



27th May 2021

BULLETIN # 25 ON SESSI

PROGRESS IN SOCIAL SECURITY CASE

1. **Vide Constitutional Petition No. 7077/2018**, the Sindh High Court was approached by the **Employers' Federation of Pakistan** through petitioner companies on the following points:
 - i. In absence of specific wage limit by the Governing Body, what would be amount of Minimum Wages on which the petitioners were liable to pay social security contribution?
 - ii. The petitioners' case was that they were paying social security contribution at the rate of 6% of Rs. 10,000/- per month which is the Minimum Wage.
 - iii. The SESSI's contention was that petitioners are liable to pay contributions on the basis of Minimum Wages at the rate of Rs. 14,000/- per month per worker.
2. **Sindh High Court, in it's judgment dated 23-05-2018**, held that establishments were liable to make their contributions as per the respective notifications prevailing in the same year in accordance with law.
3. The **High Court judgment dated 23-05-2018** was challenged in the Supreme Court.
4. **Honorable Supreme Court of Pakistan vide Order Dated 20-08-2019**, while granting leave to companies in social security matter, passed the following order- *"Apparently, the limit was provided in the proviso to Section 20 of the Provincial Social Security Ordinance 1965 which remained on the statute book until 12.04.2016, we therefore, grant leave to consider whether the Respondent was entitled to claim contribution beyond the wage limit of 10,000/- provided in proviso of Section 20 of the Ordinance for any period before its repeal."* In the meanwhile, we direct the Petitioner to pay contribution from 12.04.2016 onwards on the basis of Minimum Wage limit subject to the final determination of this case. The direction with regard to the payment of contribution at the Minimum Wage limit w.e.f. 12.04.2016 to the Petitioner is subject to adjustment of contribution that may have already been paid by the Petitioner.
5. Appeals were heard and by a comprehensive order, Honorable Supreme Court has decided that companies are liable to make payment of contribution at the rate of 6 % of Minimum Wage with effect from 12.04.2016 to 17.05.2018 and onwards.
6. The followings are the important points derived from the Supreme Court judgment:
 - i. It has been decided in clear terms that till 12.4.2016 contribution was payable at the rate of Rs. 600/- per month per employee and thereafter contribution is payable at the rate of 6% of Minimum Wage prevalent at the time of making contribution.
 - ii. The rate of contribution was 6%, to be computed on the basis of the Minimum Wage.



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- iii. **The lower wage limit was the Minimum Wage in terms of Sindh Minimum Wages Act 2015.**
- iv. Any person employed on wages as determined under Section 75 stood excluded from the definition of employee.

Clause (e) of Section 2 (9) was substituted through an amendment made by the 2018 Act so as to **exclude from the definition of employee any person employed at a wage higher than the limit set in Section 75.** (the amended Subsection 9 (e) excludes from the definition of employee any person employed on wages exceeding the upper wage limit determined under section 75)

- v. **As an implication of the Judgment, contributions paid in excess of Rs. 10,000/- before 2016 were liable to be refunded by SESSI or adjustable from future payments.**

A Consultative Meeting will be convened to discuss the main features of the Supreme Court Judgement and follow up action as soon as the COVID situation improves.

Syed Nazar Ali
Secretary General