

Analysis of Supreme Court Judgement on PF Basic Wages

Definition of Basic Wages

To be included	Need not Include
Basic	HRA
Dearness Allowance	Production Incentive (Need proper matrix for incentive scheme)
Conveyance	OT (Over Time)
Other Allowance	Night Shift Allowance (Should vary on monthly wise)
Special Allowance	Attendance Allowance
LTA	Washing Allowance
Fixed Allowance in the name of Tele and Food Allowance)	Canteen Allowance
Petrol Reimbursement (without bills)	Petrol Reimbursement (need to have the proof of bills)
Retaining Allowance	Bonus and Commission
CCA or any other allowance paid as Fixed	Any Allowance paid as variable or only for certain category of employees

* Any Allowances linked to an employee's productivity will not be considered as basic wages

Date of Judgement : **28th February 2019**

1. As a HR, what will be the wise decision to compute the hassle free breakup?

Bayballs HR: Keep only Basic, HRA and Special Allowance and do not keep any attractive allowances in the compensation structure

2. Who will impact due to this SC Judgement? **Bayballs HR:** Those who are drawing below than 15,000 will be impacted, it will not hit on those who are drawing above than 15k salary and paying contributions for 15k or above already

3. Is house rent allowance excluded what should be the quantum/ratio from total wages? **Bayballs HR :** Plz do not consider above than 30% as HRA when compute the break up, it will attract additional PF contribution if the percentage exceeds

4. Will encashment of leave also attract EPF contributions?

Bayballs HR: Bayballs HR: EL encashment Allowance is not required to consider as Basic Wages

5. Will the above ruling have any impact upon the entitlement of gratuity and bonus to an employee? **Bayballs HR:** There is no impact due to this.

6. Whether PF Authority will be implemented this retrospective effect based on judgement? **Bayballs HR :** Wage limit increased from 6.5k to 15k effective from 1st Sep 2014, hence PF authorities may be insisting to implement from this date, however can be finalized once the discussion with central board of trustees

7. What will be the impact to International workers? **Bayballs HR**: This is the common question everywhere in different forums, SC judgement has not mentioned anything about IW, however, international worker's PF deduction should be computed from total wages, should not be computed from only basic wages or up to 15,000 PF cap limit

8. How HR can assist your organization in order to avoid more financial liabilities? **Bayballs HR** :
1. Compute Simple breakup and do not exceed more than 4 allowances as total
2. Can exempt employee's from PF contribution liability if their total wages are above than 15k and never possess PF account no. in his / her previous organizations, fill up Form 11 when select this option
3. Make efforts to avail PMR PY benefits if it is first time employment and save employer's contribution (note that this benefit is valid only up to March 2019)
4. If your firm is small and has below than 20 employees, you can pay only 10% of employee and employer's contribution
5. If you are working in small firm and has only 18 employees and would like to exempt from PF liabilities when you add the head count, please engage freelancers if possible to have the sources (tax should be deducted on every month without fail on such cases)

9. Important Pre Cautions to be taken by HR to face the PF inspections / notice due to this judgement?

1. Prepare the forecasting contributions liabilities to be paid for the last 2 previous years if the above included allowances have not been added in your PF wages right now
2. Keep attendance, salary register for at least 2 financial years
3. Inform Finance team to share balance sheet of 2 years immediately whenever needed
4. Download ECR remittance Challans for the last 2 years

The above synopsis prepared after spent many hours to refer judgements, journals, consulted the concerned authorities, please write to compliance@bayballshr.com if you would like to add any points / suggestions / need our help

Retrospective date mentioned (Q 6) based on apex and SC judgements and Date of PF Revision ceiling, hence the effective / retrospective date may be differed based on central PF committee / PF Authorities's decision.

Analysed and Composed by

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