

**THE MOTOR TRANSPORT WORKERS ACT, 1961**

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## **INTRODUCTION**

or regulating the conditions of employment, work and wages of the workers engaged in the transport there was no independent legislation. Workers engaged in the motor transport were being governed by certain sections of the Motor Vehicles Act, 1939 and the Factories Act, 1948. With the growth of motor transport it was felt desirable to have a separate legislative measure for motor transport workers which would cover matters like hours of work, spread-over, rest periods, overtime, annual leave with pay, welfare facilities, medical facilities, etc. To achieve this object the Motor Transport Workers Bill was introduced in the Parliament.

### **Statement of Objects and Reasons**

There are at present certain enactments like the Motor Vehicles Act, 1939 and the Factories Act, 1948, which cover certain sections of motor transport workers and certain aspects of their conditions of employment. There is, however, no independent legislation applicable to motor transport workers as a whole or for regulating the various aspects of their conditions of employment work and wages. It is considered desirable to have a separate legislative measure for motor transport workers which would cover matters like medical facilities, welfare facilities, hours of work spread-over, rest periods, overtime, annual leave with pay, etc., on the analogy of similar enactments for workers in factories, mines and plantations. The present Bill is intended to achieve this object.

2. The notes on clauses explain the main provisions contained in the Bill.

### **Act 27 of 1961**

The Motor Transport Workers Bill received the assent of the President on 20th May, 1961 after being passed by both the Houses of Parliament and came into force as the Motor Transport workers Act, 1961 (27 of 1961).

### **List of Amending Acts**

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1. The Central Labour Laws (Extension to Jammu and Kashmir) Act, 1970 (51 of 1970).
2. The Delegated Legislative Provisions (Amendment) Act, 1985 (4 of 1986).

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1961**

(27 of 1961)

[20th May, 1961]

An Act to provide for the welfare of motor transport workers and to regulate the conditions of their work

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:-

*Chapter I*

**Preliminary**

**1. Short title, extent, commencement and application.-** (1) This Act may be called the Motor Transport Workers Act, 1961.

(2) It extends to the whole of India <sup>1</sup>[\*\*\*].

(3) It shall come into force on such date, not being later than the 31st day of March, 1962, as the central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States:

<sup>2</sup>[Provided that it shall come into force in the state of Jammu and Kashmir on the commencement of the Central Labour Laws (Extension to Jammu and Kashmir) Act 1970 (51 of 1970)].

(4) It applies to every motor transport undertaking employing five or more motor transport workers :

Provided that the state Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of this Act to any motor transport undertaking employing less than five motor transport workers.

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1 The words "except the State of Jammu and Kashmir" omitted by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971)

2 Added by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971)

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**2. Definitions.**-In this Act, unless the context otherwise requires,-

- (a) “**adolescent**” means a person who has completed his fifteenth year but has not completed his eighteenth year:
- (b) “**adult**” means a person who has completed his eighteenth year:
- (c) “**child**” means a person who has not completed his fifteenth year
- (d) “**day**” means a period of twenty-four hours beginning at midnight:

Provided that where a motor transport worker’s duty commences before midnight but extends beyond midnight, the following day for him shall be deemed to be the period of twenty-four hours beginning when such duty ends, and the hours he has worked after midnight shall be counted in the previous day.

- (e) “**employer**” means, in relation to any motor transport undertaking, the person who, or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent or by any other name, such other person,
- (f) “**hours of work**” means the time during which a motor transport worker is at the disposal of the employer or of any other person entitled to claim his services and includes-
  - (i) The time spent in work done during the running time of the transport vehicle;
  - (ii) The time spent in subsidiary work; and
  - (iii) Periods of mere attendance at terminals of less than fifteen minutes.

**Explanation.** - For the purpose of this clause –

- (1) “**running time**” in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work;

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- (2) “**subsidiary work**” means work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular -
- (i) work in connection with accounts, the paying in of cash, the signing of registers, the handling in of service sheets, the checking of tickets and other similar work;
  - (ii) the taking over and garaging of the transport vehicles;
  - (iii) traveling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;
  - (iv) work in connection with the upkeep and repair of the transport vehicle; and
  - (v) the loading and unloading of the transport vehicle;
- (3) “**period of mere attendance**” means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule;
- (g) “**motor transport undertaking**” means a motor transport undertaking engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;
- (h) “**motor transport worker**” means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but except in section 8 does not include-
- (i) any such person who is employed in a factory as defined in the Factories Act, 1948 (63 of 1948);
  - (ii) any such person to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;
- (i) “**prescribed**” means prescribed by rules made under this Act;

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- (j) **“qualified medical practitioner”** means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (7 of 1916), or notified under section 3 of that Act or specified in the schedules to the Indian medical council Act, 1956 (102 of 1956), and includes any person having a certificate granted under any Provincial or State Medical Council Act;
- (k) **“spread-over”** means the period between the commencement of duty on any day and the termination of duty on that day;
- (l) **“wages”** has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936);
- (m) **“week”** means the period between midnight on Saturday night and midnight on the succeeding Saturday night;
- (n) all other words and expressions used but not defined in this Act and defined in the Motor Vehicles Act, 1939 (4 of 1939), shall have the meanings respectively assigned to them in that Act.

### **CASE LAW**

- (i) The definition of ‘Motor Transport Undertaking’ under section 2(g) includes a private carrier. Therefore, where a person owns and employs motor vehicles for purpose of conveying firewood from forest to his place, he is a private carrier whether or not his undertaking is in the business of transport; *Star Paper Mills Ltd. v. State of Uttar Pradesh*, 1971 tab 1C 776 (All).
- (ii) If the workers governed by Shops and Establishment Act are expressly excluded from the definition of motor transport workers in section 2(h) it cannot still be said that the Act will apply to a motor transport undertaking employing workers who are covered by Shops and Establishment Act; *A.P. State Trade Federation v. Commissioner of Labour*, 1991(11) ALT 84.
- (iii) The drivers, cleaners etc., employed by the M.P. Electricity Board unconnected with its activity as a ‘private carrier’ are not ‘Motor Transport Workers’ within even the inclusive meaning of section 2 (h) of the Act; *Madhya Pradesh Electricity Board v. State of Madhya Pradesh*, AIR 1972 MP 188 : 1972 MPLJ 939.

### **CHAPTER II**

## **REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS**

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- 3. Registration of motor transport undertaking.**—(1) Every employer of a motor transport undertaking to which this Act applies shall have the undertaking registered under this Act,
- (2) An application for the registration of a motor transport undertaking shall be made by the employer to the prescribed authority in such form and within such time as may be prescribed.
- (3) Where a motor transport undertaking is registered under this Act, there shall be issued to the employer a certificate of registration containing such particulars as may be prescribed.

**CHAPTER III**

**INSPECTING STAFF**

- 4. Chief inspector and inspectors.**—(1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector and as many duly qualified persons to be inspectors subordinate to the chief inspector as it thinks fit.
- (2) The chief inspector may declare the local limits within which inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such local limits as may be assigned to him by the State Government.
- (3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**Abstract of the Indian Penal Code (45 of 1860)**

- 21. “Public servant”.**—The words “public servant” denote a person falling under any of the descriptions hereinafter following, namely:—

[\*\*\*]

**Second.**—Every Commissioned Officer in the Military, [Naval or Air] Forces of India;

**Third.**—Every Judge including any person empowered by law to discharge whether by himself or as a member of any body of persons any adjudicatory functions;

**Fourth.**—Every officer of a Court of Justice (including a liquidator, receiver or commissioner) whose duty it is, as such officer, to investigate or report on any



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matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the court, and every person specially authorized by a Court of justice to perform any of such duties;

**Fifth.**—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

**Sixth.**—Every arbitrator or other person to whom any case or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

**Seventh.**—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

**Eighth.**—Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

**Ninth.**—Every officer whose duty it is, as such officer, to take, receive, keep or extend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government \*\*\*;

**Tenth.**—Every officer whose duty it is, as such officer, to take, receive, keep or expand any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

**Eleventh.**—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

**Twelfth.**—Every person—

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

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(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

**5. Powers of the inspectors.**—(1) Subject to such conditions and restrictions as the State Government may by general or special order impose, the chief inspector or an inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed in the case of any motor transport undertaking, and for that purpose require the driver of a transport vehicle to cause the transport vehicle to stop and remain stationary so long as may reasonably be necessary;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which he has reason to believe is under use or occupation of any motor transport undertaking at any reasonable time for the purpose of carrying out the objects of the Act;

(c) examine any motor transport worker employed in a motor transport undertaking or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) seize or take copy of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

(e) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

**6. Facilities to be afforded to inspectors.**—Every employer shall afford the chief inspector and an inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.

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- 7. Certifying surgeons.**—(1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such motor transport undertakings or class of motor transport undertakings as it may assign to them respectively,
- (2) The certifying surgeon shall perform such duties as may be prescribed in connection with—
- (a) the examination and certification of motor transport workers;
  - (b) the exercise of such medical supervision as may be prescribed where adolescents are, or are to be, employed as motor transport workers in any work in any motor transport undertaking which is likely to cause injury to their health.

**CHAPTER IV**

**WELFARE AND HEALTH**

- 8. Canteens.**—(1) The State Government may make rules requiring that in every place wherein one hundred motor transport workers or more employed in a motor transport undertaking ordinarily call on duty during every day, one or more canteens shall be provided and maintained by the employer for the use of the motor transport workers.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for—
- (a) the date by which the canteens shall be provided;
  - (b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens;
  - (c) the foodstuffs which may be served therein and the charges which may be made therefore;
  - (d) the constitution of a managing committee for a canteen and the representation of the motor transport workers in the management of the canteen.
- (3) The State Government may, subject to such conditions as it may impose, delegate to the chief inspector the power to make rules with reference to clause (c) of sub-section (2).

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- 9. Rest rooms.**—(1) In every place wherein motor transport workers employed in a motor transport undertaking are required to halt at night, there shall be provided and maintained by the employer for the use of those motor transport workers such number of rest rooms or such other suitable alternative accommodation, as may be prescribed.
- (2) The rest rooms or the alternative accommodation to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.
- (3) The State Government may prescribe the standards in respect of construction, accommodation, furniture and other equipment of rest rooms or the alternative accommodation to be provided under this section.
- 10. Uniforms.**—(1) The State Government may, by notification in the Official Gazette, make rules requiring an employer of a motor transport undertaking to provide for the drivers, conductors and line checking staff employed in that undertaking such number and type of uniforms, raincoats or other like amenities for their protection from rain or cold as may be specified in the rules.
- (2) There shall be paid to the drivers, conductors and line checking staff by the employer an allowance for washing of uniforms provided under sub-section (1) at such rates as may be prescribed:
- Provided that no such allowance shall be payable by an employer who has made at his own cost adequate arrangements for the washing of uniforms.
- 11. Medical facilities.**—There shall be provided and maintained by the employer so as to be readily available such medical facilities for the motor transport workers at such operating centres and halting stations as may be prescribed by the State Government.
- 12. First-aid facilities.**—(1) There shall be provided and maintained by the employer so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents in every transport vehicle.
- (2) Nothing except the prescribed contents shall be kept in a first-aid box.
- (3) The first-aid box shall be kept in the charge of the driver or the conductor of the transport vehicle who shall be provided facilities for training in the use thereof.

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**CHAPTER V**

**HOURS AND LIMITATIONS OF EMPLOYMENT**

**13. Hours of work for adult motor transport workers.**—No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week:

Provided that where any such motor transport worker is engaged in the running of any motor transport service on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty-eight hours in any week but in no case for more than ten hours in a day and fifty-four hours in a week, as the case may be:

Provided further that in the case of a breakdown or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitations as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty-eight hours in any week.

**14. Hours of work for adolescents employed as motor transport workers.**—No adolescent shall be employed or required to work as a motor transport worker in any motor transport undertaking—

- (a) for more than six hours a day including rest interval of half-an-hour;
- (b) between the hours of 10 P.M. and 6 A.M.

**15. Daily intervals for rest.**—(1) The hours of work in relation to adult motor transport workers on each day shall be so fixed that no period of work shall exceed five hours and that no such motor transport worker shall work for more than five hours before he has had an interval for rest for at least half-an-hour:

Provided that the provisions of this sub-section in so far as they relate to interval for rest shall not apply to a motor transport worker who is not required to work for more than six hours on that day.

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- (2) The hours of work on each day shall be so fixed that a motor transport worker is, except in any case referred to in the second proviso to section 13, allowed a period of rest of at least nine consecutive hours between the termination of duty on any one day and the commencement of duty on the next following day.
- 16. Spread-over.**—(1) The hours of work of an adult motor transport worker shall, except in any case referred to in the second proviso to section 13, be so arranged that inclusive of interval for rest under section 15, they shall not spread-over more than twelve hours in any day.
- (2) The hours of work of an adolescent motor transport worker shall be so arranged that inclusive of interval for rest under section 14, they shall not spread-over more than nine hours in any day.
- 17. Split duty.**—Subject to the other provisions contained in this Act, the hours of work of a motor transport worker shall not be split into more than two spells on any day.
- 18. Notice of hours of work.**—(1) There shall be displayed and correctly maintained by every employer a notice of hours of work in such form and manner as may be prescribed showing clearly for every day the hours during which motor transport workers may be required to work.
- (2) Subject to the other provisions contained in this Act, no such motor transport worker shall be required or allowed to work otherwise than in accordance with the notice of hours of work so displayed.
- 19. Weekly rest.**—(1) The State Government may, by notification in the Official Gazette, make rules providing for a day of rest in every period of seven days, which shall be allowed to all motor transport workers.
- (2) Notwithstanding anything contained in sub-section (1), an employer may, in order to prevent any dislocation of a motor transport service, require a motor transport worker to work on any day of rest which is not a holiday so, however, that the motor transport worker does not work for more than ten days consecutively without a holiday for a whole day intervening.
- (3) Nothing contained in sub-section (1) shall apply to any motor transport worker whose total period of employment including any day spent on leave is less than six days.
- 20. Compensatory day of rest.**—Where, as a result of any exemption granted to an employer under the provisions of this Act from the operation of section

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19, a motor transport worker is deprived of any of the days of rest to which he is entitled under that section, the motor transport worker shall be allowed within the month in which the days of rest are due to him or within two months immediately following that month, compensatory days of rest of equal number to the days of rest so lost.

**CHAPTER VI**

**EMPLOYMENT OF YOUNG PERSONS**

**21. Prohibition of employment of children.**—No child shall be required or allowed to work in any capacity in any motor transport undertaking.

**22. Adolescents employed as motor transport workers to carry tokens.**—

No adolescent shall be required or allowed to work as a motor transport worker in any motor transport undertaking unless—

- (a) a certificate of fitness granted with reference to him under section 23 is in the custody of the employer; and
- (b) such adolescent carries with him while he is at work a token giving a reference to such certificate.

**23. Certificate of fitness.**—(1) A certifying surgeon shall, on the application of any adolescent or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed as a motor transport worker in a motor transport undertaking if certified to be fit for that work, or on the application of the employer or any other person on his behalf with reference to any adolescent intending to work, examine such person and ascertain his fitness for work as a motor transport worker.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the adolescent, his parent or guardian.

**24. Power to require medical examination.**—Where an inspector is of opinion that a motor transport worker working in any motor transport undertaking without a certificate of fitness is an adolescent, the inspector may serve on the employer a notice requiring that such adolescent motor transport worker

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shall be examined by a certifying surgeon and such adolescent motor transport worker shall not, if the inspector so directs, be employed or permitted to work in any motor transport undertaking until he has been so examined and has been granted a certificate of fitness under section 23.

**CHAPTER VII**

**WAGES AND LEAVE**

**25. Act 4 of 1936 to apply to payment of wages to motor transport workers.**—The Payment of Wages Act, 1936 (4 of 1936), as in force for the time being, shall apply to motor transport workers engaged in a motor transport undertaking as it applies to wages payable in an industrial establishment as if the said Act had been extended to the payment of wages of such motor transport workers by a notification of the State Government under sub-section (5) of section 1 thereof, and as if a motor transport undertaking were an industrial establishment within the meaning of the said Act.

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**CASE LAW**

The question of want of jurisdiction of the Labour Court in awarding extra wages to motor transport workers under section 33C(2) of the Industrial Disputes Act, 1947 cannot be allowed to be raised in writ as the same was not raised before the Labour Court at the time of final hearing; *District Transport Manager v. Presiding Officer, Labour Court*, 1984 Lab 1C 125 (Ori).

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- 26. Extra wages for overtime.**—(1) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the first proviso to section 13 or where he is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the overtime work or the work done on the day of rest, as the case may be.
- (2) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the second proviso to section 13, he shall be entitled to wages in respect of the overtime work at such rules as may be prescribed.
- (3) Where an adolescent motor transport worker is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at



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the rate of twice his ordinary rate of wages in respect of the work done on the day of rest

- (4) For the purposes of this section, "ordinary rate of wages" in relation to a motor transport worker means his basic wages *plus* dearness allowance.
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**CASE LAW**

Where work is done on a day of rest, the worker is entitled to wages at double the rate of ordinary rate of wages under section 26(1) of the Act. This is calculated by dividing the monthly wages by actual working days after deducting rest days and the resultant quotient is to be doubled; *District Transport Manager v. Presiding Officer, Labour Court*, 1984 Lab 1C 125.

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- 27. Annual leave with wages.**—(1) Without prejudice to such holidays as may be prescribed, every motor transport worker who has worked for a period of two hundred and forty days or more in a motor transport undertaking during a calendar year shall be allowed during the subsequent calendar year leave with wages for a number of days calculated at the rate of—
- (a) if an adult, one day for every twenty days of work performed by him during the previous calendar year; and
  - (b) if an adolescent, one day for every fifteen days of work performed by him during the previous calendar year.
- (2) A motor transport worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (a) or, as the case may be, clause (b) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.
- (3) If a motor transport worker is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1), even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earned leave.
- (4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.
- (5) If a motor transport worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the

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case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of an adolescent.

- (6) In this section "calendar year" means the year commencing on the first day of January.

**Explanation.**—For the purposes of this section, leave shall not include weekly holidays or holidays for festival or other similar occasions whether occurring during or at either end of the period of leave.

**28. Wages during leave period.**—(1) For the leave allowed to a motor transport worker under section 27, he shall be paid at the rate equal to the daily average of his total full time wages for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of the advantage, if any, accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

- (2) A motor transport worker who has been allowed leave for not less than four days under section 27 shall, on an application made by him in this behalf to the employer, be paid in advance, before his leave begins, an approximate amount equivalent to the wages payable to him for the period of his leave and any amount so paid shall be adjusted against the wages due to him for the aforesaid period of leave.

- (3) If a motor transport worker is not granted leave to which he is entitled under sub-section (3) of section 27, he shall be paid wages in lieu thereof at the rates specified in sub-section (1).

### **CHAPTER VIII**

#### **PENALTIES AND PROCEDURE**

**29. Obstructions.**—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or willfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any motor transport undertaking shall be punishable with imprisonment for a term which may extend to three

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months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever willfully refuses to produce on the demand of a inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**30. Use of false certificate of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 23 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**31. Contravention of provisions regarding employment of motor transport workers.**—Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a motor transport undertaking, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to seventy-five rupees for every day during which such contravention continues after conviction for the first such contravention.

**32. Other offences.**—Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**33. Enhanced penalty after previous conviction.**—If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend

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to six months, or with fine which may extend to one thousand rupees, or with both;

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

**34. Offences by companies.**—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

**35. Cognizance of offences.**—No court shall take cognizance of any offence under this Act, except on complaint made by, or with previous sanction in writing of, the inspector and no court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

**36. Limitation of prosecutions.**—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three

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months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

**CHAPTER IX  
MISCELLANEOUS**

**37. Effect of laws and agreements inconsistent with this Act.**—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act:

Provided that where under any *such* award, agreement, contract of service or otherwise a motor transport worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the motor transport worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any motor transport worker from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

**38. Exemptions.**—(1) Nothing contained in this Act shall apply to or in relation to any transport vehicle—

- (i) used for the transport of sick or injured persons;
  - (ii) used for any purpose connected with the security of India, or the security of a State, or the maintenance of public order.
- (2) Without prejudice to the provisions of sub-section (1), the State Government may, by notification in the Official Gazette, direct that subject to such conditions and restrictions, if any, as may be specified in the notification, the provisions of this Act or the rules made thereunder shall not apply to—
- (i) any motor transport workers who, in the opinion of the State Government, hold positions of supervision or management in any motor transport undertaking,
  - (ii) any part-time motor transport worker, and

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(iii) any class of employers:

Provided that before issuing any order under this sub-section, the State Government shall send a copy thereof to the Central Government.

**39. Powers to give directions.**—The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**40. Power to make rules.**—(1) The State Government may, subject to the condition of previous publication <sup>1</sup>[by notification in the Official Gazette] make rules to carry out the purposes of this Act:

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall not be less than six weeks from the date on which the draft of the proposed rules was published.

- (2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—
- (a) the form of application for the registration of a motor transport undertaking, the time within which and the authority to which such application may be made;
  - (b) the grant of a certificate of registration in respect of a motor transport undertaking and the fees payable for such registration;
  - (c) the qualifications required in respect of the chief inspector and inspector;
  - (d) the powers which may be exercised by inspectors and the manner in which such powers may be exercised;
  - (e) the medical supervision which may be exercised by certifying surgeons;
  - (f) appeals, from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;
  - (g) the time within which facilities required by this Act to be provided and maintained may be so provided;
  - (h) the medical facilities that should be provided for motor transport workers;
  - (i) the type of equipment that should be provided in the first-aid boxes;
  - (j) the manner in which long distance routes, festive and other occasions shall be notified by the prescribed authority;
  - (k) the conditions and limitations subject to which any motor transport worker may be required or allowed to work for more than eight hours in any

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<sup>1</sup> Ins. by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).

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- day or more than forty-eight hours in any week in any case referred to in the second proviso to section 13;
- (l) the form and manner in which notices of period of work shall be displayed and maintained;
  - (m) the rates of extra wages in respect of the overtime work done by a motor transport worker in any case referred to in the second proviso to section 13;
  - (n) the registers which should be maintained by employers and the returns, whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act; and
  - (o) any other matter which has to be, or may be, prescribed.
- <sup>1</sup>[(3) Every rule made by the State Government under this Act, shall be laid, as soon as it is made, before the State Legislature.]

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<sup>1</sup> Ins. by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).