There are fifteen employment regulations governing industries & workers which, apart from others, also define wages. There are only three Acts namely Payments of Wages Act, Contract Labour (R&A) Act & Interstate Migrant Workmen Act which have the same definition of wages. Other two Acts like Industrial Disputes Act & Industrial Employment (SO) Act have the same definition. Remaining ten Acts have their own definition of wages, different from each other.

There may be a question as to why these ten acts have different definitions of wages? Answer could be that each Act defined the term “wages” keeping in mind the objectives of the particular Act. In spite of difference in the definitions, there are few common ingredients; that can be noticed in all definitions. The contribution towards PF, bonus and gratuity are excluded from the definition of wages in all employment regulations. On the other hand, all remuneration capable of being expressed in terms of money is the basic fundamental with few inclusions and exclusions.

The Most comprehensive definition of wage is found in the Industrial Disputes Act, 1947. Under this definition, a wage means all remuneration (express or implied) capable of being expressed in terms of money, including all allowances, perquisites, concessions and commissions. In other words a wage is a remuneration earned by a workman for rendering service or giving is labour and should approximate as near as possible to leaving wage. Usually, the wage structure in Indian industry is divided into three components—basic wage, D.A. or variable D.A., allowance and commissions/incentives.

Under Payment of Wages Act, wages refers to all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money which would (if the terms of employment, express or implied, are fulfilled) be payable to a person employed in respect of his employment or of work done in such employment. It includes:- (i) any remuneration payable under any award or settlement between the parties or order of a Court; (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period; (iii) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment
is to be made; (iv) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force.

Company must formulate its wage structure keeping in mind the definition of Wages provided under different Acts to meet its objectives and liability. In present times organizations have developed a concept of CTC, commonly known as cost to company while deciding wage structure. This concept is so predominant that HR professionals sidelines the main objective of attracting employee on compensation part because CTC in some cases is 60% more than the employee take home pay. In many cases managers include the PF contribution, bonus and gratuity amount in CTC of the employee shown as payable on monthly basis to the employee. Some organizations have gone to the extent of showing the leave encashment amount too as part of CTC. These inclusions are done without understanding the implications of the regulations related to EPF, bonus, gratuity and Factories or Shops & Establishment Act as applicable, to the establishments.

It is a point to be appreciated here that if these components on behalf PF, bonus, gratuity and leave encashment as calculated on monthly or yearly basis is made part of CTC, then these amounts become the express terms of employment to be fulfilled as agreed by the employer. Let us take a case of an organization, where neither the Payment of Bonus Act is applicable because it has not completed the initial five financial years of operations and has not earned profits nor the EPF Act in case of an employee being his salary fixed for more than 6500/- per month. When the employee leaves the organization before completing five years of continuous service, the questions comes whether will he be entitled to gratuity, bonus or leave encashment as agreed in his CTC by the employer while engaging him?

While most of the employers don’t pay gratuity, bonus, PF contribution and leave encashment on the plea of not applicability of laws to such employees even though agreed in CTC at the time of appointment, it is clear breach of employment contract. Employer in such case is liable to pay bonus, gratuity, PF contribution and leave encashment to his leaving employee not as per statutory benefits entitlement but due to agreed CTC compulsions. By putting these statutory benefits available to employee subject to fulfilling certain conditions in CTC, we as employer unnecessarily bind ourselves providing better benefits than available in regulations as part of CTC. Even if the leaving employee has not completed five years of continuous service for the purpose of gratuity, he will be entitled for the amount of gratuity as agreed in CTC. If the organization is exempted from the provisions of the Payment of Bonus Act, still employee will be entitled to bonus amount as agreed in CTC. Even if the employee was not made member of
EPF being excluded employee, still he will be entitled to the employer’s share of PF as shown in CTC.

The reason behind these entitlements of employee is only because the organizations make such statutory benefits as terms of employment by specifically mentioning them without conditions as part of remuneration in CTC. So the HR managers should have in depth knowledge of various employment regulations defining wages while deciding about the salary structure of employees. Similarly definition of basic wage as defined in EPF Act should be understood clearly before finalizing salary structure. ESI Act has different definition of wages. While it covers amount of overtime as wage, others do not. While Payment of Gratuity Act talks of wages as Basic and DA only, others include much more components. Suspension Allowance is not wages for Bonus Act but it is wages for ESI Act. It is also not wages for EPF Act. Lay off Compensation is wages for Bonus purpose and EPF. While suspension allowance is wages for ESI, it is not for EPF Act. While incentive bonus is not a part of wages under Payment of Wages Act, it is a part of wage for the purpose of ESI Contributions. While fixed conveyance allowance does not attract ESI contribution being not a part of wage, it is part of wages in other Acts. While Minimum Wages Act has its own definition of wages emphasizing basic as integral part of minimum wages, EPF authorities are bent upon to prove that minimum wages is nothing but the basic wage only. The issue is still pending in Supreme Court for final decision.

The court verdicts are also expanding / re-defining the definition of wages in different Acts. As the case of basic wages in EPF Act is still full of controversy and confusing, definition of ‘salary or wages’ in Payment of Bonus Act has been expanded by Delhi HC in the case of Globe Detective thereby making employee entitled to get bonus on minimum wages and not on basic wages on the ground that minimum wages is a total pack and cannot be split up.

In view of these complexities, HR professionals while working on salary structure/CTC, should keep in mind the various components of wages and other statutory benefits as defined under various Act.