

## **PAYMENT OF GRATUITY TO CONTRACT LABOUR**

### **Liability for payment of Gratuity to Contract Workers – Whether Principal Employer or the Contractor.**

In one case, the Kerala High Court has held that neither the Contract Labour (R & A) Act, 1970 nor the Payment of Gratuity Act, 1972 provides that the principal employer can be held liable to pay the gratuity to the workers engaged through the contractor (1). However, the Madras High Court has held that although liability for payment of gratuity is that of the contractor but by virtue of section 21 (4) of the Contract Labour (R&A) Act, the principal employer can be directed to make payment of gratuity to the employees of the contractor and recover the same from the contractor (2). In another case, the Madras High Court has held that when the contractor, who engages the workmen, does not pay the amount of gratuity to them, the principal employer is liable to pay all dues including gratuity to such workers as per provisions of section 21 (4) of Contract Labour (Regulation & Abolition) Act, 1970 (3).

- (1) *Comminco Binani Zinc Ltd. v. Pappachan*, 1989 LLR 123 (Ker.H.C.) = 1989 (58) FLR 528.
- (2) *Madras Fertilisers Ltd. v. Controlling Authority under the Payment of Gratuity Act*, 2003 LLR 244 (Mad. H.C.) = 2003 (97) FLR 275.
- (3) *Superintending Engineer, Mettur Thermal Power Station, Mettur v. Appellate Authority, Joint Commissioner of Labour Combatore & Another*, 2012 LLR 1160 (Mad. H.C.).