

14.55 hrs.

MATERNITY BENEFIT (AMENDMENT) BILL

As Passed by Rajya Sabha

[English]

MR. DEPUTY SPEAKER : Now, the House shall take up legislative Business-Bill for consideration and passing. Shri P.A. Sangma.

THE DEPUTY MINISTER IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (SHRI PABAN SINGH GHATOWAR) : Sir, on behalf of Shri P.A. Sangma, I beg to move :

"That the Bill further to amend the Maternity benefit Act, 1961 as passed by Rajya Sabha, be taken into consideration".

As the hon. Members will be aware, the Maternity Benefit Act, 1961 regulates the employment of women in certain establishments before and after child birth and provides for maternity and certain other benefits. The Act applies in the first instance to factories, mines, plantations, shops or establishments and the circus industry. It can be extended to other establishments by the State Governments. There is no wage limit for coverage under the Act.

With the gradual extension of coverage under the Employees State Insurance Act, which also provides for maternity and certain other benefits, the area of application of the Maternity Benefit Act has shrunk to some extent. The coverage under the ESI Act is, however, at present restricted to factories and certain other specified categories of establishments located in specified areas. The Maternity Benefit Act is, therefore, still applicable to women employees employed in establishments which are not covered by the ESI Act, as also to women employees, employed in establishments covered by the ESI Act, but who are out of its coverage because of the wage limit.

Under the Act, women employees are entitled to maternity benefit at the rate of average daily wages for the period of their actual absence upto 12 weeks due to delivery. In cases of illness arising due to pregnancy etc. they are entitled to additional leave with wages for a period of one month. They are also entitled to six weeks maternity benefit in case of miscarriage. The Act also makes certain provisions to safeguard the interest of pregnant women workers.

The Act was last amended in 1988. In order to motivate and also facilitate women employees to undertake family welfare measures, the Ministry of Health and Family Welfare had made certain recommendations

for amendment of the Act. Keeping their recommendations in view, it is proposed to carry out certain amendments so as to provide the following additional benefits to women employees :

- (1) Grant of six weeks' leave with wages in the case of medical termination of pregnancy;
- (2) Grant of two weeks' leave with wages to women employees who undergo tubectomy operation;
- (3) Grant of leave with wages for maximum period of one month in the case of illness arising out of MTP or tubectomy.

These are the important amendments proposed through this Bill. The Standing Committee of Parliament on Labour and Welfare have also considered and approved the proposed amendments. I hope the Members will welcome the proposed amendments which are of non-controversial nature. With these words, I commend the Bill for consideration, as passed by Rajya Sabha, of the House.

MR. DEPUTY SPEAKER : Motion Moved :

"That the Bill further to amend the Maternity Benefit Act, 1961, as passed by Rajya Sabha, be taken into consideration."

15.00 hrs.

SHRI V. DHANANJAYA KUMAR (Mangalore) : Hon. Deputy Speaker, Sir, I rise to support the measures proposed by the Government in amending the Maternity Benefit Act.

The salient feature of the Bill, as submitted by the hon. Minister, is to extend the benefit of six weeks leave in the case of medical termination also. But I would like to remind the hon. Minister that the provision reads : "In case of miscarriage or medical termination of pregnancy a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages." This could be a mischievous provision. Many a time we have seen that we have to produce a certificate from a Government hospital or from a hospital recognised by the Government. In such a case there is every likelihood that the eligible women may be deprived of the benefit, which the government would like to extend in case of medical termination. So, in the Rule itself, care must be taken to say that 'proof' means 'a proof by a competent person like a doctor, even if he is a private doctor'. This is my submission.

So far as Tubectomy operation is concerned, a similar difficulty may arise there also. So, the requirement for the production of proof could be prescribed in the Rule itself. A mischief can occur if some restriction or conditional

prescription is made. Care must be taken to see that in reality the benefit is passed on to the genuine case, both in the case of medical termination and tubectomy operation.

Shri K. Suresh—Absent.

Shri K.D. Sultanpuri.

[Translations]

SHRI KRISHNA DUTT SULTANPURI (Shimla) : Mr. Deputy Speaker, Sir, I rise to support the Bill under discussion in the House,

In the objectives of the Bill, it is particularly mentioned that it will primarily benefit the women working in the organised sector. But, those women who do not work in the organised sector are not going to get benefitted from this Bill. It is stated there in that women has to suffer once she becomes poregnant and forced to undergo operation or abortion for she has a female child in her womb. In such a situation, there is no provision to serve her from this agony.

As far as taking her to a doctor is concerned, I understand that doctors can be consulted in this regard. But there are thousands of women in villages, who die due to starvation and non-availability of drinking water. The Government must think for them as well. The number of women is very less in the organised sector. This benefit must go to all women. The Panchayats or the district councils or the legislative Assembly can be entrusted with this responsibility so as to implement it all over the country.

I must also say that the women who work on daily wage basis in factories, face worst exploitation. We receive various complaints from all over the country in regard to misbehaviour with these women. They are raped and then give birth to babies. Since nobody is there to look after them, many of such girls commit suicide by consuming poison.

If a woman is employed on daily wages either in a factory, Bank or any organised sector. She should be provided the benefit of this facility and also issued the card as per Labour laws so that she may have a record of the number of days she worked there. It has been stated in the Bill that she will be entitled to this benefit only if she works for 80 days regularly. My submission is that this facility should also be extended to those women who work on P.W.D. roads or in factories. It has been often seen that in factories, two different registers are maintained—one for daily wages workers and another for regular workers. Only regular Libourers get its benefits whereas the women, daily wages labourers are deprived of this facility. The hon. Minister has presented a good Bill. He might have thought of giving this benefit to all women. Atrocities are committed on women all over the country. Therefore, we should think of them from this angle also. This law should be applicable to all the woman workers, whether they work in offices, or on daily wages or in unorganised sector.

I do not know whether Ghatowerji is having the knowledge of the submission which I am going to make now but I am sure Sangmaji knows about it very well, Way back, about some six or seven years ago, in the International Labour Organisation Conference there was a demand for what is called, the paternity benefit. I would be justified in making this suggestion for the reason that in a small family where only husband and wife live and both of them are employed, there would be nobody to attend to women who would be confined either due to miscarriage, medical termination or tubectomy operation. So, somebody is required to look after her at home. All of us know that better care could only be given by her husband. So, he must also be provided with some leave facility so that he can attend to his pregnant wife.

There is justification for this demand for paternity leave. I feel there is very strong justification for such a demand. This demand arose in an International Labour Organisation Conference some seven or eight years back and many of the developed nations have agreed to such a demand. Right now I do not have any proof on hand of show that some provisions are made it any of the enactments made world over. But, at least we can make a beginnig. We can incorporate such a provision in the Act. No doubt the conditions which are present in the existing Act would apply, like the benefit could be availed till a mother gives birth to two issues, or for the first issue and then in the case of miscarriage or medical termination, or, of course, till one undergoes Tobectomy operation. So, Sir, these things also could be...

SHRIMATI MALINI BHATTACHARYA (Jadavpur) : A father cannot undergo Tubectomy.

SHRI V. DHANANJAYA KUMAR : I am referring to the benefit of two weeks leave for women employees who undergo Tubectomy operation. Madam Maliniji knows that even a women who undergoes tubectomy operation requires somebody to attend to her and care must be provided to her for at least a week or so. My suggestion could kindly be considered by the hon. Minister. He may propose an amendment so that the benefit could be really accrued to the needy and the fruits of the benefit are enjoyed by the employees concerned.

With these words, Sir, I support the measures proposed by the Government and I thank you very much for giving me this opportunity.

MR. DEPUTY SPEAKER : The time allotted to the subject is one hour. Now I call upon Dr. Vasant Niwrucci Pawar to speak—Absent.

This new law will be beneficial to women who are working in factories or Government institutions. So, very few women would be able to get its benefit. On the other hand, on provision has been made to give its benefit to those women who are employed in unorganised sector. The Government should also think about these women labourers. It has been mentioned in the report of 1991 that out of 40.28 million only 22.69 million woman workers are working in organised sector. Moreover, 87 per cent women work as agriculture labourer or bidi worker or daily wage earners in factories or brick kilns. Provisions should also be made for the welfare of these women labourers. Now, women are also being provided the facility of reservation everywhere. 30 percent reservation has been given to them in Panchayati Raj Institutions. I suggest that census of such women should be carried out. Women labourers in the villages are hardly able to earn their bread and butter. Their land lord gets maximum work done from them and does not grant any leave to them. After delivery, they are asked to report for work within a couple of days. They are compelled to lead such life. Even her husband becomes helpless to protect her interests as he also requires bread to eat. Under such circumstances, she falls into the clutches of such people who exploit her. We should take necessary steps to check this exploitation. This law should be implemented all over the country. Every State should also frame a law so that a pregnant women who gives birth to a baby may be looked after very well. If husband and wife, both are working, they should be granted equal days of leave so that he may look after her well. If the need be deduction of wage can be made from the salary of her husband for the period of leave granted. There are some such husbands who do not spend even a single paise on their wives. We have to decide all these things. When the issue of sterilisation comes, they compel their wives to undergo sterilisation operation on the pretext that if they themselves underwent sterilisation operation they will have to suffer from backache etc. They do not bother if their wives die during operation. The reality is that vasectomy is an easy operation while during tubectomy a lady may die. I, therefore, think that we should give encouragement to men to undergo vasectomy operation. If one go through the data, one will find that the number of cases of tubectomy have been more than the cases of vasectomy in the entire country and men have tried to escaped from it. Some is the case with the men working as officers or staff members in Government service. Men should come forward to undergo vasectomy. When a women conceives, she undergoes ultrasound test to know the sex of the baby in the womb. And if unfortunately, it is detected that the baby in the womb is a female one, it is got aborted. In Rajasthan, even a female baby is killed after birth....(Interruptions)...

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Sir, in my State, girls are given due place in the society. I think girls

are not given due respect in his State...(Interruptions) but what is happening in Delhi...(interruptions)

SHRI KRISHAN DUTT SULTANPURI (Shimla) : When husband of a women dies, she is taken to cremation ground by beating and she is forced to sit on the funeral pyre of her husband. Such incidents are taking place in Hydrabad even today. If one visits Maharashtra, one will find that the custom of 'Dasi' or 'Devdasi' still exists there. In 'Devdasi' a girl is offered to a deity in the temple. Such things are happening in our country. Thus, atrocities have been committed against women...(Interruptions)

MR. DEPUTY SPEAKER : You are speaking on a different subject. Please speak on this Bill.

SHRI KRISHAN DUTT SULTANPURI : I am speaking on this Bill. I am saying that abortion is one of the atrocities committed against women. As far as the incident of Delhi is concerned, police have arrested the accused. He should be punished and hanged to death. I would like to say that any person in the society who commits such crimes, should not be spared and duly punished. In my opinion, the hon. Minister has brought a very good Bill. The Government of India and State Government as well, should implement it at the earliest. The women who are employed in unorganised sector in our country should particularly be given due consideration so that they may also get some benefits. With these words, I conclude.

[English]

SHRIMATI MALINI BHATTACHARYA : Sir, I thank you for allowing me to speak on this Bill. As far as the content of the Bill is concerned, no one can have any objection to that. It consists of extension of maternity benefits to cases of medical termination of pregnancy and also to tubectomy cases.

As we know, in our country, in 1971, the Medical Termination of Pregnancy Act came into being and in our country, the situation is such that such terminations become necessary very often, in very painful and tragic circumstances. It is when women are pushed into a certain situation because they do not have any rights over their own bodies that they have required this right of medical termination of pregnancy. It is not as if women have any positive desire for undergoing abortions but it is in certain painful circumstances that it becomes necessary. The Medical Termination of Pregnancy Act itself is a progressive Act and by extending maternity benefit to such cases, I think we are fulfilling the demand of the women's movement also.

However, when I turn to the Objects and Reasons of this Bill, I find something which is very objectionable there. So I agree with the Bill but I do not agree with the Objects and Reasons for which the Bill is being brought. It is said there :

"In order to motivate women employees to undertake family welfare measures, the Ministry of Health and Family Welfare had made certain recommendations and it is in tune with such recommendations that these amendments have been brought".

Now I would like to know, since when has the medical termination of pregnancy become a part of family welfare programme. As far as I know, never in the history of our family welfare programme has medical termination of pregnancy been considered as a regular method for family planning. If we look at the MTP Act, we will find that here the circumstances under which medical termination of pregnancy may be sought, have been described, and I just very briefly want to draw your attention to these. It is said that (1) such terminations may be undertaken when continuance of the pregnancy would involve a risk to the life of the pregnant woman or a grave injury to her physical and mental health and (2) where there is a substantial risk that if the child were born, it would suffer from such physical and mental abnormalities as to be seriously handicapped.

Now in explanation of the first sub-clause, it is said what is meant by mental anguish. I think this is what is being explained. It is said that there are two explanations. One is in cases of rape. Where the woman has been made pregnant as a result of rape, this causes tremendous mental anguish and, therefore, in such cases, it is necessary for her mental health that she should go through this. And explanation (2) is—this is an important clause where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children. I know that some people, particularly those people who covertly advocate female foeticide, have sometimes said that here the Medical Termination of Pregnancy Act itself gives sanction for using it for family planning methods. But I do not think that is the intention of this explanation at all because it says what sort of a situation we are stipulating here. It is a situation where a woman has been practising some kind of family planning method or other, probably under the advice of the doctor, maybe, the doctor has advised her that she may not have more children, maybe, there are other constraints and so she is practising certain family planning methods.

Where this fails, she may be in grievous danger through her pregnancy and it is in such cases that this failure of family planning method may become an occasion for medical termination of pregnancy. Therefore, in the Medical Termination of Pregnancy Act never is such a termination regarded as a regular method of family planning and I think that this—what has been mentioned in these Objects and Reasons—has in it an element of coercion, abortion, seizure, painful and a traumatic experience for a woman. Can we altogether exclude the

possibility, that taking advantage of this bill which has now been brought, more and more women—suppose they have two children, somehow they become pregnant for a third time—are pressurised into abortion in spite of the fact that such an abortion may not be proper for their physical health or may be dangerous to them? So, that elements of coercion may come in through this.

I think that some time ago the Labour Ministry had been trying to bring a Bill to limit maternity benefit to two pregnancies. They were trying to take away maternity benefit in the case of a third pregnancy. Because of the opposition of the trade unions and because of the opposition of women's organisations, they could not bring that Bill. Now, if under the cover of measures which are progressive they try to introduce medical termination of pregnancy as a family planning method, then I would warn the Government on behalf of the women's organisations that this would not serve the purpose. In fact, this would be a boomerang, it would defeat that purpose and it would lead to greater dangers, it would lead to greater mental anguish and physical dangers for women.

Therefore, while agreeing with the contents of the Bill, I hope that the Government will not try to push through the Objects and Reasons that it has mentioned through the extension of maternity benefits to cases of medical termination of pregnancy. That is all I want to say.

[Translation]

SHRIMATI SAROJ DUBEY (Allahabad) : Mr. Deputy Speaker, Sir thank you very much for allowing me to speak. I thank hon. Minister for having presented Maternity Benefit Amendment Bill, 1955. But I am not in a position to welcome this bill from core of my heart, because the natal and post natal facilities envisaged for weak mothers, have not been taken care by him in a sympathetic manner. No attention has been paid to what benefits should be provided to women who have suffered during the trauma of delivery. Had any Gynaecologist been consulted before framing the bill, then this bill would have definitely proved a wholesome and substantially beneficial.

The bill provides 6 weeks leave with salary in the case of medical termination of pregnancy, two weeks leave with salary in tubectomy. Further it states that leave for one more month might be granted in case of any complexity. But I want to tell Mr. Minister that when a woman conceives...(Interruptions)

[English]

MR. DEPUTY SPEAKER : You can continue next time. We have to take up Private Members' Legislative Business now.