

The Code on Social Security, 2020

Section 56 - Determination of amount of gratuity

- (1) A person who is eligible for payment of gratuity under this Chapter or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed by the appropriate Government, for payment of such gratuity.
- (2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in subsection (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the competent authority specifying the amount of gratuity so determined.
- (3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.
- (4) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits:
Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the competent authority for the delayed payment on this ground.
- (5) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Chapter or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the competent authority such amount as he admits to be payable by him as gratuity.
(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the appropriate Government for deciding the dispute.
(c) The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.
(d) The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.
(e) As soon as may be after a deposit is made under clause (a), the competent authority shall pay the amount of the deposit
(i) to the applicant where he is the employee; or
(ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the competent authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.
- (6) For the purpose of conducting an inquiry under sub-section (5), the competent authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:
(a) enforcing the attendance of any person or examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavits;
(d) issuing commissions for the examination of witnesses.
- (7) Any inquiry under this section shall be a judicial proceeding within the meaning of section 193, section 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860).
- (8) Any person aggrieved by an order under sub-section (5) may, within sixty days from the date of receipt of the order, prefer an appeal to the appropriate Government or such other authority as may

bespecified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it issatisfied that the appellant was prevented by sufficient cause from preferring the appeal within the saidperiod of sixty days, extend the said period by a further period of sixty days:

Provided further that no appeal by an employer shall be admitted unless at the time of preferring theappeal, the appellant either produces a certificate of the competent authority to the effect that the appellanthas deposited with him an amount equal to the amount of gratuity required to be deposited under subsection (5), or deposits with the appellate authority such amount.

(9) The appropriate Government or the appellate authority, as the case may be, may, after giving theparties to the appeal a reasonable opportunity of being heard, confirm, modify, or reverse the decision ofthe competent authority