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I SUMMARY

Social Security

Eligibility	All employees of companies with 20 or more employees working in the formal sector of the economy.
Retirement Age	58M/F (60M/F for NPS)
Contributions	<p>Provident Fund: 24% of monthly “Provident Fund Salary” (PF Salary), 50/50 from employer/employee.</p> <p>Deposit Insurance (EDLI): 0.5% of PF salary by the employer.</p> <p>State Insurance: Employees 1.75% of wages, employer 4.75% of the wages.</p> <p>Workmen’s Compensation Scheme: Employee: 1.75% of earnings, employer: 4.75% of payroll of covered employees,</p> <p>Payment of Gratuity Scheme: Employer-funded.</p>
Retirement Benefits	<p>Provident Fund: a lump sum equal to accrued contributions plus interest.</p> <p>Pension Scheme: a monthly pension or a lump sum, if less than 10 years of employment.</p> <p>From the gratuity scheme: a lump sum equal to 15 days’ wages for each year of service, with a maximum of INR 350,000. The ceiling is to be raised to INR 1 million (approval of legislation pending).</p> <p>From the deposit insurance: a lump sum of up to INR 100,000.</p>
Disability Benefits	<p>Provident fund: accrued contributions plus interest.</p> <p>Pension scheme, a monthly pension or lump sum (as if retired on date of accident).</p>
Death Benefits	<p>Provident fund: accrued contributions plus interest.</p> <p>Pension scheme, a monthly pension with a minimum of INR 450 and a maximum of INR 2,500.</p> <p>From EDLI: a lump sum of up to INR 100,000.</p>
Medical Benefits	Medical treatment, surgery, specialist services, hospitalization, medicines, obstetric care, transportation, and appliances.

Private Benefit Plans

Eligibility	All full-time employees who are permanent residents between age 18 and 60.
Retirement Age	58 or 60M/F
Contributions	Benefits above social security are offered at the company's discretion. Group superannuation: 15% of salary paid by the employer. Group Life, Group Accident and Group Medical are normally financed by the employer.
Retirement Benefits	Voluntary Benefits over and above the mandatory Employee Provident Fund, Employee Pension Scheme and the Gratuity Fund. Group superannuation: Upon retirement, up to 1/3rd of the accumulated funds can be commuted and the balance is used to buy an annuity from any provider in the market.
Disability Benefits	Private pension, provident fund and gratuity schemes usually provide for accrued benefits to be paid on disability.
Death Benefits	Group Accidental Death and Life are popular benefits offered as per employer's choice.
Medical Benefits	Most employers have their own health/medical compensation scheme. Almost all of them offer hospitalization and medical coverage through a group health insurance plan.
Vesting	Under most defined contribution pension schemes, full benefits are provided to early leavers. Five years for full vesting is typical. Under defined benefit schemes, vesting is generally after 20 years' service or on attainment of age 45 with 10 years' service.

Taxation

Contributions

Contributions paid by the employer of up to 27% of salary including contributions to provident fund are tax exempt.

Any employee contributions qualify for tax rebate under section 80 C of Income Tax Act within a limit of INR 100,000 per annum.

The annual contributions by the employer are treated as deductible business expenses.

Employers' contributions to gratuity: Allowable deduction against taxable income provided they do not exceed 8.33% of the employees' salary.

Benefits

The interest that accumulates on the superannuation fund is exempt from tax.

Benefits payable on death are exempt from tax.

The commuted value of the fund payable on retirement is tax-free.

Gratuity benefits: Currently tax-free up to half a month's salary for every completed year of service or INR 350,000, whichever is less. The ceiling is to be raised to INR 1 million (approval of legislation pending).

Perquisites like housing rent allowance are subject to tax.

II INTRODUCTION

Country Statistics

Population/ growth rate	1.16 billion (2009 est.) 1.548% (2009 est.)
Age structure	
0 - 14 years	31.1%
15 - 64 years	63.6%
65 years and over	5.3% (2009 est.)
GDP purchasing power parity/ Real growth rate	USD 3.548 trillion (2009 est.)/ 6.1% (2009 est.)
Agriculture	17.5%
Industry	20.0%
Services	62.6% (2009 est.)
Unemployment rate	9.5% (2009 est.)
Inflation rate	9.8% (2009 est.)
Annual Gross Salary*	in ,000 INR
Labourer	General: 237 Skilled: 361
Professionals	Junior: 550 Senior: 838
Management	Lower: 1,275 Upper: 1,942
Legal minimum wage	Varies from state to state according to income, buying power, productivity, etc.
Exchange rate on February 28, 2010	1 INR = 0.0216 USD
Currency: Indian Rupees	1 INR = 0.0159 EUR

*Source: Mercer's International Geographic Salary Differentials, Edition 2008

Legislation and Insurance Market Update in Brief

Raising of Gratuity Ceiling

In March 2010 the Union Cabinet of India approved the raising of the ceiling of gratuity payments to private sector employees from INR 350,000 to INR 1 million. The decision follows the Sixth Pay Commission recommendation that has raised the limit for central government employees. A Bill enabling the higher ceiling is expected to pass parliament during the first half of 2010.

Fringe Benefits Tax Abolished

Fringe Benefits Tax (FBT) was abolished in the Union Budget 2009 and benefits provided by an employer to an employee (like gifts, employee stock options, etc.) are taxed as perquisites as part of taxable income. In addition, employees will also be taxed on any contribution to an approved pension fund made by plan sponsors in excess of INR 100,000. This amendment shifting taxation burdens from employers back to employees will come into effect on April 1, 2010.

Group Life Premiums may be Officially Negotiated

As of April 2008, life insurers may negotiate premiums on a pure life coverage; the premiums may even be different from the IRDA approved quotes, but must be approved by the life insurer's appointed actuary.

National Pension Scheme

As announced by government in mid 2008, the voluntary 'National Pension Scheme' (NPS) was opened to all citizens, allowing them to set up their DC account. NPS has been fully implemented and operational since May 1, 2009, and is overseen by the Pension Fund Regulatory and Development Authority (PFRDA; the interim regulatory body, established to supervise pensions). Six private Pension Fund Managers (PFM) were selected. At present, contributions cannot be withdrawn before retirement age (generally age 60); at that time, an annuity must be purchased from an insurer with at least 40% of the funds. There are no investment ceilings; no capital guarantee applies. Applicants must be aged 18 to 55 and need to bring in a minimum of INR 6'000 per annum; they are free to choose their preferred PFM and investment style (an equity cap of 50% applies).

Benefit Ceiling of Employees Deposit-Linked Insurance Raised

In March 2010, a Labour Ministry proposal to raise the benefit ceiling from INR 60'000 to 100'000 was accepted by government. This raised the ceiling of paid benefits in the event of death of the insured before reaching superannuation and will benefit the current approx. 4.8 million EPFO members.

III SOCIAL SECURITY

Background Information

Populations world-wide are ageing. In India, while the total population is expected to rise by 49% in the 25 years to 2016, the share of the persons aged 60 and above in the total population will rise to 8.9% in 2016 and to 13.3% by 2026.

While we witness an increase in the number of aged, the traditional and informal methods for income security, such as the traditional joint family system in India, are increasingly unable to cope with the increased life span and medical costs during old age. This cultural tradition has been reinforced through centuries of practice and experience. There is a growing stress on the joint family system and there is an immediate need to introduce formal, contributory pension arrangements that can supplement informal systems.

The existing pension system in India faces four critical issues: First, India's social security system is overwhelmingly welfare-oriented. The pension system therefore is a heavy burden on the state. Secondly, the pension coverage is extremely low in India. Thirdly, each component of India's social security system has developed separately, without any agency responsible for a system-wide perspective. There is no overall pension regulator in India.

The principal social security laws centrally enacted are:

- The Workmen's Compensation Act, 1923
- The Employees' State Insurance Act, 1948

The Employees' Provident Funds & Miscellaneous Provisions Act, 1952 that operates:

- Employees' Provident Funds Scheme, 1952
- Employees' Deposit Linked Insurance Scheme, 1976
- Employees' Pension Scheme, 1995
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972

The information below sets out the social security benefits for employers and employees.

National Pension Scheme (NPS)

In the beginning of May 2009, the new "National Pension Scheme" became fully operational. It is a voluntary pension scheme managed by six private Pension Fund Managers (PFM) open to all citizens.

Participants are free to choose their investment amounts. There is neither a ceiling on how much nor on how frequently contributions are made during the year. There is however a minimum of INR 500 per month (or INR 6,000 per annum) payable at least once a quarter. A penalty rule is in force.

There are some pre-defined investment styles, while equity investments are capped at 50%. There is no guarantee on capital or returns.

Unlike for other schemes, retirement age is set at 60.

Eligibility

The Employees Provident Funds Scheme

The Employees Provident Fund Scheme (EPF) is a statutory retirement scheme under the labour legislation known as the Employees' Provident Funds and Miscellaneous Provisions Act.

The EPF Act applies to all employers with more than 20 employees engaged in any industry specified by the government. Legislature has instituted this compulsory fund to provide retirement benefits to employees or to cover their dependents in the event of early death. It is headed by the Central Provident Fund Commissioner, who administers and regulates these employee benefits. This organization is part of the labour ministry in central government. Furthermore, the EPF Act regulates the following schemes:

- Employees Pension Scheme (EPS): provides pension benefits on retirement or early termination
- Employees Deposit Linked Insurance Scheme (EDLI): provides life insurance benefits (in the event of death of an employee, the dependents are paid an insurance linked to the accumulated Provident Fund available for the credit of the deceased)

The Payment of Gratuity Act

The Payment of Gratuity Act provides a compulsory retirement benefit for employees who have rendered long service to an employer. All employers with a work force of at least 10 at the time of inception are statutorily required to pay a gratuity to their employees.

The Employees' State Insurance Act

The Employees' State Insurance Act (ESI) seeks to provide certain benefits to employees in case of sickness, maternity and work injury. Employees of factories and other specified places of work like shops and non-factory establishments which have more than 10 employees earning wages under INR 7,500 per month are covered by this law.

The Workmen's Compensation Act

The Workmen's Compensation Act provides cover for employees in the event of work related death or disability (cover after the third day). Cover is also granted for some diseases contracted at work. The Workmen's Compensation Act is applicable to all employees of power-using manufacturing establishments with 10 or more workers, and non-power establishments with 20 or more workers who can be classified as workmen as defined under the Act. Excluded are employees earning above INR 6,500 a month.

The Maternity Act

This is applicable to all organizations in the country. All female employees are eligible for the benefits specified under this Act.

The National Pension Scheme (NPS)

All Indian citizens between age 18 and 55 are eligible for the National Pension Scheme.

Contributions

Employees Provident Fund Scheme (EPF)

The employee contributes 12% of monthly “Provident Fund Salary” (PF Salary = basic salary + cost of living (dearness) allowance + retaining allowance, if any) towards this fund and the employer matches this contribution. The dearness allowance is a voluntary addition to wages for increases in the cost of living, e.g. calculated on the basis of the cost of living index. The retaining allowance is paid to employees during non-productive times (e.g. factory not working) in order to keep them in service.

These contributions are accumulated, earning an administered rate of return every year.

Employees Pension Scheme (EPS)

Of the 12% contribution payable by the employer to the EPF, 8.33% is diverted to EPS. Furthermore, the central government contributes a subsidy of 1.16% of the PF salary into EPS. However, if the PF salary is more than INR 6,500, contributions towards the EPS are calculated based on that cap.

Employees Deposit Linked Insurance Scheme (EDLI)

Contributions at the rate of 0.5% of PF salary are only paid by the employer and are capped at INR 6,500.

Employees State Insurance Scheme (ESI)

Employees are required to contribute 1.75% of their wages, while the employer has to contribute 4.75% of the wages.

Workmen’s Compensation Scheme

- Employee: 1.75% of earnings (none if daily wage below INR 25)
- Employer: 4.75% of payroll of covered employees
- Government: State governments pay 12.5% of the costs

National Pension Scheme (NPS)

Participants are free to choose their investment amounts. There is neither a ceiling on how much nor on how frequently contributions are made during the year. There is however a minimum of INR 500 per month (or INR 6,000 per annum) payable at least once a quarter.

In case of payment failure, a penalty of INR 100 per year of default has to be paid with the minimum amount to reactivate the account.

Payment of Gratuity Scheme

Gratuity schemes are employer-funded, with contributions based on actuarial valuations. A Trust needs to be set up to manage the funds. The Trust may invest the funds on its own or outsource the management of the fund to an external agency and work on “pay-as-you-go” basis.

All employers may obtain insurance from a Life Insurance Company to cover their liability to pay gratuities when the number of employees exceeds 20. If employers fail to pay these premiums they will be liable to pay the entire gratuity from their own funds. Under the Insurance scheme, a sum equal to the gratuity payable for the entire service is paid in the event of premature death. The Insurance Company also obtains the required clearances from the Income Tax Department. It is common industry practice to take out a policy and remit annual contributions for it.

Retirement Benefits

Retirement Age

Normal retirement: 58M/F (60M/F for NPS)

Qualifying Conditions

Employees' Provident Fund Scheme (EPF):

Retirement benefits can be claimed by employees who on (or after) November 16, 1995, became members of the EPF Scheme, and previously had been members of the former Employees' Family Pension Scheme; or they were members of EPF, but not of the Employees' Family Pension Scheme.

Payment of Gratuity Scheme:

Employers are liable to pay a gratuity to an employee who has rendered continuous service of 5 years on superannuation, retirement or resignation, and on death or disability due to disease or accident. In the event of termination of the employment due to death or disability, continuous service of 5 years is not a necessary condition for the payment of a gratuity.

Benefits

Employees' Provident Fund Scheme (EPF):

Lump sum equal to the accrued contributions plus interest.

Employees' Pension Scheme (EPS):

A monthly pension or a lump sum, if less than 10 years of employment. The pension is calculated as [pensionable salary x pensionable service] / 70. “Pensionable salary” is the average monthly pay drawn during the contributory period of service in the 12 months proceeding the date when membership of the EPF ceased. “Pensionable service” is the period of contributory service.

Payment of Gratuity Scheme:

A lump sum calculated with the formula

$[15/26] * [\text{Last monthly salary drawn}] * [\text{Years of service}]$
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And subject to a statutory maximum of INR 350,000. Amounts above the statutory maximum are taxable. The ceiling is about to be raised to INR 1 million while a Bill has not been approved by Parliament yet.

National Pension Scheme (NPS):

At age 60, the participant is required to use at least 40% of his accumulated savings to buy a life annuity from an insurance company. A phased withdrawal is also allowed but the lump sum benefit has to be claimed before turning 70. There are options for retirement before age 60.

Disability Benefits

Qualifying Conditions

Both the Employees' State Insurance Act (ESI) and the Workmen's Compensation Act provide for disability benefits. However, employees covered under the ESI Act will not be entitled to benefits under the Workmen's Compensation Act. The Payment of Gratuity Act also provides for the payment of a gratuity on termination of employment upon disablement due to accident or disease.

Benefits

Employees' State Insurance Act (ESI):

The daily rate of benefits is between INR 2.50 and INR 125, depending on the employee's wage. In cases of permanent disability, daily benefits range from INR 3.50 to INR 175 (depending on salary) and are payable from the third day until recovery or death. The benefits are reduced proportionally for less than 100% disability. Upon death, survivors' pensions up to 100% of the disability benefits pay would be payable.

Workmen's Compensation:

Upon death or total permanent disability as a result of injury, the benefits amount to a lump sum based on the attained age and monthly earnings, subject to a minimum of INR 80,000 in the event of death and INR 90,000 in the event of permanent disability. The lump sum is proportionally reduced for partial permanent disability. In cases of temporary disability, the benefits are half-monthly payments of 25% of monthly earnings for a maximum period of 60 months.

Payment of Gratuity Scheme:

Lump sum amounting to 15 days of monthly salary per year of service, as per formula given in retirement benefits above, up to a maximum of INR 350,000. The maximum is to be raised to INR 1 million (approval of legislation pending).

Death Benefits

Qualifying Conditions

Death benefits are provided under the Employees Pension Scheme (EPS), the Employees' Deposit-Linked Insurance Scheme (EDLI) and the Payment of Gratuity Scheme.

EPS: The widow/widower and children are entitled to a pension in the event of an employee's death. The following conditions apply:

- The employee died while still in service and contributed at least one month toward the pension;
- The employee died after leaving service, but before attaining age 58;
- The employee died after the commencement of the retirement pension.
- EDLI: The nomination made by an employee under the Employees Provident Fund Scheme (EPF) shall be treated as nomination under the EDLI Scheme and the assurance amount shall become payable to such nominee or nominees.

Benefits

- EPS: The benefits are a monthly widow's pension and a monthly orphan's pension (for a maximum of two children), payable until the death of the widow or remarriage, and until the child attains the age of 25.
- EDLI: There is a lump sum payment equal to the average balance in the Employees Provident Fund (EPF) of the last 12 months. Where the average balance exceeds INR 35,000, the amount payable is INR 35,000 plus 25% of the excess balance subject to a ceiling of INR 100,000 (ceiling was raised from INR 60,000 in March 2010).
- Payment of Gratuity Scheme: Fifteen days of monthly salary per year of service, as per the formula given in the Retirement Benefits section above, up to a maximum of INR 350,000 (to be raised to INR 1 million).

Sickness Benefits

Qualifying Conditions

The Employees' State Insurance Scheme (ESI) provides sickness benefits for employees. The employee must have worked for the employer for at least 78 days during a designated 6-month period.

Benefits

- Benefits commence after two days of absence due to sickness and are payable for a maximum of 91 days in any 2 consecutive designated 6-month periods (may be extended in certain (chronic) cases up to 2 years).
- The daily cash sickness benefit ranges between INR 14 and INR 125, depending on wage class (40% more for certain specified diseases).
- In the event of sickness as a consequence of family planning: 7 or 14 days cash sickness benefit at double rate, plus additional days for complications and for sterilization.

Medical/Health Benefits

Qualifying Conditions

Medical benefits are provided through the administration of the Employees State Insurance Scheme (ESI). Benefits cover insured employees and their dependents.

State governments arrange for provision of medical care through social insurance dispensaries and hospitals, state government services, or private doctors under capitation contract.

Benefits

- Employee's benefits: Benefits include medical treatment, surgery, specialist services, hospitalization, medicines, obstetric care, transportation, and appliances (glasses and dentures for insured persons only). Scale of services varies among states, according to agreement with state and facilities available. Benefits are normally paid for 3 months to 1 year, according to contribution record (extended up to 3 additional years for certain long-term diseases).
- Dependents' Medical Benefits: Currently provided in most states and districts. Benefits include general practitioner care, medicines, specialist examinations, and hospitalization in most states.
- Funeral grant: Lump sum equal to actual cost. Maximum, INR 1,500, payable to eldest member of the family or person bearing funeral cost.

Work Injury Benefits

Qualifying Conditions

The Workmen's Compensation Act provides for work injury benefits. No minimum qualifying period needed.

Benefits

- Temporary Disability Benefit: About 70% of earnings, according to 28 wage classes. Payable after third day of disability for the duration of disability.
- Permanent Disability Pension: INR 19.60 to max. INR 175 a day, according to 28 wage classes, if totally disabled.
- Partial Permanent Disability: Percentage of full pension proportional to loss of earning capacity (small pensions may be commuted to lump sum).
- Medical Benefits: Same as for ordinary sickness; also artificial limbs and other appliances.
- Survivor's pension: 60% of insured total disability pension (70% of earnings) payable to the widow.
- Orphans pension: 40% of insured person's pension (70% of earnings) for orphans under age 18 (no limit if disabled), or until daughter marries.
- Maximum widow's and orphans' pensions: 100% of insured person's pension (70% of earnings).
- Other eligible survivors (in absence of above): Parents, grandparents, and other dependents under age 18; maximum total pensions for such survivors, 50% of insured person's pension.
- Funeral grant: Lump sum equal to cost, max. INR 1,500. Payable to oldest member of the family or person bearing funeral cost.

Unemployment Benefits

The Labour law requires the employer to pay severance indemnity of 15 days' average pay for each year of employment.

Eleven States have instituted temporary unemployment programmes, funded by the government, but there are no countrywide statutory unemployment benefits.

Other Benefits

Maternity Benefits

In industries where the Employees State Insurance Scheme (ESI) is available, it will take precedence over benefits available from the Maternity Benefit Act of 1961.

ESI's benefits are banded according to employee's earnings and are paid at twice the standard rate. Benefits are granted for 12 weeks, of which not more than six weeks shall precede the expected date of confinement. Should subsequent illness occur, an additional 30 days of benefits is available.

Under the Maternity Act, average wages must be paid to the employee for a maximum of 12 weeks, with six weeks being taken after the date of confinement.

Taxation

Contributions and benefits are tax-free under the government schemes except those mentioned in the new pension scheme (see section V Future Outlook below).

Other Information

Reciprocal Social Security Agreements

Belgium, Denmark, France, Germany, Hungary, Luxembourg, the Netherlands and Switzerland.

Agreements with Canada, the Czech Republic, Norway, Korea (Republic) are expected to be signed during 2010, while negotiations with Australia, Bulgaria, Cyprus, Romania, Spain and Sweden have entered the final phase.

IV PRIVATE BENEFIT PLANS

Background Information

Most employers voluntarily extend Employees Provident Fund Scheme (EPF) participation to all employees and many take advantage of the provision that permits the establishment of private provident funds outside the EPF. Some employers may also operate gratuity schemes, which provide for amounts higher than the statutory minimum.

Many large companies have defined contribution pension schemes for their management employees (with contributions ranging from 10% - 15% of basic salary). Few others have defined benefit schemes, often with different rates for different classes of employees (1% - 3% of final pay).

To summarize, the following private employee benefit practices are common in India:

- Extended Provident Fund Scheme (EPF) participation to all employees, i.e. employees with a basic salary and dearness allowance amounting to more than INR 6,500 are also covered.
- Operation of Gratuity Schemes offering amounts higher than the statutory minimum, i.e. INR 350,000.
- Setting up of company own Pension Scheme in the form of a private Provident Fund Trust, a Company Managed Superannuation Fund (trustee managed pension fund, where on retirement of an employee, the pension must be purchased from an insurance company) or a Private Pension Scheme (for companies with less than 10 employees – they cannot take up the superannuation scheme through a life insurance company). A large majority of organizations appoint a life insurance company, approved by the regulator, as the investment manager. They prefer this option in order to cut down on administrative costs and also because they do not have to deal with getting the requisite approvals from the Commissioner of Income Tax in order to manage the fund on their own.
- Group Medical Schemes are normally offered by the majority of companies.
- Group Personal Accident policy covering accidents, both at the workplace and outside the workplace. It is usually extended to employees only, and does not cover dependents or families. A policy can be taken out with any of the state-owned or private general insurance companies.
- Group Life cover (plus riders) is offered by many multinational companies and top Indian corporations to all employees.
- Group Credit Shield is offered by many multinational companies and top Indian corporations to offer a comprehensive and robust cover to secure outstanding loans extended to employees.

Subsequent to the liberalisation of the financial sector in 1991, there are now 13 private life insurance companies offering employee benefit schemes like Group Life, Credit Life, Group Accident and Group Medical cover with a wide array of riders/value ads. Some of them offer group gratuity and superannuation as well. The main distinctions between competitors are transparency, efficient service and availability of unit-linked plans.

Eligibility

Permanent employees/actively at work.

Age limits: Usually 18 to 60.

Contributions

Employee contributions differ depending upon the plan and the organisation. Most of the schemes are non-contributory.

Employer contributions to a defined contribution plan (e.g. superannuation scheme) generally range from 10% to 15% of basic salary. It is possible to have a contributory superannuation scheme with both employer and employees contributing to the fund.

The contribution rate to private provident funds set up after seeking exemption under the Employees Provident Fund Scheme (EPF), must be at least the same as for the EPF.

Private provident funds can be set up only through separate trusts in order to be recognized by the tax authorities. In the past gratuity and pension plans could be financed on a pay-as-you-go basis or by tax approved separate trust funds. An amendment to the Companies Act requires accounts to be based on accrual, thus obliging companies with the pay-as-you-go system to create provisions or reserves in their accounts to finance retirement benefits.

Retirement Benefits

Retirement Age

Normal retirement:	Usually 58 or 60M/F (occasionally age 55)
Early retirement:	Retirement is allowed up to 10 years early (on a reduced pension or with benefits deferred until normal retirement age).

Benefits

Group Superannuation Scheme: The accrued amount including interest provides the following:

- Commuted value (1/3rd of the amount), which is tax-free.
- Balance amount is the purchase price for providing a pension.

Vesting

Under most defined contribution pension schemes, full benefits are provided to early leavers. Five years for full vesting is typical. Under defined benefit schemes, vesting is generally after 20 years' service or on attainment of age 45 with 10 years' service.

Most pension plans provide for transfer of vested rights to other approved pension funds.

On withdrawal, members can get the equitable interest transferred to the superannuation scheme of the new employer if the rules of both schemes provide the same. They may opt for a pension from the normal retirement date as provided in the old employer's scheme. They may opt for immediate payment of commuted value and pension, in which case the benefits will be taxable.

Disability Benefits

Private pension, provident fund and gratuity schemes usually provide for accrued benefits to be paid on disability retirement.

Death Benefits

Group life covers employees for an amount that could be based on the salary, the service grade or it could be a flat amount. The plans usually offer riders which cover disability, accident and various illnesses.

Under superannuation schemes, the accrued amount is utilized for the payment of pension of the type the beneficiary may opt for. In this case, the benefit received is tax-free.

A lump sum is payable, besides the pension, if the employer has taken out group life insurance in conjunction with a superannuation scheme.

Sickness Benefits

Companies do not generally provide short-term sickness benefits.

Medical/Health Benefits

Most employers have their own health/medical compensation scheme. Almost all of them offer hospitalization and medical coverage through a group health insurance plan.

It is customary for employers to reimburse day-to-day medical expenses up to a fixed sum, (normally ranging from a month's basic salary up to INR 15,000 per year) and take out medical insurance for the employee and family to cover hospitalization. Medical insurance is typically provided to supervisory and management staff.

Large companies also provide medical insurance to workers not covered by the Employees' State Insurance Scheme (ESI). Employers provide hospitalization benefits to employees in the event of major illnesses through suitable health insurance schemes. Benefits are typically in the range of INR 100,000 to INR 1,000,000 and depend on the level of the position within the organizational hierarchy.

Work Injury Benefits

Most employers provide cover for work injury. In most cases it is covered through the group disability plans and the pensions.

Other Benefits

Housing allowance, loans, transport allowance are also commonplace.

Group Gratuity Retirement Scheme

The Indian Payment of Gratuity Act 1972 obliges employers to pay 15 days salary (calculated as 15/26 of a month's wages) for each completed year of service to employees who terminate employment for any reason, after five years of continuous service. This one-off payment is currently subject to a maximum of INR 350,000. Higher benefits can be paid if the employer wishes. The maximum is to be raised to INR 1 million (approval of legislation pending).

Since the gratuity is linked to base salary and years of service, the liability increases with time. This means that growing organisations can find their gratuity payouts expanding to a substantial amount. If the employer pays gratuities from current revenue, it can become difficult to meet these liabilities, even though payments can be claimed as deductible expenses.

However, a more prudent system of financial management is to set aside each year the gratuity liability as determined by an actuarial valuation, and claim the income tax benefits on the amount contributed. This can be done by creating a trust, which can be managed privately (in-house) or by a licensed life insurance company.

In the case of privately managed trusts, the investment of the funds must comply with the Indian Income Tax Act. The administration of the trust, including its actuarial valuation, is the responsibility of the trustees.

When it comes to insurer managed trusts, investments and actuarial valuations are undertaken by the insurer. Furthermore, almost all insurers have unit-linked plans, whereby the employer can choose the fund into which to contributions are deposited.

These gratuity schemes also include life insurance cover. In the event of an employee's death in service, a lump sum is paid out equal to

- The future service gratuity (i.e. the total service gratuity less the accrued service gratuity) or
- A flat benefit amount determined at commencement and subsequent renewal of the coverage, subject to a minimum fixed amount.

Until 2001, the only licensed insurer in India was the Life Insurance Corporation of India (LIC). The funds entrusted to LIC formed part of its total life fund, and a fixed return accrued to the trust every year depending on the return. LIC's return has been in the region of 8% to 9.5% per annum for the last two years.

With the advent of private life insurance companies as from the year 2001, the entire investment pattern was modified, and the gratuity trusts were permitted to choose how to invest their funds. It is now possible to invest up to 60% of the total fund in equity shares of Indian companies as opposed to the past where almost 80% of the contributions were invested in Indian Government Securities and bonds issued by Indian Corporations.

The Indian stock markets have performed exceedingly well in the last few years, spurred by increases of over 8% in GDP and investments of over USD 15 billion by foreign institutional investors. The benchmark BSE Sensex (covering 30 major stocks listed on the Mumbai (Bombay) Stock Exchange) has grown by over 460% in the last five years.

Unsurprisingly then, over the last three years, the return on investment for gratuity funds in unit-linked plans offered by life insurance companies with an equity exposure of 50% to 60% has been in excess of 28% per annum. This contrasts well with the maximum return of 9.5% offered by LIC under its group gratuity schemes.

However in 2008 the returns from Indian equities were 53% as opposed to earlier years when they were in excess of 40% per annum (from 2005 to 2007). Against this backdrop gratuity trusts are now looking at “capital protection” and “fixed return options”. The rate of interest on debt instruments offered by Indian corporates peaked to an all time high of around 12% per annum for a 5-year tenure as a result of which a lot of funds were diverted to such instruments.

The Indian Stock Markets bounced back in 2009 giving a return in excess of 82% which has resulted in increased interest for schemes with equity allocations in varying proportions.

These plans also provide complete transparency regarding fund management charges, and the entire fund portfolio is disclosed at monthly intervals to the investing trusts. The funds are managed by expert investment managers with solid experience in the Indian stock markets, whose main objective is to ensure returns in excess of the benchmark indices.

The outstanding performance of Indian equity markets in the last few years, combined with the expertise of Indian life insurance companies in managing gratuity funds, offers strong arguments in favour of setting up insurer managed trusts.

Some life insurers also offer a Capital Guarantee, under which equity allocation is reduced to a lower level (e.g. 20% or sometimes NIL) and the original contribution plus interest is guaranteed against market fluctuations.

Since increases in fund value due to superior investment management can be offset against future gratuity contributions, lower expenses on the employer’s profit and loss account can be the result. Another reason why it makes very good sense for Indian employers to entrust the management of their gratuity funds to a life insurer that offers innovative products and optimal deployment of their funds to achieve maximum returns.

Taxation

Employer Contributions

The maximum contribution an employer can make to an approved pension plan and to a provident fund is restricted by the income tax provisions to 27% of the annual salary.

Employer contributions to a provident fund are tax deductible up to a limit of 12% of gross pay.

Employer contributions to approved gratuity funds are deductible up to 8.33% of gross pay.

Contributions to Group insurance policies are treated as deductible business expenses.

Employee Contributions

Employee contributions to a provident fund or an approved private pension plan (superannuation fund) are eligible for a tax rebate of 100% of such contributions subject to a maximum rebate of INR 100,000 under section 80 C of the IT act (as per an amendment effective April 1, 2006 annual contributions made by an approved superannuation trust up to INR 100,000 per employee can be claimed as a deductible business expenditure).

Employer contributions to an approved superannuation fund are taxed as a perquisite in the hands of an employee, 100% of the contribution in excess of INR 100,000 per annum is taxable.

Benefits

Private provident fund benefits and statutory gratuities are tax-free. Any other gratuity benefits are tax free up to INR 350,000 or 50% of monthly gross pay per year of service, whichever is the lower.

Up to one third of the pension may be commuted to a tax-free lump sum if the employee also receives a gratuity or one half if no gratuity is received.

- The interest on the fund is exempt from tax.
- Benefits payable on death are exempt from tax.

Double Taxation Agreements

Australia, Austria, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Korea (Republic), Libya, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mongolia, Morocco, Myanmar, Namibia, Nepal, the Netherlands, New Zealand, Norway, Oman, the Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia, Sierra Leone, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syria, Tanzania, Thailand, Trinidad & Tobago, Turkey, Turkmenistan, Uganda, the United Arab Emirates, the United Kingdom, the United States of America, Uzbekistan, Vietnam and Zambia.

V FUTURE OUTLOOK

Trends in the Insurance Industry

Total Life Industry Business FY 2008 –09

	Total premium underwritten (billion INR)	% Growth over last fiscal year	Market share as % of premium	Total number of policies issued (in million)
Private Players	341.53	1	39.2	15.02
Life Insurance Co. of India (LIC)	529.54	-10	60.8	35.91
Total	871.07	-6	100.0	50.93

Having grown at a CAGR (compound annual growth rate) of over 50% in the past years, the private insurance industry might look at a more moderate growth in future due to the current economic slowdown and credit crunch. Nevertheless, the Indian market will remain one of the world's fastest growing, since only one third of the insurable population is covered.

Currently, the market counts 200 million individual contracts and 130 million employees covered by group schemes. The overall potential is even larger at an estimated 200 million each, and thus much room for growth remains. The penetration rate is expected to keep increasing.

Group Insurance Business in India

- Group insurance has made rapid strides and the market is showing steady growth year by year.
- Of life premium during FY 2008-2009, in excess of INR 871.07 billion (USD 19 billion), around INR 176.86 billion (USD 4 billion) in premium income came from the group segment.
- There is no legislation for providing group insurance coverage for the workforce.
- Total workforce in organized employment is less than 15% of total workforce.
- Accidental and medical coverage is becoming more widely accepted.
- Concentration of business around the very large cities.
- Fringe benefit tax imposed on group insurance and group superannuation schemes, since being replaced by perquisites tax, has further affected the market.

Insurance Reforms

- LIC (Amendment) Bill: The bill aims to improve the capital equity of the former monopolist Life Insurance Corporation of India (LIC) from the current INR 50 million (USD 1 million) to INR 1 billion (USD 20.5 million). It faces opposition, e.g. from employees' associations, who believe that the passing of the bill would pave the way for privatisation of the LIC, since it also allows the four state-owned insurance companies to go public and raise funds in capital markets.
- Initial Public Offerings (IPO) of private insurers: Indian insurance JV's are technically required to hold an IPO within 10 years of foundation, but only after they have reported profits for 3 consecutive years. Most insurers lack this required profitability; currently the insurance regulator is in the process of issuing fresh norms for insurers to hold an IPO.
- A Bill enabling a higher gratuity ceiling is expected to pass parliament during the first half of 2010, after having been approved of by the Union Cabinet in March 2010.

Indian Health Insurance Industry to Outperform by 2013

The health insurance industry in India is forecast to grow at a CAGR of around 41% by FY 2013 owing to increasing awareness and rising healthcare costs, says RNCOS in its latest research study.

According to the new research report "Indian Healthcare - New Avenues for Growth", the health insurance industry in India is expected to register a robust growth rate in coming years and will see a CAGR of around 41% during FY 2010-2013. The industry's future is promising despite the concern of lack of awareness by the majority of the population. The health insurance industry growth will mainly be driven by rising healthcare costs and prospering middle class population, encouraging people to secure their health by taking medical coverage. Government initiatives, including detariffing of the general insurance industry and the rationalisation of premium rates, will also give impetus to the industry.

The research indicates that presently only 10% of the Indian population is covered under health insurance, indicating that there is tremendous scope for growth in this area. Low penetration rate will be covered by an increase of innovative schemes and better coverage for the urban as well as the rural population. RNCOS also evaluated various factors that will propel growth in the Indian health insurance market over the forecast period (FY 2010-FY 2013).

Besides, RNCOS carried out an extensive research and in-depth analysis of the Indian healthcare market in order to understand the factors that will continue to serve as market drivers in coming years. RNCOS identified that factors such as growing per capita healthcare spending, epidemiological transitions and change in the demographic profiles have supported the healthcare insurance industry to make strong headway and post healthy growth rate. The report also gives insight into the role of private players to popularize the concept of health insurance in the Indian population.

Source: RNCOS