

UPDATE

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PART III: LANDMARK SHIFT IN MATERNITY BENEFITS FOR ADOPTIVE MOTHERS

Since the notification of commencement of the new labour codes in November 2025, the provisions relating to the maternity benefit under the Code on Social Security, 2020 (“**SS Code**”) were challenged on the basis of a pending writ under the erstwhile Maternity Benefit Act, 1961 (“**MB Act**”). In this Part III of the labour law series of Nota Bene, we have discussed the recent Supreme Court judgement of *Hamsaanandini Nanduri v. Union of India* which has fundamentally altered the landscape of maternity benefit protection for adoptive mothers in India.

A. *Background*

Under Section 5(4) of the MB Act (which corresponds to Section 60(4) of the SS Code), maternity benefit of 12 (twelve) weeks was available to a woman who legally adopts a child below the age of 3 (three) months. This 3 (three) months age requirement was challenged by the petitioner who is an adoptive mother of two children through a writ petition filed under Article 32 of the Constitution, contending that the provision was discriminatory and violates Articles 14 and 21 of the Constitution.

B. *Issues for Consideration*

The primary issue brought before the Supreme Court was whether the 3 (three) month age limit prescribed for in case of an adoptive child for determining qualification for maternity benefit is arbitrary and violative of Articles 14 and 21 of the Constitution.

C. *Findings of the Court*

Rationale of Maternity Benefit

The court laid down the following three aspects of maternity benefit:

- a) physical recovery of mother following birth of child;
- b) time required to nurture and develop the emotional bond between the mother and the child; and
- c) time necessary to attend to the physical and emotional needs of the child.

In case of adoption while the first component is absent, the second and third component are present and significant, more particularly when the need for the same could not be said to be solely dependent on the age of the adopted child.

Lack of Permissible Classification

In terms of Article 14 of the Constitution, the 3 (three) months rule for adopted child does not satisfy the test of permissible classification which requires that any classification must be based on clear distinction that sets apart groups. The court observed that women who adopt a child aged 3 (three) months or above are similarly situated to women who adopt a child below the age of 3 (three) months, insofar as their roles, responsibilities, and caregiving obligations are concerned. Therefore, the classification between a woman adopting a child aged less than 3 (three) months and a woman adopting a child aged 3 (three) months or more is artificial and violative of Article 14 of the Constitution.

Absence of Rational Nexus

Constitutionality of a provision is also judged against the touchstone of rational nexus between the provision and underlying object of the statute. Instead of relying on a narrow yardstick of “caregiving responsibilities” towards an infant, the court approached the issue in a holistic manner and considered aspects of adjustment and integration of the adopted child with the adoptive family. Therefore, age-based distinction had no rational link to the goal of child welfare or maternal support which provisions relating to maternity benefit aim to address.

Right to Motherhood under Article 14

Section 20(4) of the SS Code fails to recognize the right of reproductive autonomy of those adoptive mothers who adopt a child aged 3 (three) months or more because adoption also represents a conscious and meaningful exercise of the choice to create and nurture a family, and is within the broader spectrum of reproductive decision-making. Therefore, apex court reiterated right to motherhood as essential component of Article 21 of the Constitution.

Further, the reality of situation is that for an adoptive mother, the critical phase of care begins the moment the child enters the home; denying support during this period is an arbitrary interference with the dignity of both mother and child. Therefore, such age based artificial distinction denudes such adoptive mothers of the ability to meaningfully exercise and enjoy their right to decisional autonomy, dignity, and bodily integrity under Article 21 of the Constitution.

The Supreme Court, therefore, read Section 60(4) of SS Code to conclude that all adoptive mothers are eligible for availing maternity leave for 12 (twelve) weeks, irrespective of age of their adopted child.

D. Implications of the judgement

Employers must proactively review and amend employee handbooks, leave policies, and appointment letters to decouple maternity benefits from the age of the child, ensuring the 12 (twelve) week entitlement is triggered solely by the date of legal handover of the child, irrespective of the age of such child.

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