

Workplace Maternity Benefits Elude 94% Working Indian Women

[is. indiaspend.com/womenwork/workplace-maternity-benefits-elude-94-working-indian-women-919567](https://indiaspend.com/womenwork/workplace-maternity-benefits-elude-94-working-indian-women-919567)

T.S. Kavita Rajeshwari, Avanindra Nath Thakur, Manini Ojha

12 August 2024



New Delhi: India has amongst the most progressive laws on maternity benefits. But a large majority of India's workforce is engaged in informal work. Further, the law exempts small firms from having to provide these benefits. As a result, 93.5% of women workers in the country cannot access maternity benefits, our analysis of government data shows.

This year, the Union budget has earmarked Rs 3 lakh crore to initiatives that enhance the participation of women in India's workforce, including initiatives such as establishment of childcare facilities and hostels for working women.

Last month, the Delhi High Court called for a re-evaluation of the policy restricting maternity leave for government employees with more than two children. The bench emphasised that measures be aimed at offering incentives and disincentives to parents rather than children.

India has also included provisions for women government employees undergoing surrogacy to seek maternity leave. The rules now ensure that women in such situations with fewer than two surviving children are entitled to 180 days of maternity leave. A 'commissioned mother',

defined as a woman who uses a surrogate to carry her child, is now explicitly included in this entitlement. Further, it grants commissioning fathers with fewer than two surviving children up to 15 days of paternity leave.

A 2017 amendment to the Maternity Benefit Act (MBA) 1961 had increased paid maternity leave to 26 weeks for up to two children, addressed the needs of adoptive and surrogate mothers with a 12-week leave, and enforced employer compliance with non-termination and fair treatment policies. The amendment also encouraged companies to allow women to work from home and made it mandatory for companies with more than 50 employees to offer a crèche on the premises, with costs to be borne by the employers, as **IndiaSpend** reported in March 2021.

In comparison with global standards, India's maternity leave duration surpasses the benchmark of 18 weeks, and the Act's provision for 100% average wage entitlement is better than many countries that offer only partial wage coverage.

However, a detailed examination of the Act's coverage across India, based on the most recent Periodic Labour Force Survey (PLFS) data for 2022-23, shows that these benefits are not available to a vast majority of women workers in India, as we explain below.

'Maternity Benefits' encompass paid maternity leave, 100% wage entitlement, nursing breaks, work-from-home options, crèche facilities, and medical benefits covering prenatal and postnatal care. Eligibility does not guarantee access to benefits without the presence of stringent implementation and oversight mechanisms. For instance, only a handful of large multinational companies complied with the requirement to set up crèche, **IndiaSpend** reported in March 2021.

Further, this calculation uses the traditional definition of employment, and does not include the substantial time women dedicate to social reproductive responsibilities, including caregiving and household chores.

Small firms are exempt

According to the Act, the employer's liability for maternity benefit payment applies only to establishments with 10 or more workers. This criterion overlooks the demographic reality of the workforce, where over 85% of women are employed in establishments with fewer than 10 workers.

The Act also mandates that eligibility for maternity benefits is contingent upon the woman having worked for more than 80 days in the 12 months preceding the date of her expected delivery. This requirement poses a substantial barrier for women engaged in casual, self-employed or alternately irregular employment patterns. The transient and sporadic nature of such employment makes it challenging for women to prove their eligibility, which can potentially result in discrimination against women who are nearing the 80-day threshold.

The motherhood penalty

The PLFS data suggest that for women aged 15 and older in the labour force, there is a significant drop in participation among those with childcare responsibilities. This drop is especially high among those with at least one child under the age of one. Across urban and rural demographics, this participation rate drops to 34%, three percentage points lower than the national average of 37%. The difference is higher in urban areas.

There is a further decline in labour force participation rates among women with children between the ages of three and five years, indicating the compounded effect of having multiple children under the age of five.

Among previously employed women who are now out of the labour force in the 365 days before the survey, one in 10 women report child care as the reason for exiting the workforce. Among mothers with at least one child, two in five women report childcare as the main reason.

The percentage of women not participating in the labour market due to childcare responsibilities increases to 65.5% when their child is below the age of one and then gradually declines as the child ages. To put it simply, two in three mothers of infant children are out of the workforce either due to prioritising childcare over work during the formative years of child development, or due to a lack of access to maternity benefits.

A survey of women in Rajasthan's Udaipur district found that mothers with children in the one- to six-year-old age-group spent 9.4 hours a day on household chores, as **IndiaSpend** reported in August 2017.

Up to 48% of women currently stop working within four months after returning from maternity leave, while up to 50% more men are working between the ages of 15-24 and 25-34, the child-rearing period, found a study by Intellectap, an investor in social enterprises, as **IndiaSpend** reported in March 2019.

Greater attention paid to childcare and maternity leave policies could help restrict the effects of a 'motherhood penalty' which entails women dropping out of work, worrying about being absent from work for a long time and accepting less-satisfactory employment, as **IndiaSpend** reported in August 2018.

Does the age of the child matter for the nature of work for women?

One in three women work as 'unpaid family members', followed by more than a quarter of all women workers classified as 'own-account workers', or the self-employed persons who do not employ others on a regular basis. Common to these categories of workers is the flexibility in work timings and the possibility to work from home.

Similarly, one in five women workers are engaged in casual employment, which provides flexibility in work hours relative to regular salaried jobs for mothers.

Among women with at least a child below one year, only 11% work in regular salaried jobs compared to the national average of 20.1%, while 43.7% work as unpaid family members compared to the national average of 32%.

How accessible are maternity benefits for working women in India?

In general, the eligibility for social security benefits--such as gratuity, provident fund, pensions and maternity benefits--in India is limited to a narrow segment of the workforce, specifically to those employed in either regular salaried positions or casual wage labour. This restricts access to social security to 39.9% of the working female population, according to data from PLFS, 2022-23.

Only 32.1% of women in regular salaried employment are eligible for maternity benefits. This figure is slightly higher at 42.7% among working women who are mothers of children under the age of one, suggesting that women who continue to work with a child below one year are able to do so possibly due to the availability of maternity benefits.

Among women engaged in casual labour, only 0.1% are eligible for maternity benefits.

Overall, only 6.5% of all working women are eligible for maternity benefits. This further declines to 4.7% for working mothers of infants under one year.

Among salaried women, 32.3% are eligible for maternity benefits--and this number is lower in rural India. Further, more than half the salaried women do not have access to social security benefits.

There are also variations based on occupational categories: Women in occupations such as legislators, senior officials and managers, professionals and technicians are more likely to be eligible for maternity benefits. On the other hand, small percentages of women employed as service workers, shop and market sales workers, in skilled agricultural and fishery sectors, in elementary occupations have such access.

Even among higher-skilled occupations, less than half of the working women qualify for the benefits.

Occupational categories that have higher eligibility for maternity benefits like professionals, technicians and associate technicians, and clerks have low absorption of women at 7.1%, 2.1%, and 1.6% respectively, and most women are either working as skilled agricultural and fishery workers (44.4%) or are engaged in elementary occupations (25.3%), data show.


We welcome feedback. Please write to respond@indiaspend.org. We reserve the right to edit responses for language and grammar.

Support Us

Support IndiaSpend's indepth research & reporting.

Sign in to Tip

I agree with Fewcents Terms & Privacy Policy. I consent to my data being processed outside EU.

 Trusted by 43.7 Million users online