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“PROTECTION OF RIGHTS OF THE WOMEN WORKERS UNDER LABOUR WELFARE LEGISLATIONS IN INDIA”

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Abstract:

The concept of industrial jurisprudence in India developed only after independence, though the Government of British India did something in the interest of labourers. Social Security measures have been taken basing on ideals of human dignity and social justice. Social security means and includes the schemes and measures adopted by the State to furnish safety, relief and protection against sickness, maternity, disablement and working hours in industrial establishments.

INTRODUCTION

After Independence, the number of women who left the portals of their homes in search of employment, increased day by day. They also showed a desire for education. In the beginning women were mostly engaged in unskilled or semiskilled occupations like nursing, midwifery, domestic service, as labour in construction works, on agricultural farms and in plantations etc. Today, they are increasingly employed in services, industries, shops, establishments, offices and occupations-professional or technical and even the armed forces and constabulary. They are gradually entering into occupations and jobs, formerly considered to be almost exclusively for men. The old distinction between men and women's sphere of work are breaking down.

It would be relevant to note the reasons why the women take up work, i.e., wage/salary employment or self-employment.

(1) Economic Compulsion or Necessity:

Majority of women work hard for their livelihood. The family incomes are so low that the women are under pressure to supplement the family incomes to eke out a living. They are engaged in a wide variety of activities in both the urban and rural areas. These women are below or at the subsistence line. These women found in urban slums work as garbage collectors, hawkers or vendors and in domestic services. In rural areas, these women engage themselves in 'processing' activities and perform as home-based workers, besides being agricultural labourers.

(2) Utilisation of Individual Talents:

With higher educational and professional knowledge and skills acquired, the women take up salaried employment or self-employment so as to utilise their individual talents in different fields and professions.

(3) Utilisation of Time and Energy:

These women are educated and belong to low/middle income households. They take up work/employment to supplement family incomes to the extent required, but primarily for utilising their time and energy.

(4) Other Motivations :

Among women to take up work and/or seek employment are economic independence to secure equality of status. A section of women have liberated themselves from the phase of being the protected dependent and strive for their empowerment.

Keeping in view these dispersed motivations of women to take up work/employment, it would be appropriate to draw upon the following classification of women workers :

a) Professional b) Existential c) In Transition d) In Duress

a) The 'Professionals' are the women workers who utilise their higher educational and professional knowledge and skills by engaging themselves in services sector for salaried employment or self-employment.

b) Existential:

The category of women workers exist at or below the poverty line and work for sheer survival. These women workers are found in rural areas and in urban slums.

c) Women Workers in Transition:

These women are educated and belong to urban and semi-urban areas. These women workers perform lower cadre jobs in the services sector like clerks, telephone operators etc. and work as teachers. The women workers look to their jobs as short-term arrangement.

d) Women Workers in Duress:

These are mostly semi-literate women from low income group families who work at home to supplement earnings for meeting the needs of the family.

As such, the motivations of women workers in taking up the work/employment differ widely depending on their economic condition, literacy level, educational qualifications/professional skills, urban-rural location, caste/community influences etc. and, in turn, these motives become a deciding factor in the distribution of women workers at the different levels in the formal and informal sectors of the world of work¹.

Constitution of India provided some rights to the workers. As per Article 42 of the Constitution of India, the State shall make provision for securing just and human conditions of work and for maternity relief. Hence, the Government has enacted legislation incorporating those rights provided in the Articles 38,39 and 42 of Indian Constitution.

The working women have been provided with various benefits, concessions, protection and safeguards under different labour legislations in order to provide security against various risks peculiar to their nature. The women workers not only enjoy better rights but also they have better remedies in factories, mines, plantations and other industrial establishment².

It has been pointed out by the National Commission on employed women that 94% of the total female workforce is employed in the unorganized sector. There is a scope for higher rate of increase in employment in the unorganized sector for women considering the high rate of unemployment of educated women. Further, the proportion of women in the unorganized sector has maintained an increasing trend and thus could continue. The Government has enacted several legislations and adopted plans and policies for the protection of the interest of women workers at their workplace.

The contribution of International Labour Organisation for protection of working women:

ILO has adopted several conventions for establishing International Standards for the improvement of labour in all nations of the world. Some of the important Conventions and Recommendations adopted by ILO relating to women workers are as under.

a) Conventions:

- 1) Maternity Protection Convention, 1919.
- 2) Night Work (Women) Convention, 1919.
- 3) Night Work (Women) (Revised) Convention, 1934.
- 4) Underground Work (Women) Convention, 1935.
- 5) Night WORK (Women) (Revised) Convention, 1948.
- 6) Equal Remuneration Convention, 1951.
- 7) Maternity Protection (Revised) Convention, 1952.

b) Recommendations:

- 1) Lead Poisoning (Women and Children) Recommendation, 1919.
- 2) Maternity Protection (Agriculture) Recommendation, 1921.
- 3) Night Work of Women (Agriculture) Recommendation, 1921.
- 4) Migration (Protection of Females at Sea) Recommendation, 1926.
- 5) Equal Remuneration Recommendation, 1951.
- 6) Maternity Protection (Revised) Recommendation, 1952.

These Conventions and Recommendations of the LL.O have far reaching consequences in providing sound protection for women workers in the area of health, safety, welfare, economic rights, removal of discrimination against women in employment, better conditions of work, equal pay for equal work etc. Thus rights of women workers have to be realized in letter and spirit by all the member nations of UNO.

Working women have been provided various benefits, concessions, protection and safeguards under different labour legislations in order to provide security against various risks peculiar to their nature. Further, they are entitled to benefits under all other provisions that are applicable to industrial workers along with men, in addition to other special privileges like maternity benefits with wages, prohibition of work in dangerous operations, mines below ground and equal remuneration for similar work etc3.

II) LABOUR WELFARE LEGISLATIONS FOR WOMEN WORKERS DESCRIPTION:

Labour laws dealt with protection of women workers against discrimination and exploitation and with provision of welfare facilities for them

1) Labour laws exclusively meant for women worker are:

- a) Maternity Benefit Act, 1961.
- b) Equal Remuneration Act, 1976.

2) Labour laws not exclusively for women. Yet contain provisions specially for women workers are:

- a) Factories Act, 1948.
- b) Mine Act, 1952.
- c) Beedi and Cigar workers (condition of employment) Act, 1966.
- d) Employees state Insurance Act, 1948.

III) MATERNITY BENEFIT ACT, 1961:

The Maternity Benefit Act, 1961 was enacted to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefit and certain other benefits.

The Maternity Benefit Act, 1961 is intended to achieve the object of doing social justice to women workers. Therefore the Court held in B.Shah vs. Labour Court, Coimbatore⁴, that in interpreting the provisions of this Act, the Court has to adopt the 'beneficent rule of construction', which would enable the woman worker not only to subsist but also to make up her dissipated energy, nurse her child, preserve her efficiency as a worker and maintain the level of her previous efficiency and output,

Restrictions on Employment or work by women:

Under Section 4 of the Maternity Benefit Act, 1961, -

- 1) No employer shall knowingly employ woman in any establishment during the six weeks immediately following the day of her delivery or miscarriage or medical termination of pregnancy.
- 2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery or miscarriage or medical termination of pregnancy.
- 3) No pregnant woman shall, on a request being made by her, be given any work of the following nature during the period of one month immediately preceding the period of six weeks before the date of her expected delivery and during the said period of six weeks for which the pregnant woman does not avail of the leave of absence under Section 6.
 - i) any work which is of arduous nature.
 - ii) any work which involves long hours of standing.
 - iii) any work which in any way is likely to interfere with her pregnancy or the normal development of foetus or likely to cause her miscarriage or otherwise adversely affect her health.

This effective safeguard has been provided for sound development of the child and the maintenance of health of the mother.

Under section 5 of the Act, a woman worker is entitled for maternity benefit at the rate of the average daily wages for the period of her actual absence including the period preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. But she must have worked for 80 days in the twelve months immediately preceding the date of her expected delivery. She is entitled for a total period of 12 weeks maternity benefit of which not more than six weeks shall precede the date of her expected delivery. Further, in case of death of the woman worker employer shall be liable for the maternity benefit for the entire period but if the child also dies during the said period, then, for the days up to and including the day of the death of the child, and the same shall be paid to her nominee or her legal representative.

She is also entitled for medical bonus of Rs.250/-, if no pre-natal confinement and postnatal care is provided for by the employer free of charge. Section 9 of the Act entitles her to claim 6 week's leave with wages at the rate of maternity benefit immediately following the day of her miscarriage or her medical termination of pregnancy. Section 9-A provides for leave with wages for tubectomy operation for a period of two weeks. Section 10 provides for leave for illness arising out of pregnancy, premature birth of child or miscarriage for a maximum period of 1 month with wage at the rate of maternity benefit. Further, section 11 provides for two breaks of the prescribed duration for nursing the child every day until the child attains the age of fifteen months in addition to the interval for rest allowed to her and no wage shall be deducted for such additional breaks.

The Supreme Court in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*⁵, has held that workers on casual basis and daily wages of municipal corporations are equally entitled to maternity benefits.

The Act imposes an obligation on employer to provide sufficient latrine and urinal facilities in Creches in industries employing 50 or more workers. It also prohibits employment of women during nights from 7 p.m. to 6 a.m. and section 37 provides for application of Maternity Benefit Act to women working in manufacture of Beedi and Cigar.

IV) EQUAL REMUNERATION ACT:

The Directive Principles of State Policy envisages that the State shall direct its policy among other things, towards securing that there is equal pay for equal work for both men and women⁶. In order to give effect to the provision of Article 39, President of India promulgated the Equal Remuneration Ordinance in 1975 which is being celebrated as the International Women's year. To replace the said Ordinance of 1975 the Equal Remuneration Bill was introduced in the Parliament to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and to set up Advisory Committees to promote employment opportunities for women. The said bill was passed by the Parliament and came on the Statute Book as the Equal Remuneration Act, 1976 and an amendment Act was made in 1987 and it extends to the whole of India.

In *Mackinnon Mackenzie and Co v. Audrey D'Costa*⁷, the Court held that a settlement arrived at

between the management and the employees cannot be a valid ground for effecting discrimination in payment of remuneration between male and female employees performing the same work or work of a similar nature.

Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature:

As per Section 4 of the Equal Remuneration Act, 1976 :

1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favorable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature. According to Section 2(g) of this Act 'remuneration' means the basic wage or salary and any additional emoluments what-so-ever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled. Under Section 2(h) of this Act, 'same work or work of a similar nature' means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment.

2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.

3) Where, in an establishment or employment, the rates or remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, than the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are more than two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement to such men and women workers. But, nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.

However, the Court held that the principle of equal pay for equal work is not applicable in professional services⁸. In *Mackinnon Mackenzie and Co vs. Andrey D'Costa*⁹, the Court held that an employer cannot claim exemption on the ground of financial incapacity from the Equal Remuneration Act, 1976.

In *Air India vs. Nargesk Meerza*¹⁰, the Court held that the benefit conferred on female under the Act is not absolute and unconditional as Section 16 clearly authorises restrictions regarding remuneration to be paid by the employer if a declaration under it is made by the appropriate Government.

No discrimination to be made while recruiting men and women workers:

Under Section 5 of the Equal Remuneration Act, 1976 :

1) No employer shall, while making recruitment for the same work or work of a similar nature, or in any condition of service subsequent to recruitment such as promotions, training or transfer, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force. But, the provisions of this Section shall not affect any priority or reservation for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

V) FACTORIES ACT 1948:

The Factories Act is a labour welfare enactment codified with a view to regulate working conditions in the factories and to provide with the health, safety and welfare measures. The object of the Factories Act is to protect human beings from being subject to unduly long hours of bodily strain or manual labour. It also provides that employees should work in healthy and sanitary conditions so far as the manufacturing process will allow and that precautions should be taken for their safety and for the prevention of accidents.

The provisions of the Factories Act are applicable to both men and women workers. At the same

time there are some additional provisions applicable to women workers only to safeguard their rights and duties.

The Factories Act, 1948 contained some Sections specifically intended for the welfare of women workers. They are :

Prohibition of employment of Women and Children near cotton-openers:

Section 27 of the Factories Act, 1948 says, "No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

Prohibition of Women to work on or near machinery in motion:

According to Section 22(2) of the Factories Act, 1948 no woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

Restriction on employment of women during night:

Section 66 of the Act prohibits employment of women before 6 a.m. and after 7 p.m. However, the State Government may authorize the employment of women between hours 5 a.m. to 10 p.m. Further, in the case of fish canning or currying industries, such a restriction may be relaxed, if necessary, to prevent damage to or deterioration of any raw material.

Dangerous Operations:

According to Section 87(b) of the Factories Act, 1948, the State Government is of option of making rules applicable to any factory relating to prohibiting or restricting the employment of women, adolescents or children in the manufacturing process or operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease. According to Section 87(d) of the Factories Act, 1948 the State Government is of option of making rules related to providing for the protection of all persons employed in the manufacturing process or operation or in the vicinity of the places where it is carried on.

Further restriction on employment of women:

According to section 66 of factories act the provisions of this chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely,

a)no exemption from the provisions of Section 54 may be granted in respect of any woman (i.e. regarding daily hours).

b)no woman shall be required or allowed to work in any factory except between the hours of 6 a.m and 7 p.m.

Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 p.m and 5 a.m.

c)there shall be no change of shifts except after a weekly holiday or any other holiday.

2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration of, any raw material.

3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

Latrines and Urinals for Women:

Under Section 19(1), in every factory -

- a) Sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;
- b) Separate enclosed accommodation shall be provided for male and female workers.
- c) such accommodation shall be adequately lighted and ventilated and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any work room except through an intervening open space or ventilated passage;
- d) all such accommodation shall be maintained in a clean and sanitary condition at all times;
- e) sweepers shall be employed whose primary duty would be to keep clean latrines, urinals and washing places.

Creches:

Creche means public nursery where babies are looked after while their mothers are at work. Working women could not leave their babies at home as all the members attend to work and nobody will be available to look after the babies. At the same time, mother has to feed the baby with breast milk and therefore babies accompany their mothers to work-place. Hence, the managements should provide creche facilities for the babies accompanying their mothers.

Section 48 of the Factories Act, 1948. Provides that,

- 1) In every factory wherein more than thirty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children, under the age of six years, of such women.
- 2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.
- 3) The State Government may make rules,
 - a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided, under this section;
 - b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;
 - c) requiring the provision in any factory of free milk or refreshment or both for such children;
 - d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals,

Washing facilities:

Section 42 of the Act provides that in every factory separate and adequately screened facilities shall be provided for the use of male and female workers and such facility shall be conveniently accessible and shall be kept clean.

In *Triveni K.S. and Others v. Union of India and others*¹¹, the constitutionality of Section 66(1)(b) was challenged being discriminatory on the basis of sex. The High Court held that women should not be employed during night for their own safety and welfare was a philosophy of a bygone age out of tune with modern claims of equality, especially between sexes. With regard to exception given to fish currying and canning industry, it was observed that it looked an absurd argument that women would be safe in such industries but not safe in the textile industry. Consequently Section 66(1)(b) of the Act was struck down as unconstitutional by the High Court and declared that the same safeguard as provided to women in fish industry should be given to women workers in other industries, during night time.

However, the Division Bench of Kerala High Court in *Leela v. State of Kerala*¹², took a contrary view and held that the contention of the petitioners that the said section violates Art. 14, 15 and 16 of constitution as it discriminates against them on grounds only of sex as not tenable and as such said section providing special protection to women did not suffer from the vice of discrimination.

VI) MINES ACT, 1952:

Employment of Women in Mines:

Factory does not include a mine subjected to the operations of the Mines Act, 1952. Hence a separate enactment was made regarding the operations of mines. In this Act a separate section is there relating to the employment of women in mines.

According to Section 46 of the Mines Act, 1952

- 1) No woman shall, notwithstanding anything contained in any other law, be employed -
 - a) in any part of a mine which is below ground;
 - b) in any mine above ground except between the hours of 6 a.m and 7 p.m.
- 2) Every woman employed in a mine above ground shall be allowed an interval of not less than eleven hours between the termination of employment on any one day and the commencement of the next period of employment.
- 3) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification in the Official Gazette, vary the hours of employment above ground of women in respect of any mine or class or description of mine, so however that no employment of any woman between the hours of 10 p.m and 5 a.m is permitted thereby.

The prohibition of employment in a mine which is below ground is made in the interest of womenkind as the process or activity in mines is hazardous process and causes material impairment to the health of the women.

VII) THE BEEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) ACT, 1966:

Employment of Women Workers:

A large number of women and children work in the beedi and cigar making. The managements inhumanly exploit the labour of women and children making them to work around the clock with low wages. For the welfare of the women and children the Government enacted the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 providing a number of benefits to the women workers. Under Section 25 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, no woman or young person shall be required to work in any industrial premises except between 6 a.m and 7 p.m. The law allows the women and children to work in industries, mines or any establishment to work during day time i.e. 6 a.m to 7 p.m and prohibits the employment of women during nights i.e. from 7 p.m to 6 a.m in the interest of the welfare and safety of women.

VIII) THE EMPLOYEES' STATE INSURANCE ACT, 1948:

The object of the Employees' State Insurance Act, 1948 is to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provisions for certain other matters like funeral expenses, dependent's benefits' medical benefit, disablement benefit. This act extends to the whole of India. The provisions of this Act apply, in the first instance, to all factories including factories belonging to the Government other than seasonal factories. The Central Government in consultation with the Employees' State Insurance Corporation or the State Government with the approval of the Central Government, may extend different provisions of the Act or any of them to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise. But for any such extension of the provisions the appropriate Government has to give six months' notice.

Benefits Provided by the Act:

As per this Act, the insured women workers get the sickness benefit, disablement benefit, dependents' benefit, medical benefit and funeral expenses along with the insured men workers. In addition to the above benefits insured women workers get the maternity benefit.

According to Section 46(b) of the Employees' State Insurance Act, 1948 "periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement,

premature birth of child or miscarriage, such women being certified to be eligible for such payments by an authority specified in this behalf by the regulations is hereinafter referred to as Maternity Benefits". Thus, the maternity benefit is payable for (i) confinement, ii) miscarriage, iii) sickness arising out of pregnancy confinement, premature birth of child, or miscarriage, and iv) death.

I) Confinement:

According to Section 2(3) of the ESI Act, 1948, Confinement means labour resulting in the issue of living child, or labour after 26 weeks of pregnancy resulting in the issue of a child whether alive or dead.

ii) Miscarriage:

According to Section 2 (14-B) of the ESI Act, 1948, Miscarriage means the expulsion of the contents of a pregnant uterus at any period prior to or during the 26th week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code.

iii) Sickness arising out of pregnancy, confinement, premature birth of child or miscarriage:

Entitles to an insured woman, in addition to maternity benefit payable to her under any provisions of this Act. for all days on which she does not work for remuneration to maternity benefit at the rates specified (If a child is born alive after full period of pregnancy it is a mature birth and if the child is born after 26th week of pregnancy it is premature birth-whether alive or dead).

iv) Death:

Sometimes it so happens that an insured woman dies during her confinement or during the period of 6 weeks immediately following her confinement for which she is entitled to maternity benefit. It may happen that she may expire leaving behind the surviving child and sometimes it may happen that both child and mother may expire. In all such contingencies an insured woman is entitled to maternity benefit.

Maternity Benefits:

According to Section 50 of the ESI Act, 1948, the qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be or such as may be prescribed by the Central Government. The Central Government made the Employees' State' Insurance (General) Regulations, 1950 in exercise of powers conferred by Section 97 of the ESI Act, 1948. Regulations 87 to 95 are related to the maternity benefit available to the insured working woman.

IX) CONCLUSION:

One of the factors of production is labour. Labour is supplied by labourers. Labourers consist both men and women workers. Without labourers, there is no industry. Women alongwith men contribute their might for the industrial growth. In industries women are employed in light unskilled work. Women of poor families earn their living by manual work. Educated women are employed to do mental work in factories. Women are employed to do both skilled and unskilled work. Woman who works in factories is also a worker. According to Section 2(1) of the Factories Act, 1948 'worker' means a person (i.e. male or female) employed directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with the manufacturing process or the subject of the manufacturing process.

The rights of women have been recognized in major human rights instruments since the establishment of the United Nations Organizations. The Vienna Declaration adopted in the world conference on Human Rights at Vienna in 1993 recognized women's rights as inalienable, and an integral and indivisible part of universal human rights.

The Constitution of India contains several provisions for the protection and security for women. These provisions deal with equality before law, right to protective discrimination, right to equality of opportunity in public employment, right against exploitation, right to equal remuneration and maternity relief. These constitutional safeguards are made available to women workers through different protective

legislations.

The parliament of India passed so many Labour Welfare Legislation for better protection of Rights of Women Workers. But the protective measures and benefits are neither provided, nor properly maintained and the machinery for enforcement of those enactments is inadequate. Hence it is necessary to take measures for effective implementation of all these welfare Legislations by expanding their scope and application for protection of Rights of women workers.

REFERENCES:

- 1)S.D.Punekar and S.B. Deodhar: Labour Welfare Trade Unionism and Industrial relation, Himalaya Publishing house, Mumbai: 2005, p. 412-413.
- 2)Dr.S.R.Myneni: Women and Law: Asia Law House, Hyderabad, 2003, P.29.
- 3)Dr.S.V.nadagoudar: Rights of Women Worker at their work place: Proper presented on National workshop, Karnatak University, Dharwad, 2006.
- 4)AIR, 1978 SC 12.
- 5)AIR, 2000 SC 1274.
- 6)Article 39, of the constitution.
- 7)(1987) 2 SCC 469.
- 8)Girijambal v/s state of A.P. (1981), 2 SCC 155.
- 9)(1987) 2 SCC 469.
- 10)(1981) 4 SCC 335.
- 11)(2002) III LLJ 320 (A.P.).
- 12)2004 ILR 664.

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