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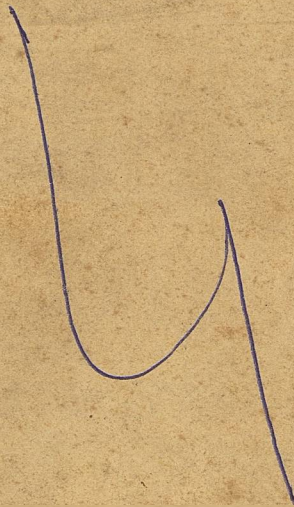
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STUDIES IN WAGE POLICIES

- ★ Principles of Wage Fixation
- ★ Concept of the Average Family



ALL-INDIA TRADE UNION CONGRESS
4, Ashok Road, New Delhi.

WORKING COMMITTEE MEETING

(August 30-Sept.1,1957)

August 29,1957

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THESE notes were circulated to the delegates of the Indian Labour Conference, by the Ministry of Labour as background material to help the Conference in the discussion of the subjects on the agenda.

These notes are being reproduced for a study by the members. They should be read along with the decision of the 15th I.L.C. published separately.

28.8.1957

S. A. Dange

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Two important aspects of wage policy, as stated in the Second Five-Year Plan, are (i) the laying down of principles to bring wages in conformity with the expectations of the working class, and (ii) the appropriate machinery for the application of these principles to cases referred to it. With regard to the latter, it has been accepted that tripartite wage boards where interests of employers, workers and consumers are represented, would provide an appropriate forum. As to the former, there has been a demand from workers that a Wage Commission be appointed to settle these principles. The view taken by the Planning Commission was that the appointment of a Wage Commission should be deferred till the results of the Wage Census which is proposed to be undertaken soon became available. In the meanwhile, the Planning Commission set up an official Study Group to examine the data and information available in the country in relation to framing suitable guide-lines for settlement of wage demands.

2. No specific terms of reference were formed for the Study Group; it was free to think out for itself the kind of material that would be useful for authorities appointed for fixation of wages.

3. The Group held a series of meetings between June and October, 1956, and considered various issues affecting the question of wages. It then appointed a sub-Group to prepare material which could be presented in the form of a Report. This Sub-Group recommended to the Study Group that rather than drawing up a formal report, it would be better if notes were prepared on different aspects of wage problems and sent to the wage fixing machinery. This plan was approved by the Study Group and the following notes have been drawn up:

(a) Some general principles in the determination of industrial wages in India. (Appendix-I)

(b)...

(b) Principles of Wages Fixation(A Study of Industrial Awards) (Appendix II)

(c) Determination of Minimum Wages(Appendix III)

(Note-(d)- has been dropped as it contains too many statistical tables and contains no useful conclusions.-SAD)

I

WAGE POLICY

Some General Principles in the Determination of Industrial Wages in India

An important issue which has been agitating the public mind in recent years is the question of wages. Considerable thought has been devoted to this subject by Government as well as employers' and workers' organisations. The problem of wage determination cannot be considered in isolation from the larger economic and social background obtaining in the country. A well conceived wage policy should be designed to secure (a) continued improvement in workers' living standards, (b) reasonable returns for the employers and (c) the

General

economic and social objectives of the community. These are inter-dependent considerations and there is, in theory, no antagonism between them at least in the long run. But, experience has shown that in the delicate balance between fair wages to workers, fair profits to entrepreneurs and fair prices to consumers, the workers are often left behind, mainly because of their weak organisation; and, not infrequently, it has been said that the interests of consumers or the community also go unrepresented. In this country, wage decisions in the past have followed more or less the strength or weakness of one party or the other in putting up a case. Such a situation necessitates active Government intervention to protect the interests of the weaker party. Even otherwise, in a planned economy such as ours, a certain degree of wage regulation by the State becomes inevitable as an integral part of planning itself.

It is necessary that wage fixing authorities are guided by certain well laid principles agreed upon as fair and not by arguments raised in the course of unequal and individual bargaining. This is possible where all the concerned parties are allowed a fair share in the process of decision making. The machinery of tri-partite wage boards is intended to fulfil this long felt need. Such a wage board for the cotton textiles industry has already been set up. Establishment of similar boards for other industries is under consideration. In order to ensure that the decisions of wage boards are uniform as far as possible, it is necessary to lay down broad principles of wage determination which will be applicable to all wage earners irrespective of the industry in which they may be placed. In what follows, an attempt has been made to provide a framework within which the Wage Boards can draw up their recommendations for individual industries.

Payment of fair wages to labour was one of the cardinal recommendations of the Industrial Truce Resolution, which was accepted by Government in their Statement on Industrial Policy

issued on...

issued on 6th April 1948 *. Following that acceptance, Government appointed the Committee on Fair Wages which was a tri-partite body and included besides Government representatives,

Historical Background

eminent industrialists and labour leaders. The Committee submitted a unanimous Report, setting out for the first time, criteria for wage fixation and progressive improvement of the wage structure. Following this Report, Government introduced in the Constituent Assembly (Legislative) the Fair Wages Bill whose provisions were closely modelled on the recommendations of the Fair Wages Committee. The Bill, however, lapsed on the dissolution of the Constituent Assembly and was not taken up later. The recommendations of all subsequent committees and tribunals have, however, been governed largely by the concepts laid down in the Fair Wages Committee Report. The case for a fair deal to labour was strengthened when the Indian Constitution was adopted. Article 43 of the Constitution lays down as one of the Directive Principles of State Policy that the State shall endeavour to secure to all workers "a living wage" and "conditions of work ensuring a decent standard of life." The acceptance of a socialist pattern of society as the objective of State Policy and the Second Five Year Plan which has been drawn up in pursuance of that objective have given further fillip to the cause of fair wages in the recent past.

The Committee on Fair Wages outlined three stages in the process of wage evolution based upon the needs of workers and the capacity of the employer. According to the Committee, "Minimum Wage" is an irreducible amount considered necessary for the sustenance of the worker and his family and for the preservation of his efficiency at work. The "Living Wage", on the other hand, is

The 'Minimum Wage',
the 'Fair Wage' and
the 'Living Wage'

the ideal which would enable the earner to provide for himself and his family, not merely the essentials of life, but also a measure of comfort. Between these two limits is the "Fair Wage", the floor for which is set by the Minimum Wage and the ceiling by the capacity of the industry to pay. Its actual determination would be further governed by the productivity of labour, prevailing wage rates in corresponding places and also the importance of the concerned industry in the economy of the country. These different wage concepts, by their very definitions, are not rigid and gain meaning only as related to a particular place and time. Thus, what would now be considered a living wage for Indian conditions may not even satisfy the minimum wage requirements in countries with larger per capita income. It may even correspond to what might be considered as the "minimum wage" in India itself at a future date, when the standard of living of the average Indian would have considerably improved. It is, therefore, important that these limitations of the definitions are always kept in mind by wage determining authorities.

The fixation of a minimum wage is a simple task as compared to the fixation of a fair wage. The yardstick used for fixing the minimum wage is the cost of a monthly budget for a hypothetical average working class family - a budget to meet minimum standards of food, housing, etc., recommended by nutrition and other experts. Allowance is also made for certain requirements like medical

Minimum Wage Fixation

* Government's Industrial Policy Resolution of 30th April, 1956, besides reiterating the need for raising workers' living standards and efficiency, urges joint consultation between management and workers and increasing participation of workers in the common task of development.

facilities considered essential for the maintenance of the workers' efficiency. Calculation of wages at this level is essentially need-based. It was to meet the minimum needs of the worker and eradicate the evils of "sweating" that Government enacted Minimum Wage Legislation in 1948.

The settlement of fair wages, however, is a complicated process and has to be based on a detailed study of multiple factors, including, inter alia, paying capacity of the industry, wage differentials and the social objectives of the community. These considerations require further elaboration.

It is difficult to define industry's "capacity to pay". As pointed out by the Fair Wages Committee, it would be wrong to determine this on the basis of the capacity of a particular unit or the capacity of all industries in the country. The relevant criterion should be the capacity of a particular industry in a specific region and, as far as possible, the same wages should be prescribed for all units of that industry in the region. As regards the measure of the capacity, it will have to be decided after allowing for a

Industry's capacity to pay

fair return on capital and remuneration to management and a fair allocation to reserves and depreciation so as to keep the industry in a healthy condition. In these matters, no rules can be drawn up for uniform application to all industries in different local areas, especially when the age of the machinery installed in different industrial units may be different. These factors will certainly affect wages but at the same time, it is necessary to see that wages fixed after taking into account these considerations should not be very much out of line with wages in other industries in the specified region. Wide disparities often lead to avoidable industrial unrest.

Wage differentials, again, are a necessary concomitant of the wage system in modern industrial organisation and have been recognised as such in all countries, irrespective of their political and economic background. The differentials have to be worked out according to the degree of skill required, the strain involved, the mental and physical requirements for doing the work,

Wage Differentials

the disagreeableness of the task and so on. They should be adjusted in such a manner as to provide incentives to workers for advancing their skills. When all this is stated, it is still difficult to arrive at the quantum for a differential between two jobs. For this, it would be necessary to evolve a standard occupational classification with the job content for each occupation. The I.L.O. Team of Productivity Experts who came to India in 1952-54 felt that 40 per cent of the pay roll in Indian plants had been established by awards of Industrial Courts without the aid of work measurement or job evaluation; according to them, this resulted in anomalies blurring the relationship between earnings and work performed and had an adverse effect on incentives. The ILO team had, therefore, recommended a thorough study of the relative levels of wages within each industry on the basis of a sound system of job evaluation. It is, however, necessary to bear in mind that in any attempt to re-draw wage differentials, employees everywhere attach great importance to prevailing differentials, be they scientific or not and often exercise pressure to maintain those differentials. A scientific approach to the determination of wage differentials will not, therefore, be sufficient in itself, if it does not carry with it a measure of social acceptance. What is really called for is a pragmatic approach supported, wherever possible, by scientific considerations

and the...

and the active participation of employers and the employed in working out and implementing a wage differential scheme.

In this context of wage differentials, the system of piece-rates has a number of advantages over time rates. The latter have

Payment by Results

no direct relationship to the quantity and quality of output produced or service rendered. Piece rates, on the other hand, create an explicit link between additional effort and larger earnings. Moreover, they are free from the disturbing influence of time and make possible a comparison of wage levels, productivity, etc. between different units and regions. The Second Five Year Plan had also recommended the introduction of piece rates or payment by results in areas where at present this principle does not apply. The system of payment by results should be supported by adequate safeguards for workers, the main guarantees being a minimum (fall back) wage and protection against fatigue and undue speed up. In other words, on the one hand, the system of payment by results will have to be supplemented by a guarantee of a minimum quantum of work and employment. On the other, there will be need to ensure that the system does not work to the detriment of the health of workers. This could be done in either of two ways, viz. either by placing a limit on the earnings of an individual worker, that they should not exceed the average wage by more than a given percentage or by working out piece-rates in such a way that they prove to be disincentive after the worker crosses a safe maximum output. One advantage behind a system of payment by results is that productivity increases are automatically reflected in increased earnings and there is no room for arguments about the relative growths in wages and productivity. The system, however, has its own limitations. The main difficulty lies in coming to an agreement with the workers on wage rates for a given output. The advantage of the system is greatest where the products and work processes are standardised and improvement in production can mainly be brought about in the speed with which production is carried out. Where the products and work processes are not standardised, difficulties arise in making adjustments for variations in quality, type of machine and type of product. Moreover, when piece-rates are sought to be applied to men whose value lies in their years of acquired skill, it would seem only fair to relate the reward to their technical knowledge and know-how rather than to actual output. Even with these limitations, however, there appears to be considerable scope for extension of direct financial incentive schemes to increase productivity all-round.

Paying capacity and wage differentials apart, the determination of fair wages has to be given a direction consistent with the pattern of society envisaged by the community. It is to be a

Wage Policy and the Socialist Pattern

socialist society, where there would be full employment and growing prosperity as a result of increasing industrial production and productivity. A wage policy to facilitate the growth of such society has both its economic and social implications. From the purely economic viewpoint, it has to avoid exerting inflationary pressures or pressures on balance of payments, promote productivity and facilitate savings and capital formation. On the social side, it must move in the direction of securing a reduction of inequalities in income and wealth and a more even distribution of the national product. This problem of reduction in inequalities has many aspects, viz., inequalities as between workers and employers, between workers in an industry and the community at large and among workers themselves. While wage policy has to be directed

towards....

towards lessening of the gap between the top wage and lowest wage, this has to be brought about by raising wages at the lowest level and not by reduction of higher wages. The grant of the same flat rate dearness allowance to workers in all income groups, dearness allowance at a rate proportionately decreasing as income increases - all have this effect, viz., to benefit workers with low wages more than those with higher wages. A progressive increase in wages at the lowest levels may also create a favourable condition for introducing standardisation of wages in the different industries.

In the determination of wages, it is possible that the economic and social objectives might, at times, clash. In trying to reconcile them, it must be remembered that economic efficiency is both a result and an essential condition for the satisfaction of legitimate social aspirations. People do not put forward their best unless they get as reward for their work what the current social and political climate dictates as fair. At the same time, an effort to push social objectives beyond what economic considerations warrant in the short run can only lead to disillusionment or a self-frustrating scramble. However, in all countries, wage determination is more and more being governed by social considerations. As pointed out by the Bank Award Commission, Labour's "clamour for a fair deal must be appreciated and considered in the background of the social and political climate that prevails in the country today." Moreover, there is also the practical consideration, viz., the need to maintain worker satisfaction and industrial peace in the Second Plan period. It is true that factors which have a bearing on the maintenance of industrial peace are many, but, there is no doubt that the most important among them are wages and matters related to wages.

It has been urged on behalf of labour that real wages continue to remain around pre-war level, which was just a subsistence level. It is further pointed out that productivity per worker has gone

Labour's contention
for a wage increase-
productivity

up, and that there has been a large increase in industrial production as compared with the corresponding increase in industrial employment. Again,

it is stated that the volume of profits has gone up with the consequence that the acceleration in economic activity has only benefitted the "non-wage-earning" class. This is the line of argument advanced by the workers' unions in asking for a wage increase. The argument that productivity increases may result as much from a greater or more effective use of materials and equipment as from increased efficiency of the workers does not carry conviction with them, because workers all over the world consider that they have a claim on sharing the benefits of increased productivity whatever be the cause thereof. This being the case, it is necessary that the benefits of all productivity increases should be shared in fair proportion between employers, workers and the community. This would mean that wherever the workers' claim regarding productivity increases without corresponding wage rises is borne out by facts of the case, there would be a prima facie case for considering a wage increase. Even assuming that the workers' claim for a wage increase is justified to some extent, it is difficult to see how they could be fully compensated for every rise in productivity. In a country where the demands for capital formation are heavy and will continue to be so for quite some time to come, the workers will have to be content with a wage increase smaller than is warranted by the increase in productivity. At a time when all-round austerity is called for, it is fair to expect the workers to contribute their share...

their share to the sacrifice. The argument for capital formation cannot, however, be carried too far to prevent any wage increase whatsoever. The proposition that wage increases will transfer funds from the entrepreneur class to the working class thereby curtailing investment and capital formation and increasing consumer spending is not always well-founded. It must be recognised that increased wages would lead to increased production and productivity and thus to increased profits, both by raising the efficiency of workers and by giving incentive to the employers to organise production more economically. Productivity increases are as much the result of wage increases as they are the cause thereof.

Capital Formation

An important objective of the Plan is the creation of additional employment on a substantial scale. This often raises the question whether the working class should gain by way of more of them finding employment rather than by an increase in the earning of those already employed. The reasoning underlying this antithesis is that the higher the rates of wages that have to be paid to those already employed, the less is the possibility of an increase in the numbers employed. To assume that there is always such antithesis, however, would be to take too narrow a view of our objectives. While employment has, no doubt, to be expanded, it cannot be argued that every wage increase would react adversely on employment. Nor is there any real gain in increasing the number of discontented employees. Each employed worker should be assured and paid a fair wage. A reasonable increase in the present level of wage rates can act in a number of ways. It will enable the worker, both physically and psychologically, to put in greater effort and raise production and productivity. The employer, for his part, may be expected to organise production more efficiently in order to make up for the increased wage cost. In fact, if the experience of industrially advanced countries is any guide, pressure of the unions for wage raises has always been a powerful factor in bringing about improvements in technological efficiency. As long as wage increases are reasonable, there is, therefore, no reason why higher wages and more employment may not go together.

Employment

Among the considerations to be borne in mind in deciding on the merits of wage increases is also the question of inflation. Here again, no hard and fast rule can be laid down as to when and whether wage increases are inflationary or not. It is only by an examination of specific cases that any judgement in this regard can be formed.

Inflation

A review of social security measures is relevant in a study of the possible effects of wage increases, because social security contributions affect wage costs as well as the funds immediately available to workers for consumption expenditure. The question of increasing the contributions and benefits under social security schemes can be decided upon only after taking into account the wage levels of workers to whom the increased contributions are to be made applicable. In this context, it is necessary to distinguish workers drawing minimum wages from those receiving higher wages and to see that social security schemes do not make inroads into the minimum wage. Where, however, the introduction of new social security measures or improvement of existing ones is considered imperative, the wages of the worker ...

Social Security Contributions

worker should be raised to a level which will ensure the worker a residue of minimum wages after his contributions to the social security measures are made out of his total paypacket. Correspondingly, the benefits a worker gets under social security schemes must be allowed for in reckoning the requirements of a minimum wage.

Employers at times provide their workers with housing, education for workers' children, canteen and recreation facilities and so on. These

Fringe Benefits

"fringe benefits" which are not the result of compulsory legislation, vary from employer to employer and no generalisation as to their nature and content is possible. Available information shows that as compared to total per capita average earnings, the average money value of concessions granted to factory workers is not very significant. The fringe benefits, wherever they are made available, should be considered as a part of the real wages of the workers where they relate to goods and services which enter into the worker's basket. The suggested procedure should, however, be adopted only with the consent of the community of workers, because goods and services which they are none too keen on consuming cannot be forced on them and their value deducted from the total wage payment which they are entitled to.

It will be seen that wage determination is influenced by a number of factors, economic as well as social, interacting between themselves. With the

General

development of the social conscience of the community, however, the social and ethical implications assume primary importance. At the same time, in a planned economy, wage policy is not a matter of exclusive concern to workers and employers only. The wider considerations of planning for the benefit of the community as a whole have also to be borne in mind. It is against this background that wage determination will have to be undertaken.

II

Principles of Wage..
Fixation(A Study of
Industrial Awards)

PRINCIPLES OF WAGE FIXATION

(A Study of Industrial Awards)

.....

"The functions of conciliation and arbitration", according to the International Labour Organisation, "is to establish a compromise between the interests of the parties to the dispute and create a new basis for their mutual relations - that is to say to make law and not, as in the judicial settlement of a dispute on rights, to interpret it." In this function of making law, the industrial tribunals in our country have succeeded in fair measure and a good deal of case law on a fairly uniform basis has been built up regarding wages, dearness allowance, bonus, retrenchment, leave, etc., largely as a result of the functioning of the Appellate Authority. This study attempts to analyse the salient features of the industrial awards given up-to-date in so far as they relate to wage matters and to take stock of the case law built up thereon.

The industrial awards themselves may be broadly classified into two groups, viz; (a) awards which stand out by themselves without supporting cases and (b) awards which have a number of precedents and follow-up cases along similar lines. It is the latter group of decisions which go to build up case law over a period and it is out of this group that representative cases have been quoted in this note. Even among the awards quoted, a large number relate to decisions of the Labour Appellate Tribunal and occasionally of the Supreme Court, because it is these decisions which have generally guided lower tribunals and courts in giving their awards on a uniform pattern under similar circumstances.

While exhaustive source material in respect of industrial awards can be found in the original awards themselves, there are a number of periodicals like the Labour Appeal Cases, the Labour Law Journal, the Industrial Court Reporter (Bombay) and so on which report the more important cases. There are also various private publications containing digests of Labour Law cases. The first official attempt at an analysis of tribunal decisions was made by the Labour Bureau, whose publication "Industrial Awards in India - An Analysis" covers the period upto 1950. Awards made in the subsequent two or three years were studied in a note prepared by the Planning Commission for official use. The present study is largely based on these two official publications and subsequent awards as reported in the Labour Law journal.

Minimum Wage, Fair Wage and Living Wage

Regarding wages, the tribunals have generally followed the principles laid down in the Fair Wages Committee's Report. The Committee recommended that the wages of an industrial worker must be such as would enable him to have not merely the means for bare subsistence of life but also for the preservation of his efficiency as a worker. For this purpose he must have the means to provide for some measure of education, medical requirements and amenities. This is the minimum which he must have irrespective of the capacity of the industry or his employer to pay. Thus the floor level of wages is to be determined keeping in view these considerations. According to the Fair Wages Committee, the theoretical upper limit is provided by the concept of the 'Living Wage'. The 'Living Wage', however, could be regarded only as an ideal or a goal and the actual wage fixed

would have to be

would have to be based on the capacity of the industry to pay. This paying capacity has to be worked out not for an individual unit, nor for all industries in the country, but on an industry-cum-region basis.

The goal of a living wage for the worker has gained strength from the tribunal decisions. The Labour Appellate Tribunal have expressed the view that "with the socialistic pattern of society the living wage is probably nearer fulfilment than ever before, even as an expanding ripple gently reaches the bank" (1955 II LLJ 38). The existing wage structure, however, is still far from the living wage concept and besides displays a lack of uniformity. A considerable margin has been noticed between the top wage and the lowest wage and the raising of wages at lower levels by various tribunal decisions has somewhat helped to narrow down this gap.

Minimum Wage: The concept of a minimum wage for the worker is now absolute. In the dispute between Rajwani Transports Ltd., and their workmen, the Appellate Tribunal upheld the decision of the lower tribunal that paying capacity was irrelevant in the matter of minimum wage fixation. (1951 I LLJ 624) In fact, no external factor is allowed by the tribunals to interfere with the payment of minimum wages. For instance, availability of plenty of labour for service on low wages and the fact that the employer is a non-profit organisation have both been brushed aside as not being relevant. (1953 II LLJ 495) Again, lack of work is no reason for denying minimum wages to piece-rate workers. (1953 II LLJ 610) Similarly, in the case of Bombay Mutual Life Assurance Society Ltd. v. Their Workmen, the Tribunal took the view that the "expense ratio" under the Insurance Act could not affect the payment of minimum wage. (1956 I LLJ 149) The elementary requirements of workers are the same irrespective of the industry in which they are employed (1954 II LLJ 341)

The principles of minimum wage determination were first discussed in detail by the Labour Appellate Tribunal in the Buckingham and Carnatic Mills Case. (1951 II LLJ 327) In determining the actual quantum of minimum wages, the Tribunal was guided by the standards recommended by different authorities in the matter of food, clothing, housing, fuel and light and miscellaneous items and the finding of family budget enquiries in the locality regarding the percentage allocation of expenditure on these items. The minimum wage was worked out on the basis of a family of 3 consumption units, a figure which has not always been uniformly adhered to. The quantum of minimum wage in a particular locality is generally worked out by the tribunals on the basis of independent data and along the above lines. Where such data are not available, the minimum prevailing in the same or similar industry and in the same or neighbouring locality is considered. For instance, in the dispute between the Kanti Cotton Mills Ltd., and their workmen, the Industrial Tribunal referred to the lack of data and fixed minimum wages for the operatives on the basis of the prevailing level of wages in other concerns in the locality. (1952 I LLJ 261) Sometimes, the scale awarded is the same as the one recommended in the very recent awards.

The award of minimum wages for any particular group of workers does not prohibit them from advancing claims for wage increases or employers from granting the same if they so desire. (1953 II LLJ 616)

Wage Differentials

Wage Differentials: While the minimum wage thus fixed corresponds to work put in by the lowest paid unskilled worker, wages for semi-skilled and skilled categories are to be fixed so as to reflect reasonable wage differentials. That such wage differentials should be based, not merely on historical factors and custom, but on the training required, skill, experience, efficiency, responsibility etc., has been generally agreed to. While some adjudicators have merely fixed the minimum basic wage for the least skilled worker and left the determination of wage differentials to negotiations between the employers and the employees, others have broadly classified workers into three categories, unskilled, semi-skilled and skilled and fixed separate rates group-wise. In *McLeod & Co. Ltd., V. Their Workers*, it was decided that work which was more arduous, intricate and varied and required a higher degree of intelligence, alertness and skill was entitled to better scales of pay (1953 II LLJ 544). The tribunals have preferred the system of grades also as providing incentive for workers. Supporting the system the Appellate Tribunal have stated, "this system would provide a good incentive to new hands engaged to improve and acquire greater efficiency in their work." (1953 II LLJ 508) Division of staff into grades should be a long-term arrangement consistent with the nature of work and responsibilities of the employees. (1953 II LLJ 776).

Equal pay for equal work: Equal pay for equal work is recognised. Expressing themselves in favour of equal pay for men and women workers, the Industrial Tribunal, Ernakulam, stated, "Equal wages for equal work is a principle worthy of acceptance and is one accepted by the I.L.O." (1954 I LLJ 859) The principle is not confined to equality between the sexes. In *Burmah Sheel etc., v. Their Employees*, it was ruled that "if any distinction be made between graduate clerks and non-graduate clerks for doing the same job, it may give rise to heart-burning and create industrial unrest." (1954 I LLJ 787)

Fair Wage: In the case of Fair wages also, the Tribunals have been guided by the recommendations of the Fair wages Committee and the award of the Labour Appellate Tribunal in the case of *Buckingham and Carnatic Mills*. That the capacity to pay should be determined with reference to the industry as a whole and not with reference to a particular unit thereof has been upheld in the above case. It was argued on behalf of workers that the mill had the capacity to pay a higher wage as compared to the other concerns and that the Tribunal should decide accordingly. The Tribunal, however, refused to be guided by the paying capacity of an individual concern, stating that this was likely to lead to unfair competition, "placing in the hands of a unit able to pay higher wages, a weapon to drive out its competitor - another unit of the same industry from the field". In subsequent cases also, fair wages have been fixed, taking into consideration the capacity to pay (determined on the industry-cum-region basis) and the wages prevailing in the same or similar concerns in the locality. Thus, in Bihar, generally, the Industrial Tribunals have recommended the same wage rates as those obtaining in concerns such as the *Tata Iron and Steel Co.* The Industrial Tribunal in the dispute between the *Indian Cable Company* and its employees observed as follows: "It is sufficient to say that there is no reason why the *Indian Cable Co.* should pay wages at lower rates than those paid by three important concerns of this town. In the interests of peace, as well as on the ground of equity and justice, I decide that the *Tata's* scales of wages should be adopted..."

Long-term nature of wage settlement: Questions of remuneration are not static and there may be genuine cases for revision. At

the same time

the same time, it has to be remembered that wage arrangements cannot be lightly disturbed. Normally, a basic wage once fixed, should stand for a reasonable period of time unless some substantial change of circumstance intervenes. In the dispute between Andhra Cement Co. Ltd., and their workmen relating to a revision of the incremental grades, the Industrial Tribunal, Vijayawada held that "in view of the settlement between the parties a while back, the time to review the settlement has not yet arisen". (1952 I LLJ 111) Moreover, the increase in wages is recommended only in cases where the concern or the industry has been able to stabilize its paying capacity at a higher point. Revisions in the light of profits made in a particular year are not advocated. (1952 I LLJ 507) The long-term nature of a wage settlement was well brought out by the Appellate Tribunal in Aspinwall & Co. Ltd. v. Their Workers, where they held that once the basic wage is fixed in a manner which does not suggest any unfairness, it should stand for a reasonably long time, irrespective of the fact whether the original fixation was effected through arbitration, conciliation or adjudication. "Even in the case of an ordinary agreement, if it is arrived at, not between the employer, and the industrial workers, but between the employer and a bonafide workers' union, a prima facie presumption should, in our opinion be taken to arise that what was agreed to between the parties was considered fair by them. . . and should not be allowed to be lightly disturbed within a short period of time . . ." (1955 II LLJ 270)

Wage claims for strike periods and lock-outs: Wage claims for strike periods and lock-outs, have been decided by the tribunals on the basis of a uniform principle viz., that the party declaring a strike or a lock-out should not be made to suffer if the strike or lock-out was decided upon on reasonable grounds. In deciding the reasonableness thereof, various considerations like whether the strike or lock-out was legal, justified, occasioned by an unfair labour practice or provoked by the actions of one party or the other and so on have been taken into account. Thus, it was decided in Hanuman Jute Mills v. Their Workers (1953 II LLJ 684) that workers were not entitled to wages during period of lock-out when lock-out was justified. For a decision in favour of workers in the matter of wages for strike period, where strike was considered legal and peaceful, reference may be had to Ambioa Jute Mills v. Their Workers (1954 I LLJ 835) In another case, it was decided by the tribunal that workmen were entitled to full wages for the strike period where the strike was not illegal or unreasonable, though strike demands were negatived subsequently during adjudication (1954 I LLJ 859) In yet another case, workers were awarded half wages for the strike period where the strike was considered "a bit unreasonable".

Basic Wage and Revision of Base Period: basic wages are usually fixed in relation to the cost of living index obtaining in a specified base year. There is no uniformity in the choice of the base year, though the pre-war year of 1939 is predominantly used. It is best to leave existing arrangements in this respect undisturbed for the present till a uniform revision of basic wages is effected on the basis of a more appropriate base year. Thus, in the Burmah Shell Oil Co., case, the Appellate Tribunal rejected a plea for stabilising basic wage for unskilled workers at cost of living index 180 (with 1939 as base) on the ground that such a step would lead to anomalies and consequent industrial unrest when the general wage structure obtaining in Madras was based on the index 1939=100. (1953 II LLJ 237) It is always possible to adjust the dearness allowance to correspond to the

base year in

base year in relation to which basic wages are fixed; after all, it is the total pay packet which matters to the worker. When the benefits of provident fund, state insurance, lay-off, re-trenchment relief etc., are calculated on the total emoluments, viz., basic wage plus dearness allowance, and it has become a settled principle to calculate bonus only on basic wage, the tribunals feel that consolidation of dearness allowance with basic wage can have no practical advantage.....on the other hand, it would upset the established differentials and would create unnecessary ferment all over India for re-fixation of wages which would be without any real merit or justification. ..." (1955 LAC 99-102)

Dearness Allowance

With the system as it is, any rise in the cost of living beyond the base period level has to be compensated for by dearness allowance. It has thus been ruled that rise in the cost of living index is a subject more appropriate to the question of dearness allowance and cannot be a ground for a wage revision. (1952 LAC 56).

Dearness allowance is usually fixed either unrelated to cost of living index or linked to the cost of living index. Between these two methods, there are more variations. Where the dearness allowance is not related to the index, it can be either a flat rate for all income groups or a slab rate system where the amount of the allowance varies according to income groups. Similarly, where the allowance is linked to the cost of living index, it could be either (a) a flat rate irrespective of income groups, (b) on a scale graded according to income groups or (c) at rates diminishing as the index rises. It is difficult to say which of these systems has been advocated more frequently by the adjudicators over the past 3 years. The general policy has been not to disturb the prevailing system except in exceptional cases. The pros and cons of the different systems have been discussed in detail in literature on wages and we are not repeating them in this brief analysis. A study of the awards, however, shows that adjudicators and tribunals have laid down a particular system in preference to others after taking into consideration various factors such as the extent of neutralisation aimed at, the capacity of the industry or a concern to bear the financial burden, the practice obtaining in similar concerns in the locality, the past practice in the concern itself, the feasibility of linking the allowance to a cost of living index number etc. In some cases, the adjudicators have had to recommend a flat rate out of necessity due to absence or unreliability of cost of living index numbers. The choice of method would thus appear to be dictated by individual circumstances. Generally speaking, it would appear that a flat rate unrelated to cost of living is more suited to small concerns, and a rate linked to cost of living index to larger concerns. Thus, in Madras, *Press Labour Unions, v. Artisan Press Ltd.*, Madras, the Appellate Tribunal declared, "As observed by the Rao Court of Enquiry, simplicity and uniformity dictate a single rate for all. Taking into consideration the past practice obtaining in this concern as well as in many of the small-scale industries in West Bengal as well as some other States, we think that the tribunal has taken a correct view in maintaining the flat rate of dearness allowance". (1953 II LLJ 508). On the other hand, in the Indian *Oxygen and Acetylene Co. Ltd., v. Their Workmen*, it was pointed out that there had been several awards against engineering companies in Bombay in which dearness allowance had been linked directly to the cost of living index number and concluded that it was a more scientific system. (1953 II LLJ 711)

The two main

The two main considerations which have been recognised as governing the quantum of dearness allowance are the capacity of the concern to pay and the extent of rise in cost of living. (1953 II LLJ 845) Unlike in the case of minimum wages, rigid payment of dearness allowance to allow for complete neutralisation is not imposed irrespective of capacity to pay. Thus, in *Brahmachari Research Institute v. Their Workers*, the tribunal felt, "This is no doubt inadequate in the present times. But, considering the bad financial plight in which the company has landed itself, I cannot entertain any claim for the increase. . . ." (1954 II LLJ 224) For the same reason, the Bombay Industrial Court in its award relating to the Bombay Municipality rejected the claim of the employees to be paid dearness allowance on the cotton textile scale. The argument was that the "municipality was a body in which the profit-making motive was absent and its capacity to pay was limited. Such instances can be multiplied. On the other hand, it has to be remembered that the concept of an irreducible minimum wage will lose all meaning if, after its fixation, any rise in the cost of living is not neutralised at least to a reasonable extent. This was perhaps why, in the *National Tile Works, Feroke v. Their Workmen*, the Appellate Tribunal held, "In this concern the minimum basic wage is too low and hence it has necessarily to be supplemented by dearness allowance with a view to make a near approach to the subsistence level. It is true that the financial position of the concern has to be taken into consideration when fixing the dearness allowance, but not so that the dearness allowance falls below a certain level."

Extent of Neutralisation: Complete neutralisation of the rise in the cost of living is not generally favoured by the tribunals. On the one hand, such neutralisation is stated to yield figures which are not realistic and which have to be toned down to make them realistic. The Nagpur Textile Enquiry Committee have observed: "dearness allowance need not necessarily be such as to neutralise completely the whole of the rise in the cost of living . . . owing to roughly 25 per cent of total expenses being of the nature of a fixed charge, the scale of dearness allowance which we are recommending would . . . effectively compensate for practically the whole of the rise in that portion of the expenditure which is susceptible to short period changes in the cost of living." A rigid line cannot be taken on this view since the market basket of the worker itself changes over a period. On the other hand, a view has been expressed that the worker must share with his fellow citizens the burden of the increased cost of living. This view is reflected in the *Nellimarla Jute Mills* case where the Appellate Tribunal stated, "We think that the rate fixed by the tribunal is reasonable, for it still leaves about 34 per cent burden of the higher cost of living on the workmen." (1953 II LLJ 515) Moreover, a cent per cent neutralisation, it is feared, will lead to an inflationary spiral. This view was expressed by the Appellate Tribunal in the *Buckingham Mills* case (1951 II LLJ 314) and the *Burmah Shell* case (1951 II LLJ 360) The principle has been followed in subsequent awards by tribunals. There is however no specific percentage which is considered appropriate to all cases. Even the Rege Committee which recommended a 50% neutralisation pointed out that where there was capacity to pay more, the minimum might be exceeded and it was for the tribunal to fix the rate.

The extent of neutralisation is fixed by the tribunals after taking into consideration various factors. Each individual case is decided on its own merits. As stated by the Appellate Tribunal (1952 II LLJ 6151) "dearness allowance has

to be fixed

to be fixed taking into consideration, the total emoluments of the workers; that in concerns paying a low basic wage a high dearness allowance may be necessary and in concerns paying a high wage necessary adjustments may have to be made to dearness allowance; that in considering the total emoluments, the value of amenities like free quarter, water and light will also have to be considered". Sometimes, the tribunals adopt a known scale in a concern or industry located in the same area and having comparable capacity to pay. It does not matter if the industry thus chosen is different from the one where the dearness allowance has to be fixed, since the considerations governing dearness allowance have nothing to do with the nature of industry. "There is nothing wrong in the dearness allowance of a cement concern being linked to the Ahmedabad textile scale, for in Bombay itself, engineering concerns have their dearness allowance fixed in proportion to the Bombay textile scale". (1953 II LLJ 847).

Subject to these principles, a stable policy is adopted and quick revisions of dearness allowance and adjustments to minor fluctuations in the cost of living in the cases where the system is not automatic are discouraged. In the Anpur Omnibus Service case, the Appellate Tribunal observed, "The cost of living is subject to occasional variations of a minor character and fluctuations at intervals and in our opinion the period of 18 months is not long enough to justify the question being re-agitated". This principle has found application in subsequent tribunal awards also.

Bonus

Until quite recently, whenever the workers made demand for the payment of a bonus, the primary objection raised by the employers was that bonus was an ex-gratia payment dependent on their good will and could not be the subject matter of adjudication proceedings. In some of the disputes, the adjudicators took a juristic view of the demand for bonus and held that the demand of the workers could be sustained only if it was proved that there was an explicit or implied contract between the parties. Such a juristic view, however, has not been taken by a majority of the adjudicators. In the Lahore Electric Supply Co. case, Mr. W. Cowley remarked, regarding bonus, "It is quite obviously not a legal right which can be enforced in a court of law . . . On the other hand, there is equally no doubt that the advancement of economic thought and industrial relations had led to a state of affairs where the workers' claim for a share in the profits of industry may be legitimate and may have a certain moral and economic right." These initial doubts regarding the character of bonus payment have, over a period of time, given place to a settled set of principles determining its nature. As a result, bonus is no longer regarded as an ex-gratia payment or a deferred wage or a share in profits. A claim for bonus is now regarded as "a claim of right against an employer to enable the workers to make good at least to some extent the gap which is always found to exist between the wages being actually paid by the employer and a living wage..." (1956 II LLJ 724) Bonus partakes of the nature of wage payment by virtue of its being payment for work done. As stated by the Saurashtra High Court, "... the original ex-gratia nature of the payment of bonus has ... come to mean a part of the legitimate remuneration". (1954 II LLJ 434) All the same, as pointed out by the Supreme Court, bonus is not a deferred wage, "because if it were so, it would necessarily rank for precedence before dividends". (1955 LAC 6) Again, bonus cannot be equated to profit-sharing, since it has been ruled that it must bear some relation to wages. "It is an

attempt to

attempt to shorten the gap between the living wage and the actual wage paid to the workmen. It must bear some relation to wages..." (1956 I LLJ 154).

Thus, bonus has now come to be considered a sort of additional income for workers. Though unpredictable in the size and timing of its payment, it often forms a sizeable proportion of the worker's total annual remuneration, and is eagerly awaited by workers. Bonus disputes have predominated in the last few years among industrial disputes; this, in spite of the fact that principles governing the determination and payment of bonus are now fairly well-settled. Under the circumstances, the disputes mostly center round the detailed application of these principles to each individual case.

According to the Supreme Court of India, demand for bonus can be justified" (1) when wages fall short of the living standards and (2) the industry makes huge profits part of which are due to the contribution which the workmen make in increasing production. The demand for bonus becomes an industrial claim when either or both these conditions are satisfied." (1955 LAC 5) The term 'huge profits' in the Supreme Court decision has been interpreted by the Appellate Tribunal to mean 'prosperity of the concern'. They have further explained, "it is not unreasonable to assume that all that the Supreme Court meant was that workmen, in order to entitle themselves to bonus, should contribute to earning profit by helping production."

The 'Available Surplus' Formula: Subject to these conditions, "bonus can only be claimed by the workers with reference to the trading result of the industry concerned for the period of the claim." (1953 II LLJ 451) The quantum of bonus payable is now determined on the basis of what has come to be known as the "available surplus" formula, laid down by the Appellate Tribunal in the Full Bench case of the Millowners' Association. (1952 II LLJ 124) By this formula, the available surplus is determined after allowing for all prior charges viz., (a) depreciation according to income tax rates, (b) income-tax (c) fair return on capital, (d) fair return on reserves utilized as working capital, (e) any additional amount required in excess of the depreciation for the purpose of rehabilitation, replacement and modernization of machinery. (1955 II LLJ 436) While this formula does provide for some elasticity in matters like return on capital so as to allow for differences in industries and concerns, as to certain other charges like normal statutory depreciation, it is so stated as not to be susceptible of deviations. By the various tribunal decisions, the onus for proving that there is an available surplus is now squarely laid on the workers. (1953 II LLJ 859) On the other hand, the employers have to prove to the satisfaction of the tribunals the prior charges claimed by them, by appropriate evidence. (1955 II LLJ 152)

According to the available surplus formula, after the residuary surplus is determined, "the quantum of bonus must depend upon the relative prosperity of the concern during the year under review, the needs of labour at existing wages employees' efforts; and even when we have mentioned all these considerations, we must not be deemed to have exhausted the subject. Our approach to this problem is motivated by the requirement that we should ensure and achieve industrial peace. This can be achieved by having a contented labour force..... and an investing public who would be attracted to the industry by a steady and progressive return on capital". In the dispute between Burmah Shell etc., Bombay and their workmen (1953 II LLJ 246), it was argued by the Appellate Tribunal that "Bonus must

have some

have some relation to wages and not to double or multiply it, for wages are not fixed solely on the capacity of the concern to pay. Care must also be taken to see that the bonus which is given is not so excessive that it creates fresh problems in the vicinities, that it upsets emoluments all round or that it creates industrial discontent and the possible emergence of a privileged class". The same tribunal had observed earlier in the case of Firestone Tyre and Rubber Co. (decision dated 15/7/1952 in Appeals (Bombay) No. 324 & 33 of 1951) that "where as in this concern, the available surplus is inevitably large, there is always force in the contention that the bonus should be substantial although it must necessarily fall short of the stage where it may tend to become profit sharing". Though the quantum of bonus itself is calculated on the surplus available, the Labour Appellate Tribunal have not so far set down what proportion the bonus will bear to the available surplus. As the Fifth Industrial Tribunal, West Bengal pointed out, this has probably been "advisedly done, because no hard and fast rule can be formulated for this. It will depend on the company's financial position and also the future prospects". (1953 I LLJ 635) Moreover, in firms like Burmah Shell, Caltex and other oil distributing companies the available surplus is usually very large and if bonus is to be declared on the basis of a fixed percentage of the available surplus, workers in these companies might receive a staggeringly large amount out of all proportion to their wages and also to the total earnings of similar workers elsewhere.

In practice, bonus is usually awarded as a multiple of the monthly basic wage or as a percentage of the total annual earnings. It is not possible to generalise and specify any typical or average level of bonus, because the number of months for which bonus is awarded varies in each individual case and depends upon the particulars affecting each case. It may, however, be stated that even in cases of exceptionally large bonus, the amount paid does not normally exceed six month's basic wages.

The tribunals have felt that the nature of business and the part played by labour in earning of profit must be taken into account in awarding bonus. Thus, where the business of a concern mainly consisted of import on indent basis of machineries for sale, the efforts of the employees in a small workshop maintained for replacing and repairing parts, in the earning of profits of the concern- were considered to be comparatively small. The tribunal, therefore, considered it not proper to grant more than roughly half the available surplus. (1955 II LLJ 238) In *Burmah-Shell etc. v. Their Workers*, it was decided, "The persons who by the sweat of their brow helped to produce the articles of use would naturally be entitled to greater consideration in the matter of bonus, than, say, a workman who spasmodically operates a petrol pump; such distinctions must not be carried too far, but they are nevertheless factors which would rightly influence a tribunal in coming to a proper decision as to the quantum of bonus". Thus, while the lower limit to Bonus is set by the surplus available, the maximum to be distributed is to be determined on the basis of other considerations.

Considerations other than these implied in the "available surplus" formula are considered irrelevant to the determination of the quantum of bonus. Reserve fund, if any, built from undistributed profits of past years should not be taken into consideration nor the fact that in past years concern paid bonus despite loss (1955 II LLJ 25) In *Muir Mills Co. Ltd. V. Its*

Workmen, it was

Workmen, it was held that payment of bonus by other concerns in the same place engaged in similar business could not be considered to be a criterion to direct the company to pay bonus to its workmen in the absence of available surplus during the year in question (1955 II LLJ 29). To quote yet another instance, in *Nellimarla Jute Mills Co. Ltd.* case, it was pointed out that lack of practice in jute industry to pay bonus or historical cycles necessitating provision for uncertain future in jute industry were irrelevant to determine bonus payment (1953 I LLJ 665). Ideas of social justice have been ruled as out of place, particularly when the Appellate Tribunal have themselves incorporated in their Full Bench formula the principles of social justice within appropriate limits. At a subsequent date, when the Appellate Tribunal themselves tried to import considerations of social justice in *Muir Mills Ltd.* case, the Supreme Court ruled on an appeal made to it, "Social justice is a very vague and indeterminate expression and no clear-cut definition can be laid down which will cover all the situations ... the concept of social justice does not emanate from the fanciful notions of any particular adjudicator, but must be founded on a more solid foundation". (1955 LAC 7)

The question of eligibility to claim bonus has sometimes been raised before the tribunals. It was decided in *Burmah Shell v. Their Workmen* (1953 II LLJ 246) that it was wrong to say that no bonus was payable just because workmen of a concern do not actually manufacture or produce goods. In clarifying the point that bonus must not be altogether unrelated to effort, it was stated by the Appellate Tribunal that clerks or labourers in the oil companies were not excluded by the Full Bench formula. "Workmen who help to market the oil...thus contribute to 'production' according to the concept of economists... and so they are clearly entitled to bonus." (1953 II LLJ 249) In another case, it was decided that management was under no obligation to distribute the amount set apart for bonus only to those who were "workmen" within the meaning of the Industrial Disputes Act. Both workmen and supervisory staff contributed jointly in raising profits and it was only fair that supervisory staff were also given some share in bonus. (*Bharat Homeo Pharmacy, Lucknow v. Its Workmen*)

It is now a settled principle that "workmen are entitled to a share of the profits only if they had a hand in earning those profits". (1953 II LLJ 523) Profits which the company earned unconnected with efforts of labour are termed "extraneous" profits and are excluded from the overall profits for determining the available surplus. Thus, in the *Shalimar Rope Works* case, it was decided that the company's profits had been increased by a fortuitous circumstance of a quite exceptional character and so a good portion of the surplus had no connection with the productivity of labour. On the facts of the case, the rise in price of raw materials was due to the onset of the Korean War. (1956 II LLJ 372 - 374) A similar view was taken in the *Nellimarla Jute Mills* case (1953 II LLJ 518) In another case, the Appellate Tribunal decided that the amount earned as interest on the investment was unrelated to the employees' efforts, and as such the workmen could not claim any share of these items. (1953 II LLJ 523)

While workers have put forward claims for inclusion of certain items on the income side of the balance sheet and exclusion of certain items from the expenditure side so as to swell the surplus, employers have advanced counter-claims in the opposite direction. The disputes have centered both round the items to be included or excluded and their magnitude.

Questions like

Questions like the rate of interest to be allowed on certain items, whether the assets and liabilities at the end of the year should be valued at cost price or market price, at wholesale or retail price - have all been argued before the tribunals. For instance, in the Muir Mills case, the tribunal declared that the bonuses for previous years remaining unpaid could not be debited to trading account of year in question; similarly arrears of personal wages for previous years could not be debited; expenditure in suits between rival claimants to management was not business expenditure and must be excluded from expenditure side for determining profit.

Bonus is paid to workers who contribute towards profits in a particular year and out of those profits. Thus, while entertaining a claim for bonus, the adjudicators concern themselves with the accounts of the company for the current year only.

It may be argued that the practice of deciding bonus on the basis of only the current years' accounts is rather unfair to workers. It may be stated that the workers cannot obviously share losses and that extraordinary profits in any year should be partially adjusted towards making up deficiencies in other years by creating something like a "loss reserve".

An arrangement of this kind has been incorporated in the agreement concluded on 27-6-1955 between the Ahmedabad Millowners' Association and the Textile Labour Association whereby the workers have been assured a minimum bonus to be extent of 4.8 % (or 15 days) of their annual basic income for 5 years, irrespective of profits and losses. This has been made possible by providing for "set-off" according to which the mills which had to pay bonus to workers in spite of incurring losses would be compensated in any future year when they make profits. This provision envisages a ceiling of 25 % (3 months) for the bonus payable in any one year by the mills which would otherwise have to pay more than 3 months' wages as bonus to their workers according to the Appellate Tribunal formula. As far as the tribunals are concerned, however, the profits or losses incurred in past years are not adjusted to nor any notice taken of the anticipated favourable or unfavourable turn in the financial position of the company.

In one instance, however, where the company had its own fund for "payment of bonus during years when there are no adequate profits" and the company contended that the fund was not maintained for paying bonus during the years in which heavy losses were made, the tribunal decided in favour of workers. "In this particular case as I am of opinion that by payment of bonus from the fund especially set apart for the purpose, the financial resources of the company are not likely to be affected to a large extent, some amount should be paid as bonus to the workers." (1951 I LLJ 64) But, the tribunals themselves have never advocated the creation of any such fund and have stuck to the practice of calculating the 'available surplus' for each year separately. Thus, in the Nizam Sugar Factory case, the Appellate Tribunal ruled that the lower tribunal was in error in taking into account a sum of Rs. 3.93 lakhs from the previous year's profits while calculating bonus for 1949-50. (1952 II LLJ 386) In the case of Genesh Flour Mills, it was argued by the Management before the Appellate Tribunal that the profits of the Company were likely to go down if ACT XXXII of 1950 which authorised the coloration of vegetable ghee were brought into force. Rejecting the argument, the Tribunal observed, "we may

at once say that the last mentioned contention does not appeal to us, for in considering the question of bonuses for 1948-49, we have to proceed upon the profits of that year. Whether the profit in future years is likely to be less or not is not relevant to the enquiry." (1952 I LLJ 524).

Since bonus is paid to workers out of profits to which they contributed by their labour, in *Government Porcelain Factory, Bangalore v. Their Workers*, where bonus for 1950-51 had been granted by the company, the decision was made that bonus must be paid to the 14 employees who had been in service in 1950-51, but had been dismissed subsequently and were not on the company's pay-roll at the time of bonus sanction. In another case, bonus was ordered to be paid to employees who had been dismissed for misconduct, because it was stated that bonus was payment for work done. In yet another case, workers who were in service for only a portion of the year were held to be eligible to get proportionate bonus, except those who had been dismissed for misconduct involving financial loss to the company. (1953 II LLJ 237) Bonus being an amount payable from profit of the year for which it is claimed, it is now almost a settled rule that demand for past years' bonus should be rejected where accounts for these years are settled and such accounts, it has been held, should not be reopened unless valid reasons are adduced to do so. (1953 I LLJ 708; 1954 I LLJ 21)

The rate of bonus is almost always linked to basic wages and not to total earnings. This is to maintain wage differentials. As stated by the Appellate Tribunal in the *Burmah Shell* case, "It has been the general practice to divide the available surplus given as bonus in terms of basic wages and that practice should not be disturbed....Further the idea of dearness allowance being added to basic wage for bonus would disturb the balance of wage differentials. The wage differentials represent as between the workmen 'per se' a more correct measure of the value of the work that they do for the purpose of distributing bonus and the wiser method of distributing the 'available surplus' is to apply multiples based on wage differentials, in other words on basic wages. A uniform principle of bonus in terms of basic wages would avoid many an anomaly and this should be the practice". (1953 II LLJ 246) Again, discussing this point in *Shangrila Food Products and their workmen*, the Industrial Tribunal in the following terms. "It is not right to deprive skilled labour of higher bonus on the basis of basic wages as dearness allowance is fairly the same for all workers; that the Appellate Tribunal has consistently refused to allow bonus on the basis of dearness allowance as well". (1952 II LLJ 382) Exceptions are, however, occasionally permitted where circumstances justify. For instance, where basic wages and dearness allowance paid by the company were not properly determined on principles, the demand for bonus in terms of consolidated wages must be held to be justified. (1954 II LLJ 390) Again, this practice may be followed when the basic wages are unduly low and dearness allowance is comparatively high, the total being considered to meet the ordinary requirements of the workmen, on the ground that what was being paid under the denomination of basic wages was a misnomer and a good part of the dearness allowance paid should be taken in essence to be part of what ought to have been basic wages". (Appellate Tribunal in *Stanvac*. case 1954 I LLJ 488).

Certain types of concerns have sought to escape the payment of bonus under special reasons. When the *Bombay Electric Supply and Tramways Co., Ltd.*, was taken over by the *Bombay*

Municipality, the. . . .

Municipality, the workers claimed that they used to get two months' basic salary as bonus every year and they were entitled to such payment even after the take over. The Industrial Court, Bombay, however, held that as a consequence of the municipalisation of the undertaking, what might have been a legitimate claim on the part of the workers against the company which was run with a profit making idea was no longer so. The balance of the earnings derived from the working of the undertaking could now be more properly styled as a surplus and not as a profit. The comparison was made that in the case of Government railways, the surplus is transferred to the General Revenue. A different view has been expressed regarding a private non-profit-making concern. In *McLeod & Co., Ltd., (Secretaries, Tea Districts Labour Association) v. Their Workers*, the Tribunal took the view that the fact that the employers were not a profit-earning concern could not stand in the way of bonus being granted to its employees. They might have only an income and expenditure account and not a profit and loss account; nevertheless, the excess of income over expenditure in the year in question was virtually the profit earned by the association and out of which bonus could be paid. Even in the case of Electric Supply concerns which are governed by the Electricity supply act which seeks to limit profits in the interests of the consumer, it has been ruled that there is possibility of having funds which without breach of provisions of the Electricity Supply Act (LIV of 1948) can be distributed as bonus on the lines of the available surplus formula and that the Act does not absolutely tie down the hands of the licensee in paying bonus.

Since the payment of bonus is related to the workmen's effort in relation to the profits earned the question has been posed on various occasions as to how bonus is to be distributed in the case of a parent company having various undertakings run at various branches. On this question, "the decided cases fall under two broad and distinct heads (A) and (B) as stated below:

(A) Those relating to companies which have branches in different parts of the country and where the nature of the business is the same in the head office and the branches. If they do business as a single undertaking and maintain a common profit and loss account and the head office directs the policy to be followed by the branches in respect of sales, purchases, capital expenditure etc., the profit or loss of the entire concern and not of a particular unit would determine the quantum of bonus to be awarded: vide.... But where a company had several branches, one of which was at Lucknow and all did the same business, but separate accounts were kept at the Lucknow branch as regards capital and profit and loss, as if it were an independent unit, it was held in *Pipe Mill Mazdoor Union, Lucknow v. Indian Humes Pipe Co.* (1951 I LLJ 379) that the Lucknow branch must be regarded as a separate entity.

(B) Where there is a parent concern, but its undertakings at its various branches or factories are different then ordinarily each undertaking must be taken as a separate unit for determining the quantum of bonus, unless the profits of all the companies are pooled together and there is nexus of integration to make the unit an integral part of another unit of the same concern..... Nexus of integration has been explained as being 'some essential dependence of the one on the other or some unity of purpose or design or some parallel or coordinate activity towards a common end without which the business of the one or the other could not be carried on to proper advantages. (1956 II LLJ 136 & 137) An extreme example of this kind of situation arose when

employees of the

employees of the British India Steam Navigation Co., Ltd., demanded bonus on the basis of the company's world profits. Giving its decision, the Appellate Tribunal observed, "It is a long call from the claim of some 270 tally clerks in Bombay to the world profits of this global organization operating from England; it would be more realistic to discover the figure on an all-India Basis or on a larger regional area and discover the available surplus from such figures; and only if that could be done, then it would be permissible to take as a basis of calculation..." the world profits. (1956 II LLJ 175).

Bonus is a payment which has to be made to a group of workers as a whole. "...profits are due to the cooperative effort of all employees and arise only from year to year and have been contributed to by the employees in that year". (1954 I LLJ 874) "The quantum of bonus cannot be fixed on individual basis or according to the responsibilities and work done by each employee... to grant bonus to one section at a higher rate and to the other at a lower rate would be the reversal of social justice". In Cawnpore Chemical Works Ltd., v. Their Workmen, the Adjudicator, Kenpur stated that if certain employees in an establishment had to do extra work, they could be paid for that extra work in the form of extra allowances, but not in the form of additional bonus. (1952 II LLJ 79) Discrimination in the payment of bonus has been condemned by the Tribunals. In the Minakshi Mills Ltd., etc. v. Their Workmen where the company had paid three months' basic wages as bonus to one section of the workmen i.e., clerical staff and strongly opposed the giving of bonus to the non-clerical staff, the Appellate Tribunal observed that such "invidious distinction will have serious repercussions on the harmonious relations between the management and the labour and may affect the industrial peace." (1953 II LLJ 522) In another case, where the issue of Puja Bonus was involved, it was ruled that "no case has been made out for any discriminatory treatment between the employees in the Calcutta Office and those of the mofussil offices in the matter of bonus (1953 II LLJ 547)

All doubts regarding claim of workmen to be paid bonus out of dividend equalization fund have now been set at rest. The Appellate Tribunal observed in the Indian Vegetable Products Ltd. case that it would be contrary to the Full Bench decision if workmen should get the like amount as the shareholders when they are paid dividends out of funds which have been built up over the years to provide for payment of dividends in lean years and ear-marked for a particular purpose. In the Muir Mills case, the Supreme Court have finally ruled that "linking of bonus to dividend would obviously create difficulties. Because if that theory was accepted a company would not declare any dividends but accumulate the profits, build up reserves and distribute those profits in the shape of bonus shares or reduce the capital in which event the workers would not be entitled to claim anything as and by way of bonus." (1955 LAC 6) Similarly, claims of workers to reserve funds transferred to profit and loss account have also been ruled out. "To admit the claim for bonus out of the reserves transferred to the profit and loss account would tantamount to allowing a second bonus on the same profits in respect of which the workers had already received their full bonus in the previous year. The labour force which earns the profits of a particular year by collaborating with the employers is distinct from the one which contributed to the profits of the previous years and there is no continuity between the labour forces which are employed in the individual concern during the several years. The ratio which applies in the case of the shareholders who acquire the right, title and interest of their predecessors-in-interest does not apply to the labour force..." (1955 LAC 7)

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Since the available surplus formula is now the only recognised method of determining the quantum of bonus for any particular year, it has been ruled that acceptance by workmen of any bonus offered by a company ex gratia does not bar their claim for additional bonus for that year. Advancing the reasons for such a decision, the Sixth Industrial Tribunal, West Bengal stated, "It has been recognised that the workmen are not in a position to bargain with their employers on a footing of equality and very little choice is left to them, when the prospect of immediate payment of bonus is held out to the workmen and they are told that if they do not accept in full satisfaction what is offered they would get nothing until the question is determined by an adjudicator". (1954 I LLJ 363)

Restrictions on the payment of declared bonus have been held to be unjustified by Appellate Tribunal since a claim for bonus is itself a claim made by workers to make good, at least to some extent, the gap between the actual wages paid to them and the living wage. Under such a circumstance, "it is difficult to see how the industrial tribunal can force the workers to defer the enforcement of such a claim or even a substantial portion thereof..." (1956 II LLJ 724). Thus, when in the Lever Brothers case an appeal was filed against the Bombay industrial tribunal award under which 1/3 of the declared bonus was ordered to be invested in securities to be realised and amount paid to workers at a later date, the Labour Appellate Tribunal ruled against such deferred payment. After expressing its surprise at the deferment of bonus payment for a period of nearly 4 years, the Tribunal said, "we find that a similar condition, for what was considered by the lower tribunals to be for the ultimate benefit of the workers, was incorporated in another award by ordering a portion of the bonus to be credited to the provident fund account of the workers. This tribunal held such condition to be unjustified and it was ordered to be deleted from the award in the Burmah-Shell and other Oil Companies case. (1954 I LLJ 21-25)". (1955 II LLJ)

Some disputes have arisen out of regular past practice of concerns paying bonus without any reference to the trading results of the concern. In one such case (Martin Burns Ltd. v. Their workers), it was held by the tribunal that since the company has been paying two months' basic wages as bonus to all workers irrespective of trading results for over ten years, it must be held that payment of bonus had come to be an implied term of contract of service. It was decided that in such a case bonus so payable must be considered as wage within the meaning of sec. 2 (6) of Payment of Wages Act. Thus, a claim for bonus can also be based on an agreement to pay it irrespective of profits, as a condition of service. That agreement may be either express or implied; and where not express past practice may lead to an inference of implied agreement. The practice must, however, be unbroken and should have continued for an appreciably long period to exclude the hypothesis of these payments being "ex gratia" or out of bounty. In such cases the principle laid down by the Supreme Court in Muir Mills case will not apply. That principle is confined to cases of profit bonus and does not apply to cases of customary or contractual bonus. In the latter case, "the liability depends exclusively on the express or the implied contract...." (1955 II LLJ 678)

Production Bonus: The nature of Production Bonus was discussed by the Appellate Tribunal in case of Metal Box Co. of India (1952 I LLJ 822). The Tribunal observed, "there is a wide difference between production bonus and the bonus which the workers are entitled to claim at the end of the year. A

production bonus

production bonus is a definite increase of emoluments according to a fixed scale and any workman producing more than the fixed minimum automatically gets such a bonus. The bonus which the workmen claim at the end of a year is an indeterminate quantity which is dependent on whether the concern has any available surplus of profits in the year and it has nothing to do with production as such.

"A production bonus is a healthy scheme for providing an incentive to greater effort, resulting not only in higher emoluments for the workmen, but also in their livelier appreciation of the dignity of labour. We are not aware of any case where the grant of suitable production bonus has not resulted in the improvement of relations between employers and workmen".

Bonus has generally been paid unitwise except in case of established industries where the conditions of employment and prices are all standardised. In their case, bonus has sometimes been paid industry-wise. Thus in case of sugar mills in Uttar Pradesh, Bonus was paid industry-wise by the Labour Appellate Tribunal (1952 I LLJ 615). Bonus was paid industry-wise by the Full Bench of the Appellate to Tribunal in Mill-owners Association case. (1950 II LLJ 1247) The Tribunal, in this case, however, exempted the units which had incurred losses from payment.

Bonus and Incremental Scale: While as a step gap measure bonus serves as a useful tool to bridge the gap between actual wages and living wages to the extent possible, it has been well recognised that it is only a stop gap measure and that a regular incremental scale of wages corresponding more nearly to the living standard should be the normal long-term arrangement. The justification for incremental scales of wages was put forward by the Industrial Tribunal, Visakhapatnam in the following terms in *Tungabhadra Industries Ltd. v. Their Workers*. (1956 I LLJ 61). One reason why incremental scales should be preferred is that bonus is only an interim arrangement. The second reason is that with the passing of time, efficiency of the workmen increases and along with it their productivity may also increase and thus counter-balance the burden of the increasing wage bill; except perhaps in the case of unskilled labour, for whom incremental scales, however, the industry should be in a position to bear the burden at present and the increasing burden in future. Not only the current financial ability, but also the financial stability of the concern must be firmly established before such scales can be fixed. Thinking almost on the same lines, the Appellate Tribunal expressed its dissatisfaction with short-term expedients such as bonus. "Firstly, the element of certainty year after year is wanting. Secondly even if bonus is given, the rate would vary from year to year according to the variable prosperity of the concern and lastly, unhealthy atmosphere is generally created leading to perennial disputes over the question of bonus and consequent disturbance of industrial peace and harmony which is so much desirable." While expressing the opinion that increase in wages and/or granting of incremental time-scales both for time-rated and piece rated workmen was therefore desirable, they stated that other weighty considerations must not, however, be lost sight of (1954 I LLJ 654).

Retirement Benefits

Principles arising out of the awards of tribunals in the matter of retirement benefits were summarised by the Appellate Tribunal in *Indian Oxygen and Acetylene Co. Ltd., v. Their Employees' Union* (1956 I LLJ 436). "It is now well settled by

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a series of decisions of this Tribunal that where an employer company has the financial capacity, the workmen would be entitled to the benefit of gratuity in addition to the benefit of a provident fund...In considering the financial capacity of the concern what has to be seen is the general financial stability of the concern...the factors to be considered before framing a scheme of gratuity are the broad aspects of the financial condition of the company, its profit-earning capacity, the profits earned in the past, its reserves and the possibility of replenishing the reserves, the claim of capital put having regard to the risk involved, in short, the financial stability of the concern. In the Kannan Devan Hills Produce Co., Ltd., case, the Tribunal were of the view that in the absence of a scheme for pension, employees of industries having a future before them should have the benefit of the gratuity scheme even if such industries had a provident fund scheme. On the other hand, in *Burmah Shell etc. v. Their Workmen*, (1953 LLJ II 237), the *Standrad Vacuum Oil Co.*, was directed by the Appellate Tribunal to replace the pension and death benefit scheme started by them in October 47 by a provident fund scheme from 18th July 1953 on the pattern of the Caltex Scheme. Gratuity is a long-term arrangement and gratuity schemes must not be changed with every rise and fall in the fortunes of the employer (1954 I LLJ 62). The tribunals, aware of this fact, have been careful to reject appeals for retirement benefit schemes, wherever the financial position of the concerns justified such rejection. Thus, in *Bruntion & Co., Ltd., v. Their Workers*, a scheme for gratuity in addition to a scheme for provident fund was rejected on the plea of financial position. At the same time, the tribunal awarded a scheme for a limited period of seven years for workers who would not be substantially benefited by the provident fund scheme. Again, in *Madras Pross Labour Union, Madras and Artisan Press Ltd., Madras*, it was held that claim for institution of a provident fund scheme within a year of the concern's incorporation was premature.

General Considerations

There are certain important general considerations arising out of the study of wage disputes in recent years. As was already stated, disputes regarding bonus predominated even among the wage disputes and the points of dispute in such cases were mostly on the details of application of the available surplus formula to individual cases. It is obviously not possible to evolve a rigid arithmetical formula which will be uniformly applicable to all cases of bonus payment, since such payment by its very nature depends upon the individual profits of each particular concern year by year. Till incremental wage scales fairly near the living standard can be fixed for wage earners, bonus payment is inevitable, but that does not mean that there is no scope for reducing the number of wage disputes. A greater appreciation on the part of employers of the just principles involved in the available surplus formula and on the part of workers of the undesirability of making unreasonable claims should go a long way towards reducing the scope for disputes regarding bonus. A similar appreciation on the part of employers and workers of the just principles evolved by the tribunals regarding minimum wages, dearness allowance etc., can reduce the incidence of other wage disputes also. While annual bonus can be a source of recurrent disputes in the absence of a proper perspective on the part of employers or workers or both, it is now fairly well settled by a series of decisions of the tribunals that settlements regarding wages etc., are to be definitely treated as long-term arrangements not to be disturbed without sufficient case within short

periods. The

periods. The tribunals themselves have sought to draw a distinction between decisions which lay down a permanent scheme or decide a principle and those the effect of which exhaust themselves with a single compliance. Thus, to illustrate the point, decisions settling the schemes of provident fund and gratuity, standardization of wages, fixation of scales, etc., would come under the former category while decisions about annual bonus, retrenchment, reinstatement etc., would fall in the latter... Even if it be legally permissible it would be highly undesirable to disturb at short intervals a scheme once settled as it could not be conducive to industrial peace and tranquility". (1954 I LLJ 377)

It is necessary that this last point is sufficiently appreciated by both parties; for, in the absence of such appreciation, it is only too likely that either may begin to take lightly a resort to industrial courts in furtherance of just or unjust claims. In point of fact, there appears to be a tendency on the part of both employers and workers to stake their claims very high when a dispute is taken to the industrial tribunal in the hope of getting allowed at least a part of such claims; though it is difficult to prove this point without a mere detailed study. It may be only stated here that such bargaining based on a lack of understanding of each other's just needs, leads to avoidable disputes. The tribunals can discourage such bargaining by not awarding token advantages to either party outside well-recognised principles and making all settlement as far as possible, fairly long-term. The tribunals have themselves recognised this need as can be seen from *Tata Oil Co. v. Their Workmen*. In commending the grant of a higher dearness allowance for a satisfactory neutralizing of the cost of living, wherever the facts justified such increase, the Appellate Tribunal observed that "the grant of little token advances without any justification is unfortunate in the interests of industrial relations. Giving for the sake of giving in effect amounts to this that whenever a case is referred to adjudication, reasons must be found to give a 'token increase'; and that to our mind has an unsettling effect upon labour, for they restlessly await the expiry of the period during which an award is in operation in order to make fresh claims, confident in the expectation that some little 'token' advance would always be forthcoming". (1952 II LLJ 814-817)

There is another consideration which should not be lost sight of by either party viz., the interests of the consumer and the larger interests of the country. This point is always liable to be overlooked in bilateral disputes, but the tribunals have fortunately taken notice of this aspect. Thus, in detailing the factors and consideration which should be kept in view in determining the quantum of bonus, in *Greaves Cotton & Co., Ltd.*, case, it was pointed out, "Furthermore, we must not be unmindful of the impact of an unduly high bonus on the community as a whole". (1954 II LLJ 189) Again, in the *Millowners' Association* case, the Appellate Tribunal repeated, while arguing that the present state of the textile industry was not such that it should be called upon to bear additional burdens, that a balance must be struck between the needs of labour and the capacity of the concern to pay "and we must not be altogether unmindful of the existence of the consumer." (1955 II LLJ 38).

DETERMINATION OF THE MINIMUM
WAGE: The Concept of the Average Family

In a Welfare State, the fixation of minimum wages by Government is guided by the cost of ensuring a minimum level of living for the worker and not by the work itself. In other words, it is the worker's minimum monthly budget and not the nature of the work which serves as the yardstick to arrive at the quantum of wages.

It is obviously not possible to construct a separate budget for every worker and fix wages to suit individual needs. Individual needs themselves keep on changing over a period of time so that even if wage rates are fixed individually, they will have to be continually revised to accord with the changing pattern of requirements. The concept of the average or the standard family was born out of this difficulty and has been widely used in the process of wage determination in many countries. The budget for the average family indicates the cost of hypothetical market basket to a hypothetical family. It has, therefore, to assume the size of the family, its age and sex composition, the number of wage earners therein and the goods and services which are necessary to ensure the members the required standard of living. It is agreed on all sides that these assumptions are inevitable, but as pointed out by the Fair Wages Committee, "there is not the same measure of unanimity of opinion as regards size of the standard family." After considering different opinions on the subject, the practice in other countries and more particularly the results of the family budget enquiries in this country, the Committee concluded that the standard Indian working class family should be reckoned as one consisting of the worker, his wife and two children, of whom the husband was the sole earner. On the basis of Dr. Aykroyd's formula as enunciated in Health Bulletin No. 23, this yielded 3 consumption units per earner. While the worker was treated as 1 consumption unit and his wife as 0.8 unit, the two children together were equated to 1.2 units by the Fair Wages Committee by averaging the coefficients for children of different age groups and multiplying the average by two. The Committee also expressed the opinion that wherever family groups were found to consist of more than 3 consumption units per family, the actual number of earners in the family might be counted for the purpose of calculating the minimum wage per earner.

The recommendations of the Fair Wages Committee in regard to the average family have generally been adhered to by the minimum wage committees and industrial tribunals. However, attempts have been made here and there to depart from the standard and in some cases, a departure has actually been made. For instance, it was argued before the Minimum Wages Committee (Residential Hotels, Restaurants and Eating Houses) Bombay, on behalf of the employers that the hotel employees are mostly single individuals, and, therefore, their requirements should be considered on the basis of only one consumption unit. This argument was refuted by the Committee which stated, "It is well-known that the labour in urban areas is drawn from the villages mostly because of the pressure on the land or uneconomic holdings and such other causes. Thus pushed out of the village, the worker comes for employment to the town or city, and finds a job either in a textile mill, other industry, trade or a hotel. His acceptance of a job in a hotel does not change the character or composition of the Indian family in villages." Moreover, the members of that Committee found on enquiry that the average size of the family of a hotel

worker...

worker was 5.34 with 2.25 earners and 3.09 dependents and concluded that it would be unjust if minimum wages for hotel workers were not fixed on the basis of 3 consumption units, which had been taken into consideration by other committees and tribunals as a standard. On the other hand, the Minimum Wages Committee for Plantations, Madras(1951) worked on the basis of a standard family of 3 consumption units and 2.25 earners on the assumption that earners in the plantation worker's family included besides the worker, his wife, and a child. The Special Industrial Tribunal for Plantations, Coimbatore, subsequently revised this to 1.75 earners per family on the contention that while in most cases the wife was also an earner, only in exceptional cases a child was found to work. An instance where an industrial tribunal differed from the recommendations of the Fair Wages Committee may be had in the case of Gold Mines at Kolar Gold Fields V. Their workers(vide 1955 ILLJ 511) where it was decided that if in a particular region, industry or employer, satisfactory evidence of more than 3 consumption units was available, that should be taken. Since the Minimum Wages Committee's report for Kolar Gold Fields has held, after due enquiry, that the average working class family in these mines consisted of 3.43 consumption units per wage earner and there was no evidence to the contrary, the Tribunal held that a standard of 3.43 units should be adopted in the case of those mine workers for fixing minimum wages. In giving its decision on the bank appeal against the Sastry Award, the Labour Appellate Tribunal had proceeded on the assumption that a clerk would be entitled to 3 consumption units in his eighth year of service. The Bank Award Commission subsequently expressed the opinion that the method adopted by the Appellate Tribunal in this respect could not be seriously disputed. In the light of all these considerations, the Fair Wages Committee's estimate of 3 consumption units and one earner per family would appear to be the nearest approximation to an Indian standard and should continue to guide wage fixing authorities. However, it may have to be revised at a later date if warranted by the results of fresh family budget enquiries. Fresh family budget enquiries are, in any case, necessary because the results of the old enquiries are very much out-dated and can be used only within broad limitations to serve current policy.

In some foreign countries, there is legal provision for calculating the basic wage for a family of one wage earner having a wife and three children without taking into account the earnings of his wife and his children. In India, however, there is no law to the effect that the earnings of the wife and children of a worker should not be taken into consideration for fixing the worker's wage. Consequently, wages have sometimes been fixed as in the case of the plantation worker after taking into account the earnings of the wife and/or children. This practice, however, has come in for a good deal of criticism. An argument has been put forward that often the woman goes to work only because her husband does not earn enough for the maintenance of the family. Under such circumstances, if she is counted as an earner for the purpose of calculating minimum wages for the family, it might thwart the very purpose for which she goes to work, by pulling down the wage per earner. The procedure whereby the earnings of the wife and children are taken into account in fixing wages has also been criticised by the Rege Committee who have in their Report quoted from "The Plantation Labour in India" by R.K.Dass: "A system of wages which requires the worker to depend upon the earnings of his wife and children or upon a subsidiary industry just in order to earn the necessaries of life, not to talk of decencies, luxuries and savings, can scarcely justify its existence from the point of view of social welfare or national economy." As the Award of

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the All India Industrial Tribunal (Colliery Disputes) points out, "Assuming that a very small percentage of women work, it is not for intellectual recreation, but for sheer necessity; because the male member does not earn enough" and "it is not for the benefit of the employer who can take advantage of that fact and deny her husband what he ought to be paid to maintain himself and his family." Whatever views might be held on these general considerations, it would seem appropriate that the earnings of women and children including adolescents should be disregarded for purposes of determination of minimum wages for workers.

A common criticism of the concept of the average family is that it seldom conforms with reality. Commenting on the practice of calculating a wage for a synthetic family in order to settle what thousands of families with membership above or below this average should have to live upon, Mrs. Barbara Wootten says: "It would be hardly more unrealistic to propose that in a school, in which the average age of the pupils was thirteen, but the actual ages ranged from eight to eighteen, the curriculum should be designed so as to be suitable throughout for thirteen year olds." In support of this contention, she cites the United Kingdom Sample Census returns of 1951, according to which, out of just under 14½ million households in Great Britain, just under 2 million have two children, just over a million more have three or four children and more than 8 million have no children at all: whereas in that country the average family at any one moment is usually reckoned at two adults and two or three children. American experience points in the same direction. In the United States, the Bureau of Labour Statistics "City Worker's Family Budget" assumes a family of four, consisting of father, mother and two children (8 and 13 years of age - a girl and a boy respectively) where the father's wages constitute the sole source of income. It has been stated that since the four person family of the type mentioned above is something of an American ideal, it was chosen as the kind of family for whom the budget should first be developed. It, however, remains an ideal as can be seen from the 1950 census in the United States which reveals that only 18.1 per cent of households consist of four persons; 60.7 per cent have fewer and 21.2 per cent have more members. The Bureau of Labour Statistics has itself recognised this difficulty by offering the following scales for determining equivalent incomes for families of varying sizes at the same level of living.

<u>Family size</u>	<u>Per cent of cost of four-person family</u>
2-person family	66
3-person family	84
5-person family	114
6-person family	128

It is not only the family size, but also the age and sex composition of the members of the family and of the earners that is arbitrary. The Coal Tribunal have illustrated how different consumption units can be arrived at for a hypothetical family by varying the ages of children. As the Special Bench of the Labour Appellate Tribunal, in its decision in the appeals against the Sastry Award observed, the dependents can be the mother or father or both or younger sisters or younger brothers. In some cases again, the mother may be the earner in the family, because the father is disabled; in others, all the persons in a family may be adults and so on. A single budget cannot represent the requirements of all family types nor of a single family throughout its life span, just as bonus which

is fixed...

is fixed on the basis of average profits earned in an industry cannot properly reflect profits earned by individual units in the industry. At the same time, a working principle must be found that would do justice to the pressure of social and economic conditions on the family life of a workman and as satisfying such a working people, the concept of the average family is unexceptionable. In fact, even those critics who have pointed to the unrealistic nature of the formula have not entirely discounted its social acceptability.

A second criticism that is made against the concept of the standard family is really directed against the underlying principle that wages must be based on the needs of workers. It has been argued that "wages are job related, rather than need related" and that the attempt to set wages on the latter basis would soon create a chaotic wage structure. Since it would not recognise economic contribution, it would tend to be corrosive of individual effort. The attempt to base wages on needs and not on the work is glaringly brought out in regard to wages of women. The arguments advanced favouring such a procedure have been many and varied. The Fair Wages Committee had stated that where women were employed on work exclusively done by them or where they were admittedly less efficient than men, there was every justification for calculating minimum and fair wages on the basis of the requirements of a smaller standard family in the case of a woman than in the case of a man. The Coal Tribunal which provided for only 2.25 consumption units in the case of female workers employed in manual work did so for the reasons "(i) that the female worker generally belongs to a family group with at least one male earner as its head, (ii) that in the case of majority of female workers the basic wage at present fixed is about 75% of what is fixed for the male workers and (iii) that special amenities enjoyed by women like maternity benefits, provision of creches etc. should make up for the deficiency." Expressing its inability to accept these reasons, the Appellate Tribunal have now awarded equal pay for equal work for men and women. As for the last argument of the Coal Tribunal, the Appellate Tribunal have stated that it would be valid only if the assumption is made that women workers are in a permanent state of maternity and that their children are always in creches.

It is one thing to pay younger persons, children and women less because they are inexperienced or turn out less work or do a simpler job which requires less exertion; it is quite another to do so on the count that they are unlikely to carry heavy family responsibilities and may themselves be partially supported by somebody else. It is difficult to agree with the latter proposition. Where work of identical nature is concerned, pay also should be identical irrespective of who does the work - a man, woman or child. Pay should be work-based only and not need-based. Even the minimum wages calculated on the basis of a monthly budget for

the standard family are and should be related to a minimum quantum of work. It is not as if the minimum wages are paid irrespective of the quantum of work turned out and as a matter of grace to support the worker's family. The concept of the standard family is only a tool used for calculation of wages to see that they do not go down below a minimum level. Once the minimum wages are calculated for the lowest paid unskilled worker in the country, all other wages are easy to calculate by introducing suitable wage differentials. The criticism against the concept of the standard family that it tries to settle wages on the basis of needs and as such will take away the incentives from the worker, will not, therefore, be valid. But, even at the minimum level, considering families in real life, of differing size and composition it is true that families having a lesser number of dependents than those assumed in the standard family will stand to gain and those on the other side of the line will suffer. Since the dependents

Leaving out...

leaving out the wife mostly belong to the younger and the older age groups, old age pension schemes might be introduced to benefit the latter group. This may not be immediately possible but should be kept in view for ultimate implementation. As for children, it may be neither feasible nor desirable to grant family allowances because it will encourage workers to build larger families which will go directly against all family planning programmes. The danger is particularly real when it is realised that even without any kind of monetary or other inducement, many workers consider children as an asset in that they can be used to supplement family income. On the other hand, in the case of a family having a lesser number of dependents than the average family, the comparative advantage that the worker gains from the standard wage will have to be considered as a premium for his prudence in restricting the size of his family or merely as a stroke of luck, according to circumstances.

Norms of Food

Minimum wages for the average family have to be based on requirements for food, clothing, housing and so on. In a vast country such as ours, there are bound to be regional variations in these requirements owing to climatic conditions, food habits etc. At the same time, a degree of uniformity can be ensured by adopting certain norms which would cover the minimum requirements in these matters. As regards food, different norms have been recommended by different authorities. The opinions expressed by Dr. Aykroyd* have usually carried weight with the wage fixing authorities. Dr. Aykroyd has prescribed dietary standards at two levels - the optimum level and the adequate diet level. An optimum diet, according to him, is one which ensures the functioning of the various life processes at their very best; whereas an adequate diet maintains these processes, but not at their peak levels. The optimum diet would include more of vitamins and less of proteins in its caloric content, while the adequate diet would include more of proteins and less of vitamins. Thus, the optimum diet would include more of fruits and fresh vegetables than adequate diet. For the purpose of minimum wage determination, the worker and his family might be provided with food to correspond to the adequate diet which has been recommended by Dr. Aykroyd for the Nutrition Advisory Council: (This is composed of Cereals 14 ozs., pulses 3 ozs., Vegetables 10 ozs., Milk 10 ozs., Sugar 2 ozs., Oil & Ghee 2 ozs., Fruits 2 ozs., Fish and Meat 3 ozs. and Eggs 1 oz.). The quantitative requirements of food are estimated in terms of heat units or 'calories'. On broad terms, Dr. Aykroyd has estimated the caloric requirements of a man doing moderate work at 3,000 and a man doing **very** hardwork at 3,600. Similarly, a woman doing moderate work would require 2,500 calories and a woman doing hard work would require 3,000. In view of the somewhat lower metabolism of Indians, Dr. Aykroyd has considered a net intake of 2,700 calories to be adequate for an average Indian adult of moderate activity. @

Norms for clothing: As for clothing, no all India norm can be laid out in view of differences in climatic conditions as between

* Other sources in this respect are (1) Industrial Nutrition by Pyke Magnus; (2) Food-Maccarison Robert, (3) Nutrition in Industry, and ILO Publication & (4) The Nutritive Value of Indian Foods and the Planning of satisfactory diets by Aykroyd W.B.

@ Vide Memorandum prepared by the Nutrition Advisory Committee of the Indian Council of Medical Research and the Animal Nutrition Committee of the Indian Council of Agricultural Research.

regions. A slightly modified adoption of the norm used by the Planning Commission would, however, appear to be appropriate. The Planning Commission have assessed the requirements of cotton textiles in the country at a per capita consumption of 18 yards per annum. If this yardstick is used to include not only cotton, but also woollen and silk textile requirements of the worker, the average worker's family of four would, on an average, be entitled to 22 yards. This would be a fair estimate of the worker's requirements, sufficient to meet the requirements of even those workers living in the colder regions. The Planning Commission's estimate, no doubt, pertains to the average Indian; but, it should be equally applicable to the industrial worker who is fairly above the lowest income group.

Norms for Housing: In the matter of housing, standards laid down by the Industrial House Sub-Committee of the Standing Labour Committee can be followed. The aim should be to provide the worker at least with a two roomed tenement with adequate lighting, ventilation and open space and all other necessary accessories, though it may not be possible to reach this standard in all areas because of limitations of space, etc.

Miscellaneous: According to the Fair Wages Committee, the minimum wage must provide not merely for the bare sustenance of life, but also for the preservation of the efficiency of the worker, including some measure of education for his children, medical requirements and other amenities. These are some of the major categories for which provision has to be made under the head "miscellaneous". Another major item in this group would be fuel and lighting. The industrial tribunals have gone by the findings of the old family budget enquiries, stepping up the expenditure on these items more or less in the same proportion as the rise in the case of food, where the current expenditure has been stressed on the basis of certain norms. The All India Industrial Tribunal (Colliery Disputes), in its recent coal award, has recommended a sum of Rs.10/- towards miscellaneous items inclusive of fuel and lighting, but exclusive of education and medical facilities for which it has recommended Rs.3/- (Rs.1/8 for education and 1/8 for medical facilities). In terms of percentage the tribunals' provision under "Miscellaneous" comes to about 20% of the total wage.

It would, therefore, appear that in determining wages needed for meeting the minimum requirements of the working class, the following considerations, among others, be taken into account:

(i) The standard working class family should be taken to consist of three consumption units and one earner.

(ii) The minimum requirements in respect of food, clothing, etc. for the worker and his family should be estimated according to standards laid down by the Nutrition Advisory Council in the matter of food, the Planning Commission in respect of clothing and the Industrial House Sub-Committee of the Standing Labour Committee as regards Housing.

(iii) For fuel, lighting and other miscellaneous items of expenditure, the allowance which will have to be made in computing the minimum wage shall be fixed in accordance with the results of fresh family budget enquiries. Till such time as these results are available, it shall be assumed that provision for "Miscellaneous" expenditure shall constitute 20% of the total wage.
