

Thirteenth Kerala Legislative Assembly  
Bill No. 67

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**THE KERALA MOTOR TRANSPORT WORKER'S PAYMENT OF  
FAIR WAGES (AMENDMENT) BILL, 2011**

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*BILL*

*further to amend the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971.*

*Preamble.*—WHEREAS it is expedient further to amend the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971, for the purposes hereinafter appearing ;

BE it enacted in the Sixty-second Year of the Republic of India as follows.—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Motor Transport Workers' Payment of Fair Wages (Amendment) Act, 2011.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of section 2.*—In the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971 (23 of 1971), (hereinafter referred to as the principal Act) in section 2,—

(i) the existing clause (a) shall be re-lettered as clause (ac) and before clause (ac) as so re-lettered, the following clauses shall be inserted, namely:—

“(a) “authority” means the authority appointed under section 3A;

(aa) “Commissioner for Workmen's Compensation” means the Commissioner for Workmen's Compensation appointed under section 20 of the Workmen's Compensation Act, 1923 (Central Act 8 of 1923);

(ab) “Deputy Labour Commissioner” means the Deputy Labour Commissioner of the State having jurisdiction in the respective areas;”;

(ii) after clause (ac), as re-lettered, the following clause shall be inserted, namely:—

“(ad) “Labour Commissioner” means the Labour Commissioner of the State of Kerala;”.

3. *Insertion of new section 3A.*—After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. *Claims arising out of non-payment of fair wages and penalty for malicious or vexatious claims.*- (1) The Government may, by notification in the Gazette, appoint any Commissioner for Workmen’s Compensation or an officer not below the rank of Deputy Labour Commissioner of the State Government or any other officer with experience as a Judge of a civil court, to be the authority to hear and decide for any specified area, all claims arising out of payment of less than the fair wages to the motor transport workers employed or paid in that area, including all matters incidental to such Claims.

(2) Where a motor transport worker has any such claim as referred to in sub-section (1), he himself or any legal practitioner or any official of a registered trade union authorized in writing to act on behalf of such worker, or any person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented in such form as may be prescribed, within six months from the date on which the fair wages become payable:

Provided further that any such application may be admitted after the said period of six months if the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) Where any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer responsible for the payment of fair wages under section 3, or give them an opportunity of being heard, and after such further enquiry, if any, as it may deem necessary, the authority may, without prejudice to any other penalty to which the employer may be liable under this Act, direct that payment shall be made to the motor transport worker of the amount by which the amount actually paid to him falls short of the fair wages actually payable to him, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of such deficit.

(4) If the authority hearing an application under this section is satisfied that it was either malicious or vexatious, it may direct the payment of a penalty not exceeding one hundred rupees to the employer by the person presenting such application.

(5) If any amount directed to be paid under sub-section (3) or sub-section (4) is not paid by the person liable for the payment thereof within the time limit fixed by the authority in this behalf, the authority shall, on application made to it by the person entitled thereto, either directly or by any person authorised by him in writing, issue a certificate for that amount to the Collector, who shall recover the same as arrears of revenue due on land and pay the same to the person entitled thereto.

(6) Any person aggrieved by an order under sub-section (3) or sub-section (4), as the case may be, may, within sixty days from the date of receipt of the order, prefer an appeal to the Labour Commissioner (hereinafter referred to as the appellate authority):

Provided that no appeal shall be admitted unless, at the time of preferring the appeal, the appellant either produces a certificate issued by the authority to the effect that he has deposited with it an amount equal to the amount required to be paid under sub-section (3) or sub-section (4), as the case may be, or deposits such amount with the appellate authority.

(7) The appellate authority may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or revise the decision of the authority.”.

#### STATEMENT OF OBJECTS AND REASONS

The Kerala Motor Transport Worker’s Payment of Fair Wages Act, 1971 does not contain any provision enabling a motor transport worker to prefer claims against non-payment of fair wages under the said Act. Therefore, it is felt necessary to incorporate suitable provisions in the Act enabling a motor transport worker to prefer claims for realising any money due to him under the said Act, appoint such authorities to hear and decide for any specified area all claims arising out of payment of less than the fair wages to the motor transport workers employed or paid in that area and also to make provision enabling the Labour Commissioner to entertain appeals against the decisions of the authorities.

2. The Bill seeks to amend the Kerala Motor Transport Workers’ Payment of Fair Wages Act, 1971 for the above purposes.

#### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

(1) Sub-section (1) of section 3A proposed to be inserted by clause 3 of the Bill seeks to empower the Government to appoint by notification in the Gazette, any Commissioner for Workmen's Compensation or an officer not below the rank of Deputy Labour Commissioner of the State Government or any other officer with experience as a Judge of a civil court, to be the authority to hear and decide for any specified area, all claims arising out of payment of less than the fair wages to the motor transport workers employed or paid in that area.

(2) The first proviso to sub-section (2) of section 3A proposed to be inserted by clause 3 of the Bill, empowers the Government to prescribe the form of application to be presented before the authority.

(3) The matters in respect of which rules may be made or notification may be issued are of a routine and administrative character. The delegation of legislative power is, therefore, of a normal character.

SHIBU BABY JOHN

EXTRACT FROM THE KERALA MOTOR TRANSPORT WORKERS'  
PAYMENT OF FAIR WAGES ACT, 1971

(ACT 23 OF 1971)

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

(a) “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;

(b) “motor transport undertaking” means a motor transport undertaking including a private carrier engaged in carrying passengers or goods or both by road for hire or reward;

(c) “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;

(d) “fair wages” means the rate of wages payable to the motor transport workers specified in the Schedule to this Act or the agreed rate of wages whichever is higher.

3. *Fair wages payable to motor transport workers.*—Notwithstanding anything contained in any other law, rule, order or notification having the force of law or contract, every employer shall pay to any motor transport workers under his employment fair wages in respect of his employment, or the work done in such employment:

Provided that, the arrears of fair wages payable by an employer for any period prior to the date of publication of this Act in the Gazette shall be paid before the expiry of six months after the date of such publication in not more than six monthly instalments.

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