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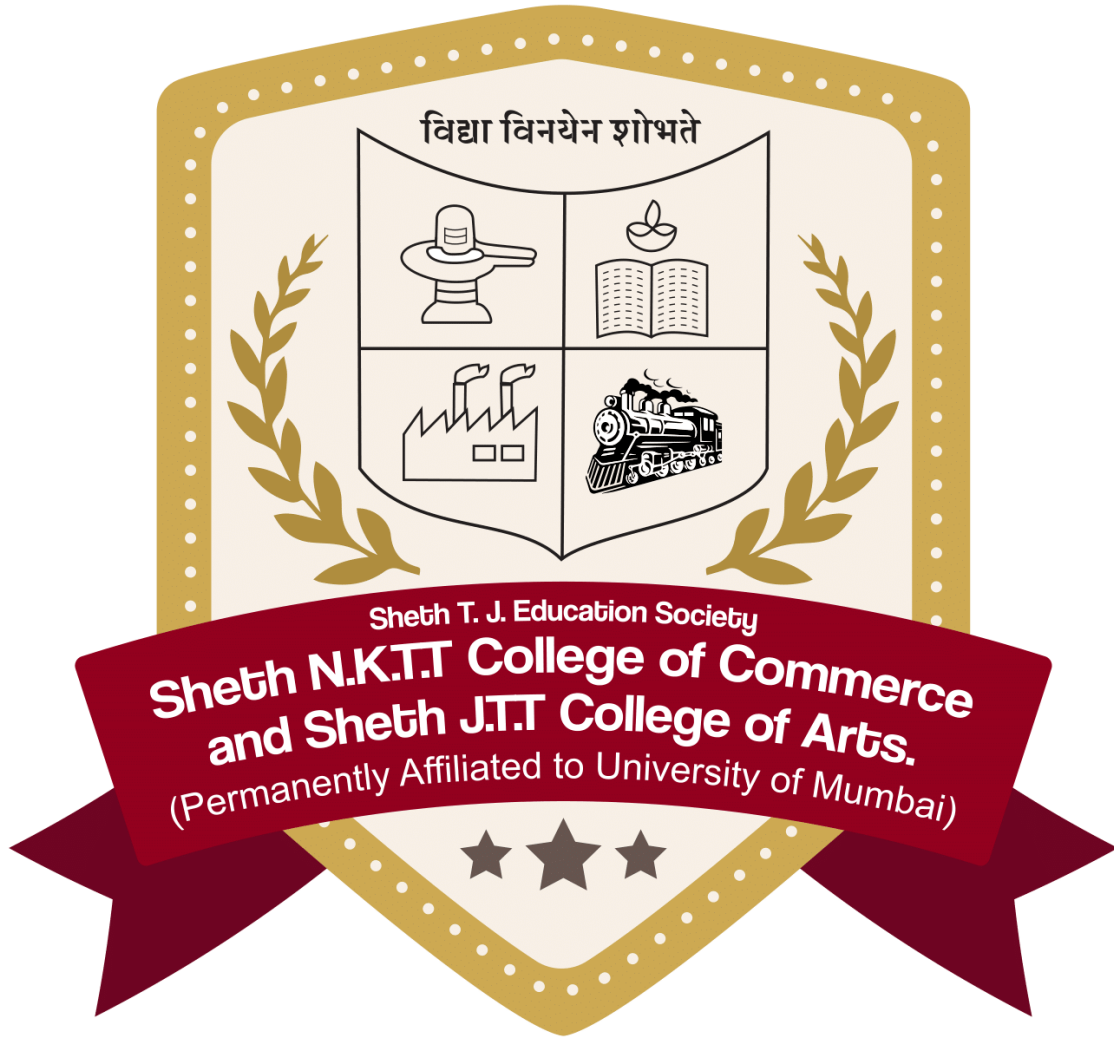


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# **LEGAL RESEARCH REPORT: EQUAL PAY AND BENEFITS FOR WOMEN: A COMPREHENSIVE LEGAL ANALYSIS**

AUTHORED BY - ADV. BHUMIT FARIA

## **Abstract**

The issue of equal pay for equal work has been at the forefront of gender equality debates for decades. In India, while there have been several legislative measures to combat wage disparity between men and women, a significant gap remains. This research report critically analyzes the existing legal framework around equal pay for women in India, focusing on the Equal Remuneration Act, 1976 and the Code on Wages, 2019. Through an in-depth examination of statutes, case law, and judicial precedents, the report assesses the effectiveness of these laws and highlights the challenges in their enforcement.

Despite the presence of robust legal provisions, cultural biases, organizational practices, and lack of awareness continue to hinder the realization of wage parity. This report suggests that comprehensive reforms are required, not only in legislation but also in the attitudes of employers and society at large, to effectively close the gender wage gap.

**Keywords:** Equal Pay, Gender Wage Gap, Equal Remuneration Act, Code on Wages, Gender Equality, Legal Framework, Judicial Precedents.



## 1. Introduction

The concept of equal pay for equal work is a fundamental principle of human rights, yet it remains an unfulfilled aspiration in many countries, including India. Despite substantial advancements in gender equality, women in India continue to earn significantly less than their male counterparts for the same or similar work. The gender wage gap is influenced by several factors, including discrimination, unequal access to opportunities, and social norms that place a lower value on women's labor.

India's legal framework, while progressive on paper, has not been entirely successful in bridging the wage gap. Laws such as the Equal Remuneration Act, 1976 and the Code on Wages, 2019 aim to address these disparities, but their implementation faces numerous challenges. This report delves into these laws, examining their provisions, enforcement, and effectiveness. It also analyzes key judicial precedents that have shaped India's legal stance on equal pay, with the goal of providing a comprehensive understanding of the current state of gender-based wage inequality in the Indian workforce.<sup>1</sup>

## 2. Factual Background

In India, the legal journey towards ensuring equal pay for women began with the Equal Remuneration Act of 1976, which sought to address gender-based wage discrimination by mandating equal pay for men and women performing the same or similar work. The law aimed to eliminate discrimination in remuneration and provide protection for women against unfair wage practices in various sectors. Despite this law, women in India continue to earn lower wages than their male counterparts, particularly in sectors such as agriculture, manufacturing, and services.

In 2019, the Code on Wages was introduced to simplify and consolidate various laws relating to wages, ensuring fairness and transparency in wage structures across industries. The Code on Wages aimed to address the lacunae left by earlier legislation, including the Equal Remuneration Act, by promoting better enforcement of wage-related rights and ensuring that all workers—regardless of gender—receive equal pay for equal work. Despite the legal advancements, gender-based pay disparity remains widespread due to various systemic and social barriers.

<sup>1</sup> Equal Remuneration Act, 1976, Government of India.

<sup>2</sup> The Code on Wages, 2019, Government of India.



The issue of gender-based pay discrimination is also exacerbated by India's deeply ingrained patriarchal norms, which often devalue women's contributions in the workplace. In many cases, employers have found loopholes in the law to continue paying women less than men for similar roles, often citing differences in job responsibilities or performance standards as justifications for the disparity. This practice is particularly prevalent in industries with a high degree of informality, where workers are often unaware of their rights under the law.<sup>2</sup>

### 3. Legal Analysis

#### Relevant Statutes and Laws

##### The Equal Remuneration Act, 1976

The Equal Remuneration Act was one of India's earliest attempts to address the issue of gender-based wage discrimination. The Act mandates that employers provide equal remuneration for men and women performing the same or similar work in an establishment. It is designed to eliminate discrimination in pay based on gender, ensuring that both men and women are entitled to the same wages for the same tasks. Key provisions of the Act include:

Section 4: Employers must not discriminate on the basis of gender while paying wages for the same or similar work.

Section 6: Any violation of this provision, such as the payment of unequal wages, can be reported to the government or relevant authorities for redress.

However, the effectiveness of this law has been limited by poor implementation, lack of awareness, and the persistence of traditional gender norms that continue to influence workplace practices.

##### The Code on Wages, 2019

The Code on Wages consolidates four earlier laws related to wages and employment, including the Payment of Wages Act, 1936, and the Minimum Wages Act, 1948. The Code aims to promote wage fairness across all sectors and provide more stringent enforcement mechanisms for ensuring equal pay. The provisions relevant to gender pay equity include:

Section 8: The Code mandates that no employer should discriminate in terms of wages based on gender.

<sup>3</sup> Indian Constitution, Articles 14 and 39(d).

<sup>4</sup> Randhir Singh v. Union of India, (1982) 1 SCC 618.

Section 9: It introduces a central database of wage rates, which can be used to monitor wage disparities and improve wage transparency.

Section 23: Ensures that any violation of the Code is subject to penalties, reinforcing its intent to eliminate discrimination in wages.

### Constitutional Provisions

The Indian Constitution provides several safeguards for ensuring gender equality, including:

Article 14: Guarantees the right to equality before the law, which extends to equal treatment in employment, including wages.

Article 39(d): Specifically mandates that the State shall ensure equal pay for equal work for both men and women.

### Key Judicial Precedents

Randhir Singh v. Union of India, (1982) 1 SCC 618

The Randhir Singh case marked a significant moment in India's legal journey toward gender pay equality. The Supreme Court ruled that wage discrimination based on gender violates the principle of equality enshrined in Article 39(d) of the Constitution. The Court emphasized that women and men must receive equal pay for the same work, regardless of gender.

State of Punjab v. Jagjit Kaur, (1997) 2 SCC 448

This case further elaborated on the principle of equal pay for equal work. The Supreme Court held that even when the jobs performed by men and women are not identical but similar, women are still entitled to equal pay. This decision reinforced the notion that wage discrimination is unlawful in cases of comparable work, which has been a cornerstone of India's legal framework on equal pay.

Municipal Corporation of Delhi v. Female Workers, (2000) 2 SCC 149

The Municipal Corporation of Delhi case addressed the unequal treatment of female workers in government organizations. The Supreme Court ruled that female workers performing similar tasks to their male counterparts must be paid the same wages, recognizing the systemic inequality in pay that existed at the time.<sup>3</sup>

<sup>5</sup> State of Punjab v. Jagjit Kaur, (1997) 2 SCC 448.

<sup>6</sup> The Gender Pay Gap: Causes, Consequences, and Solutions, World Economic Forum, 2023. Available at: <https://www.weforum.org/agenda/2023/03/gender-pay-gap-causes-solutions>

## 4. Discussion

### Strengths of the Legal Framework

The Equal Remuneration Act, 1976 and the Code on Wages, 2019 represent strong legal instruments aimed at addressing wage inequality between men and women. Both laws emphasize the need for equal pay for equal work and provide mechanisms for redress in cases of wage discrimination. Judicial precedents have reinforced the constitutional mandate for gender wage parity, with the Supreme Court playing a pivotal role in shaping the legal landscape.

Additionally, the Code on Wages introduced more robust mechanisms for the enforcement of wage equality. The central database of wages, along with the provision for penalties for non-compliance, has the potential to improve transparency and accountability in wage structures across the country.

### Challenges and Implementation Hurdles

Despite the legal advancements, the gender pay gap continues to persist due to several challenges in implementation. Awareness of these laws is still lacking, particularly among women working in the informal sector, where gender-based pay disparities are most prevalent. Employers often exploit gaps in the law to justify unequal pay, and enforcement mechanisms remain weak, particularly in rural areas and smaller businesses.

Furthermore, cultural biases and stereotypes about the value of women's work continue to hinder progress. Women are often relegated to lower-paying sectors or jobs deemed less valuable than their male counterparts. These societal attitudes must change to achieve genuine wage equality.

### International Perspective

Globally, several countries have successfully reduced the gender pay gap by implementing stringent pay transparency measures and ensuring that laws related to equal pay are rigorously enforced. In countries like Iceland, Norway, and Finland, wage parity is actively monitored, and employers who fail to comply face hefty fines. These nations also promote policies that encourage the participation of women in high-paying sectors, addressing the root causes of wage disparities.

India could draw valuable lessons from these international frameworks by introducing stronger penalties for non-compliance, enhancing the role of labor unions in monitoring wages, and providing financial incentives for companies that demonstrate a commitment to gender equality.<sup>4</sup>

## 5. Conclusion

India has made notable strides toward achieving wage equality for women through its legal framework, which includes the Equal Remuneration Act, 1976 and the Code on Wages, 2019. Judicial precedents have reinforced the importance of equal pay for equal work, providing a legal foundation for women to challenge wage discrimination.

However, significant challenges remain in ensuring that these laws are effectively enforced. The lack of awareness, cultural biases, and systemic inequalities continue to hinder the realization of true wage parity. To achieve genuine progress, India must improve awareness, strengthen enforcement mechanisms, and address the root causes of gender-based wage discrimination.

Only through comprehensive reforms, cultural change, and more stringent enforcement can India hope to bridge the gender wage gap and ensure that all workers, regardless of gender, receive equal pay for equal work.<sup>5</sup>

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<sup>7</sup> The Future of Work: Gender Pay Gaps and Inequalities, International Labour Organization (ILO), 2021. Available at: <https://www.ilo.org/global/topics/equality-and-discrimination/gender-pay-gap>

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