the requirement of procuring such gratuity insurance arises only if the appropriate government (i.e., the state government) makes rules to give effect to the provisions of this section, by way of a notification.

Compulsory gratuity insurance rules were recently notified by the state of Karnataka, and will be applicable to all establishments in Karnataka to which the Payment of Gratuity Act, 1972 applies.

In light of the above, a few states in India such as Andhra Pradesh and Telangana have notified compulsory gratuity insurance rules. The government of Karnataka has also joined the said states by notifying the Karnataka Compulsory Gratuity Insurance Rules, 2024 (**Gratuity Rules**),[1] through a notification dated 10 January 2024, which make it mandatory for employers to procure an insurance policy to cover their gratuity liability.

Non-compliance with the provisions of the Gratuity Rules may hold the employer liable to imprisonment for a term of three months to one year, and/or fine of INR 10,000 to INR 20,000.

2 Key aspects of the Gratuity Rules

2.1 Timelines for procurement of insurance

Existing employers: Existing employers must procure a valid gratuity insurance policy within a period of 60 days from the date of commencement of the Gratuity Rules.

New employers: New employers must procure a valid gratuity insurance policy within a period of 30 days from the date on which the Gratuity Rules become applicable to such establishment.

2.2 Registration

The employer is required to apply for registration with the relevant authority notified under Section 3 of the Gratuity Act (i.e. the Controlling Authority), along with the list of employees insured, within 30 days from the date of obtaining insurance. Any change in the details of the employees insured, policies, or any other pertinent information must also be submitted to the relevant authority, whenever such change takes place.

[1] No: LD 397 LET 2023

2.3 Payment and renewal of gratuity insurance

The employer must make all premium payments to the insurance company, renew the insurance policy periodically (i.e., before the lapse of the insurance policy) and intimate the Controlling Authority of the renewal within 15 days from the date of renewal of the insurance policy.

2.4 Recovery of the amount of gratuity

The Controlling Authority is authorised to recover the amount of the gratuity payable to an employee (as determined by the employer, or as decided by the said authority in case of a dispute) from the insurance company.

2.5 Continuation of approved gratuity fund and gratuity trust

In the absence of a notification/rule in relation to the procurement of insurance coverage, employers to whom the Gratuity Act is applicable (including those located in the state of Karnataka) would provision for their gratuity liability either by making provisions in the books of accounts or by procuring an insurance policy. However, the Gratuity Rules now make it mandatory for all employers in the state of Karnataka to whom the Gratuity Act is applicable to procure an insurance for funding their gratuity liability.

The Gratuity Rules also envisage the scenario where employers, prior to the notification of the Gratuity Rules, had already established an approved gratuity fund from a good governance perspective. The said Rules provide that employers who have already established an approved gratuity fund, or employers employing 500 or more persons who establish an approved gratuity fund, may opt to continue or adopt such arrangements by making an application in the prescribed form to the Controlling Authority, provided that such approved gratuity fund covers the entire gratuity liability of all the employees of the establishment. Such employers must register the gratuity trust with the registration authority notified under the provisions of the Indian Trusts Act, 1882, and must at all times maintain the gratuity trust and gratuity fund as an irrevocable system.

Employers of establishments with ten or more employees in Karnataka that are governed by the Gratuity Rules must take measures to comply with the requirements mentioned above. Further, those employers who operate or wish to operate a gratuity trust in the future must ensure that they do so in compliance with the various associated requirements.