



DAILY EDITORIAL ANALYSIS

TOPIC

**FINANCING MATERNITY
RIGHTS IN INDIA**

www.nextias.com

FINANCING MATERNITY RIGHTS IN INDIA

Context

- The recent landmark **Supreme Court** judgment on *K Uma Devi vs State of Tamil Nadu* pronounced is significant for recognising **maternity rights as a Fundamental Right under Article 21** of the Constitution.

About the Maternity Rights in India

- **Historical Context:** The **Maternity Benefit Act of 1961** laid the legislative foundation for Maternity Rights in India.
 - ♦ It was aimed at regulating employment conditions for women during the **prenatal and postnatal periods**.
 - ♦ It provided **12 weeks of paid leave** and protected women from dismissal during maternity.
 - ♦ However, coverage was **largely limited to the organized sector**.
- **Maternity Benefit (Amendment) Act of 2017:** It aims to increase paid maternity leave **from 12 to 26 weeks** for women working in **establishments with 10 or more employees**.
 - ♦ It made India one of the few countries offering such an extensive duration of paid leave.

Concerns & Challenges

- **Organized vs Unorganized Divide:** Over 90% of working women in India are in the **unorganized sector** such as domestic work, agriculture, or contract labor, **where the Act doesn't apply**.
 - ♦ These women often work without formal contracts, health coverage, or awareness of entitlements.
- **Financial Burden on Employers:** The leave is **entirely employer-funded**, discouraging some businesses — particularly SMEs — from hiring women.
 - ♦ It has prompted calls for a social insurance model or state-supported financing.
- **Limited Paternity Leave:** The law offers **no corresponding rights to fathers**, reinforcing gendered caregiving norms and placing disproportionate burdens on working mothers.
- **Enforcement Challenges:** Compliance and awareness are low, particularly in non-metro regions.
 - ♦ Many women are unaware of their rights or lack access to grievance redressal mechanisms.

Comparative Analysis of Financing Maternity Rights

- According to a comparative study of 82 countries, 44% fund maternity benefits through social security contributions, while **only 15% — including India** — rely solely on employer funding, a model increasingly seen as unsustainable.

Key Efforts Related to Financing Maternity Rights in India

- **Pradhan Mantri Matru Vandana Yojana (PMMVY):** It provides a cash incentive of 5,000 to pregnant and lactating women for the first live birth, aimed at partially compensating wage loss and supporting health-seeking behavior.
- **Employees' State Insurance Corporation (ESIC):** It is employer-employee contribution based, and provides a more stable financing model compared to employer-only funding.
 - ♦ **Eligible women** receive 100% of their average daily wages for 26 weeks of maternity leave.
 - ♦ Its coverage is **limited to formal sector workers** registered under the scheme.
- **Maternity Benefit Fund (Proposed):** It aims to **support SMEs and the informal sector** particularly.
 - ♦ The idea revolves around shared contributions from the government, employers, and possibly employees.
- **Dr. Muthulakshmi Reddy Maternity Benefit Scheme (Tamil Nadu):** It offers 18,000 in phased payments, significantly higher than the central allocation.

Supreme Court Observation

- **Maternity as a Fundamental Right:** The **Supreme Court** declared maternity rights to be part of the **right to life and dignity**, thus elevating their legal status and enforceability. The judgement is based on **international conventions**, including:
 - ♦ **Universal Declaration of Human Rights;**
 - ♦ **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);**
 - ♦ **ILO Maternity Protection Convention C183 (2000);**
 - ♦ **UN Economic and Social Council instruments;**
- **ILO Reference:** The Court made a **reference to 'Care at Work' - 2022 (ILO Report)** and noted that **123 countries** offer fully paid maternity leave, which benefits 90% of mothers globally.
 - ♦ India, with **26 weeks of paid maternity leave**, is now among **42 countries** that **exceed ILO's C183 standard of 18 weeks**.
- The Court reaffirms the **Maternity Benefit Act, 1961** as the **normative legislative framework**, and acknowledges that the **State is constitutionally obligated** to implement maternity benefits in a non-discriminatory manner, aligned with service conditions across employment sectors.

Way Forward

- **World Social Protection Report 2024–26 of ILO** highlighted that most nations rely on **tax-financed or contributory schemes** rather than employer-only funding.
 - ♦ It includes public social protection schemes, tax-based support models, and inclusion of informal and self-employed women etc.
- **Financing the Maternity Benefits Right:** Historically, the **Bombay Maternity Benefit Act of 1929** placed the burden solely on employers.
 - ♦ However, modern policy models favour **social insurance, public financing, or mixed models** (as advocated by the **ILO**) to avoid burdening individual employers and prevent discriminatory hiring.

Source: BL

Mains Practice Question

[Q] Critically evaluate the challenges and policy implications associated with financing maternity rights in India.

■■■■