

BONUS REVIEW COMMITTEE

INTERIM REPORT

September 1972



सत्यमेव जयते

**GOVERNMENT OF INDIA
MINISTRY OF LABOUR & REHABILITATION
DEPARTMENT OF LABOUR & EMPLOYMENT**

CONTENTS

	PAGE NO.
Chapter I Introduction	1—3
Chapter II The demand for increase in Minimum Bonus and views of employees	4—6
Chapter III Views of Employers	7—13
Chapter IV Views of the Committee	14—27
Note by Shri N. S. Bhat and Shri Harish Mahindra	28—30



CHAPTER I

INTRODUCTION

Constitution of Committee : terms of reference.

The Government of India, Ministry of Labour, Employment and Rehabilitation under the Resolution No. U-23018/1/72-WB, dated the 28th April, 1972, constituted the Bonus Review Committee consisting of the following persons:—

Chairman :

Dr. B. K. Madan.

Members :

1. Shri N. S. Bhat.
2. „ Harish Mahindra.
3. „ R. P. Billimoria.
4. „ G. Ramanujam.
5. „ Satish Loomba.
6. „ Mahesh Desai.
7. Dr. S. D. Punekar.

The terms of reference of the Committee are :

“To review the operation of the Payment of Bonus Act, 1965, and to suggest suitable modifications to the scheme outlined therein and, in particular, to make recommendations on the following issues:—

- (i) Whether establishments (other than factories) employing less than 20 workers, may be covered by the Act and if so, up to what limit of employment? Should there be a separate formula for payment of bonus in these small establishments?
- (ii) Is there a case for raising the minimum bonus and if so to what level?
- (iii) Whether the present upper limit on payment of bonus and the system of ‘set-on’ and ‘set-off’ require any alteration and if so, on what lines ?
- (iv) Whether the entire bonus payment should be related in some way to production/productivity in the undertaking.
- (v) Whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through suitable schemes of production/productivity?
- (vi) To consider and make recommendations on any connected/ancillary matters?

The Committee shall also make a careful assessment of the likely impact of its recommendations on the national economy before finalising them.”

1.2 On 5th June 1972, Shri K. R. Wazkar, Retired Registrar of the Industrial Court, Bombay, was appointed as Secretary of the Committee.

Inaugural Meeting

1.3 The first meeting of the Committee was held on the 5th June, 1972 at Bombay. The proceedings were inaugurated by the Minister of Labour, Shri R. K. Khadilkar who addressed the members. The Minister of Labour of Maharashtra, Shri Narendra Tidke, was also present at the inauguration and spoke briefly.

1.4 Shri Khadilkar traced in brief the unrest which had prevailed before the appointment of the Bonus Commission in 1961 followed by a Bonus Ordinance and the Payment of Bonus Act, 1965. He said that in India as we knew well it had been customary and traditional for the business and commercial houses to disburse on the eve of Puja and Diwali festivals something which had come to be known as bonus, which represented the good will of the employer and also reflected the recognition of the services rendered by the workers in the preceding year. Although there was no statutory obligation on the part of the employers to make this payment, as a matter of custom and usage, these payments were consistently being made in the past. He then referred to the events of the last year. The demand was for higher minimum bonus, a number of mandays were lost and the industries suffered on account of the various work stoppages. To meet the situation, temporarily an *ad hoc* formula was devised for the payment of minimum bonus plus payment of an advance. A few industrial and commercial houses and public sector undertakings had agreed to pay as per the *ad hoc* formula even though they were not statutorily required to do so. He further stated that with the Puja and Diwali festivals in the offing and in the context of the situation in which the Committee was meeting, there was a great responsibility on the Committee, of reviewing and examining the vital issues of bonus on which would depend to a large extent the climate of industrial relations in the country in the near future. While expressing sincere good wishes for the success of the deliberations of the Committee he requested the Committee to make a careful assessment of the question of bonus and while doing so of the likely impact of the Committee's recommendations on the national economy. Shri Tidke referred to the fact that though the Bonus Act provided for a fully worked scheme of determining bonus, the actual determination of profits on the basis of balance sheets was disputed in several cases by the unions and that payment of 4% bonus had become by and large the rule rather than the exception and added that anything short of minimum of 8.33% of bonus would not satisfy the workers.

Interim Report—Scope of Report

1.5 The Committee's terms of reference are indeed inter-related, and for a proper examination it would seem necessary to consider the various issues arising thereunder together. This is so, especially having regard to the manner in which different provisions were originally considered and recommended for adoption as part of an integrated structure. Even if the several parts of this structure have been a source of dissatisfaction to employees or employers, a change in one part has important implications for and repercussions on the other parts and the structure as a whole could best be reviewed and revised in a co-ordinated way simultaneously. However, the Committee's appointment, which had been decided upon well before the end of last year, could only be notified at the end of April 1972, and there was still some more time before the Committee could get off to a start. The train of events which led to the setting up of the Committee itself made for a high degree of urgency about the Committee attending to at least a part of its terms of reference, namely, that relating to the problem of minimum bonus, with a sense of priority. The origin of the Committee can be traced to a phase of acute tension and conflict in employer-employee relations surrounding the bonus issue, and in particular the question of minimum bonus. The temperature of industrial relations was, again, expected to rise rapidly and touch explosive limits, unless the Committee addressed itself to the most urgent issues referred to it with due despatch. The Committee thus had to balance the obvious shortcomings of the procedure of a partial, interim report on some aspects only of its terms of reference, in particular on the question of minimum bonus, against the apparently insistent need of making a positive response to the situation of an under-current of intensive industrial unrest.

1.6 It was in the above context that the Committee decided, in favour of making a serious effort to consider certain urgent questions first. To this end the Committee also decided to have a comparatively summary procedure of inviting views of representatives of employees and employers in particular, and of the public generally, especially on the question of minimum bonus and the possible relation of any increase in it to production/productivity, besides other suitable modifications in the Act. Among substantive issues the oral evidence was largely confined to these issues, though in the course of written replies and oral submissions, other suggestions for changes in the Bonus Act were also made. In particular the workers' representatives, unanimously urged that the Committee's recommendations should include the question of coverage of workers under the Act. Both the written and oral representations and evidence addressed themselves to the initial procedural aspect of whether the Committee should make an interim report. The views of employees and employers on this point were diametrically opposed, the employees being emphatically in favour of the Committee making up for lost time and submitting recommendations on the most urgent issues, as they saw them. The employers on the other hand did not favour the submission of an interim report on the plea that "the issues raised by the terms of reference are of such fundamental importance to the national economy that their considerations should not be rushed through or prejudiced by any interim decision on one part of the whole case". The Committee decided, on conclusion of the oral evidence, that it would make an interim report on part of its terms of reference. With a view to limiting the scope of the report to certain minimum essential aspects and having regard to the fact that the Committee had not been able to consider at all systematically various other issues thrown up in the course of evidence in particular the question of concept of bonus and the coverage of the Bonus Act, the Committee decided that the interim report should be concerned only with the question of minimum bonus and of possible relation of an increase in minimum bonus to production/productivity. The present report is accordingly thus limited in its scope.

Procedure of Interim Enquiry, programme of public evidence and meetings

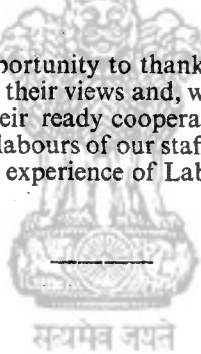
1.7 Following the first meeting of the Committee on the 5th June, a press communique was issued on the 12th June, 1972 inviting the views of organisations and individuals on the Committee's terms of reference in general and in particular on items (ii) and (v) relating to the question of minimum bonus and its possible relationship to schemes of production/productivity. The views of organisations of employees and employers were especially invited through a circular letter addressed to them. (Appendix I).

1.8 The second meeting of the Committee was held in Bombay on 28th June, 1972, when the programme for hearing the oral evidence of representatives of workers and employers was fixed. Public sittings for recording oral evidence were held in Bombay in two sessions. The first session was held on the 24th, 25th and 26th July, when the representatives of the Central Organisations of Labour and the All India Federations of Unions affiliated to them were heard. The second session was held on the 31st July, 1st and 2nd August, 1972, when the representatives of the Central Organisations of Employers and the All India Federations of Employers of different industries affiliated to them appeared before the Committee to tender oral evidence. Some important public sector undertakings, Hindustan Steel, Air-India, Fertilizer Corporation of India, the National Coal Development Corporation and Bharat Heavy Electricals also responded to the invitation to give written as well as oral presentations with regard to their respective sectors. Appendix II gives the names of employees and employers' organisations and their representatives who appeared before the Committee to tender oral evidence.

1.9 It will be seen that considering the limitation of time for completing the interim enquiry, the evidence presented on behalf of employees and employers has been fairly representative as well as comprehensive.

1.10 Following the series of meetings for receiving oral evidence the Committee had three sessions of two days each on the 10th and 11th August at Bombay, 22nd and 23rd August at Bangalore, 2nd and 3rd September, 1972 at Bombay and finally on 12th September at New Delhi to consider and arrive at conclusions and recommendations and to finalise the report.

1.11 The Committee wishes to take this opportunity to thank all organisations and individuals who have, at short notice, responded to its invitation to submit their views and, when requested, to tender oral evidence before the Committee, and assisted the Committee with their ready cooperation in its especially difficult interim task. We would also like to express our appreciation of the labours of our staff and in particular the unlimited hard work of the Committee's Secretary Shri K. R. Wazkar whose experience of Labour affairs over a long period was especially useful to us in our work.



CHAPTER II

THE DEMAND FOR INCREASE IN MINIMUM BONUS AND VIEWS OF EMPLOYEES

The general case of labour for an increase in minimum bonus appears to rely upon the observed fact that as a result of actual working of the provisions of the payment of Bonus Act the available surplus in a large number of concerns is either meagre or a minus quantity. After 1965 many concerns, especially those which are labour-intensive, have not been able to give more than 4% as minimum bonus. Having regard to the order of rise in prices as reflected in the Consumer Price Index Numbers, the labour has felt that the 4% minimum bonus although paid on basic wages plus D.A., has proved too inadequate. Widespread agitation started in the year 1970 and became more pronounced in 1971 for a increase in bonus due for the years 1969 and 1970 respectively, and the demand has been for raising the minimum bonus of 4% to 8.33%.

2.2 On a perusal of the memoranda submitted by the Central Organisations of Labour, the following train of events seems to indicate as to how the demand for such an increase in the rate of minimum bonus gathered momentum. A private member's bill No. XII of 1966 was introduced by Shri Chitta Basu, in the Rajya Sabha on 19th August, 1966. The bill came for discussion on 8th May, 1970, on 7th August, 1970, and again on 26th March, 1971. The Bill was withdrawn and a settlement was made on behalf of the Government of India to the effect that the Government themselves were thinking of bringing forward legislation for amending the Payment of Bonus Act. On 24th September, 1970, the late Shri D. Sanjivayya, then Labour Minister of the Central Government addressing the meeting of the Bombay Textile workers under the auspices of the Rashtriya Mill Mazdoor Sangh, reportedly said that Government would shortly take a decision on the issue of payment of higher minimum bonus to workers. He said that he was conscious of the fact that workers were unhappy on account of the present provision in the Act for the payment of minimum bonus at 4% of the total wages. He also referred to Shri Chitta Basu's non-official bill recommending a minimum bonus of 8.33% of the total wages which was then before Parliament and added that Government would take a decision on the bill soon.

2.3 Following this announcement of the Labour Minister, an agreement was reached between the millowners and the representative unions in Coimbatore for the payment of minimum bonus at 8.33% for the accounting year 1969 (1969-70) and 1970 (1970-71). The agreement provided for payment of bonus by certain mills for more than 8.33%, by certain other mills between 4% and 8.33% with advance to make up 8.33% and for the remaining mills only 4% for the year 1969 (1969-70). The agreement contained a clause to the effect that in respect of advances paid in excess of the bonus liability, the parties shall strive to reach a settlement before 15-8-1971 in respect of advances for 1969-70 and failing such agreement the sum in excess of the bonus liability will be recovered in 12 monthly instalments commencing from September, 1971 onwards. The representative of South Indian Millowners' Association while giving evidence said that the advances for the year 1969 (1969-70) had been recovered. There was a similar clause in respect of bonus for 1970 (1970-71).

2.4 Shri Sidharth Shankar Ray, the then Union-Minister in charge of West Bengal announced a minimum bonus of 8% to the workers of Jessop & Co., Ltd., Calcutta, a Government of India undertaking for the year 1970.

2.5 On 26th March, 1971 in the Rajya Sabha the Union Labour Minister, Shri R. K. Khadiolkar, said that Government proposed to bring suitable legislation in due course to include the non-competitive public sector undertakings within the purview of the Payment of Bonus Act. A similar pronouncement was made by the Minister on 1st July, 1971 in the Lok Sabha stating that fresh legislation would be brought before Parliament by which the entire public sector would be brought under the purview of the Bonus Act. In August, 1971, the Labour Minister convened a conference of the State Labour Ministers which discussed the question of minimum bonus among other subjects. On 18th September, 1971, the representatives of INTUC, HMS and AITUC held a meeting in Delhi in which a unanimous demand was made to increase the minimum bonus to 8.33% for all workers in the private and public sectors including the departmentally run undertakings and to call upon the Government to promulgate an ordinance for enhancing the minimum bonus. On 20th September, 1971 in connection with the dispute for the payment of bonus for the year 1970 between the Millowners' Association, Bombay and the Rashtriya Mill Mazdoor Sangh, the Union Minister convened a bipartite conference at which, after negotiations a tentative agreement was reached on the basis of a formula (hereafter referred to as the *ad hoc* formula of 1971) which prescribed the payment of bonus as follows:—

- (a) Units which do not make enough gross profits to cover normal statutory depreciation will make a payment of 1% of the total annual emoluments in addition to the present statutory minimum of 4%.

- (b) Units whose gross profits show a surplus of 1% of total annual emoluments after charging normal statutory depreciation, will make a payment of 2% over and above the minimum 4%.
- (c) Units whose gross profits show a surplus of 2% of total emoluments after charging normal statutory depreciation will make a payment of extra 4-1/3%.

The difference between the amount payable under the Act and the actual amount paid under this *ad hoc* formula will be treated as advance to be suitably adjusted against future payment under a new bonus formula that may be evolved in pursuance of the contemplated review of the working of the Act.

2.6 On 22nd September, 1971 while adopting the formula it was also agreed that a Committee consisting of representatives of employees, employers and economists with an independent chairman would be set up immediately to go into the entire scheme of bonus, including the minimum and maximum, and that this committee should be requested to submit its report within six months.

2.7 The question of bonus was also discussed during the 27th session of the Indian Labour Conference held in October, 1971 and at the meeting of the Labour Consultative Committee in Parliament on 1st November, 1971 when the members urged that the Government should bring forward legislation fixing the minimum bonus at 8.33%. In the 27th session of the Indian Labour Conference held in October, 1971 the Union Labour Minister said "Matters relating to bonus payable under the Payment of Bonus Act have resulted in a good deal of agitation. The Government is trying to review the working of the Act. Obviously amendment can be promoted only after full discussion and consideration. In the Indian Labour Conference it was generally felt that the entire issue of bonus should be gone into by a committee which should be bipartite or tripartite. The employers' representatives on the Committee should include representatives of the public sector, and the Committee should submit its report within a period of six months. This account of the background sets out how the demand for an increase in minimum bonus was made in Parliament, in tripartite Labour Conferences and elsewhere and how this led to a review of the question of bonus by this Committee."

2.8 As explained earlier, the Committee has decided to attempt an answer to two of its terms of reference in the present interim report, viz., (ii) "Is there a case for raising the minimum bonus (4%), and if so to what level?" and (v) "Whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through suitable schemes of production/productivity?" To take first the latter question, viz., that relating to the possible linkage of increase in minimum bonus to suitable schemes of production/productivity, the evidence on behalf of employee organisations tendered before the Committee, both written and oral, has been uniformly opposed to any such nexus being established between annual bonus and production or productivity. Many representations on behalf of labour do not attempt to answer the question, presumably on the implicit ground that in terms of the current demand for an increase in it, minimum bonus should be untrammelled by any condition. The uncompromising stand of labour toward this issue is most clearly stated in the reply of the All India Trade Union Congress to the Committee's letter inviting views of organisations, in the following terms: "The AITUC is against linking bonus to productivity in whole or in part. It is also against continuing the present minimum of 4% and making provision for a higher quantum through a link-up with productivity. The reasons for this are simple and obvious. Firstly, minimum bonus is independent of any condition such as profit, production, productivity etc. It is an obligation on the employer irrespective of any other considerations. Secondly, productivity is not dependent upon workers alone. As a matter of fact most factors which influence it are outside the control of the worker. Hence the AITUC is opposed to linking minimum bonus to productivity in any shape or form". The AITUC's reply on this point may be said to reflect the view of labour organisations on this question.

2.9 In regard to the question of minimum bonus comprised in the second term of reference, if one may summarise the views of all the central labour organisations which submitted memoranda to the Committee and of their representatives who appeared before the Committee for oral evidence, the trade union leaders have jointly pitched their demand at raising the minimum bonus to 8.33%. The INTUC in its reply has stated that when it had submitted its reply to the Bonus Commission questionnaire, even then it had demanded that minimum bonus should be 8-1/3 per cent of the total wages earned during the year and that the quantum of minimum bonus fixed at 4% of the annual earnings by the Bonus Commission was "extremely poor and provided only a nominal relief." The INTUC has further stated that in general practice, however, employers and workers in several units in the country arrived at settlements at a much higher level than 4% though the profit was not sufficient to pay 4 per cent and that underlined labour's demand for a higher minimum. The minimum bonus of 8-1/3% of the total pay was a "must" in all industries/services, and should have retrospective effect from the accounting year 1969. Only the United Trade Union Congress (Central Office) has asked for an increase of the minimum bonus to 10%.

2.10 The grounds urged for an increase in the minimum bonus are as follows:

- (i) On account of the rise in prices, the employees' real wages have fallen, despite the fact that they are getting the basic wages plus dearness allowance which is linked to the Consumer Price Index, and also the 4% minimum bonus related to the total of basic wage and D.A. Therefore, to bridge the gap, even if partially, between the actual total earnings and the need based wage or the living wage, the quantum of minimum bonus should be increased.
- (ii) As minimum bonus of 4% has got to be paid under the Act whether there is profit or not, it has acquired a connotation of "deferred wage" and, therefore, the minimum bonus should not be linked to either existence or non-existence of profits or to 'set-off' in subsequent years of any loss resulting from payment of minimum bonus. The representative of the AITUC urged that wages as a proportion of cost of production have gone down, which means that the workers' share in the total value produced or added by manufacture has come down while that of the employers has gone up. This position could not be rectified except by increase in wages or minimum bonus, which is not dependent on profits or losses but is in fact in the nature of a deferred wage. The workers should, therefore, be given their due share in the value added by manufacture.
- (iii) The unions have, furthermore, urged that the increased minimum bonus should also be paid to the employees of the small establishments employing less than 20 persons who are at present not covered by the Payment of Bonus Act; the coverage should extend to every employed person.
- (iv) It was represented that under the present Bonus Act, the employees of the following institutions/authorities have been excluded from the benefit of the minimum bonus e.g., the employees of :
 1. Central & State Government ;
 2. Local Authorities ;
 3. Educational and Charitable Institutions ;
 4. Hospitals ;
 5. Solicitors' and Chartered Accountants' firms ;
 6. Central & State Govt. Printing Presses ;
 7. Milk Schemes ;
 8. Railway workshops & Naval Dockyards ;
 9. Employees of Life Insurance Corporation ;
 10. Indian Red Cross Society ;
 11. Contractors on Building Operations ;
 12. Reserve Bank of India, Industrial Finance Corporation and Industrial Development Bank of India ;
 13. Dock Labour Board ;
 14. Cotton Textile Mills which have been taken over by the Government under the Industries (Development and Regulation) Act, 1951 ; and
 15. Domestic servants, tailors, dhobies, beedi workers.

2.11 It was therefore urged that the employees of the above-mentioned institutions and authorities should also be granted minimum bonus of 8.33%. Many representations on behalf of employees have quoted the successive occasions on which the authorities have indicated willingness to support or further the demand for an increase in minimum bonus. This has been reviewed above in detailing the background of the demand for an increase in minimum bonus to 8.33%.

CHAPTER III

VIEWS OF EMPLOYERS

As regards the issue of linking bonus to production/productivity, we quote the following from the Maharashtra Chamber of Commerce as a typical and comprehensive statement of the employers' viewpoint on the question : "There is a considerable confusion in the matter of relating bonus payment to production/productivity. Bonus is essentially a scheme for sharing of profits with the employees. We consider that in this sense it should in no way be related to production/productivity. This does not mean that we do not wish to encourage improvement in production/productivity. Bonus Act provides a generalised scheme applicable to all industrial establishments. Measurement of productivity presents complex problems from industry to industry and even units within the same industry cannot be assessed by a single uniform measure of performance. Norms of performance will have necessarily to be set for different processes and different operations in the establishment. It cannot be said that in respect of the condition of tooling and equipment and regular availability of materials of uniform quality, we have reached a stage where measurement of productivity could be recognised and accepted without much dispute. Under existing conditions we consider that relating payment of bonus to productivity is likely to increase the area of dispute."

"Moreover, improvement in productivity may not always lead to improvement in profits. Technical efficiency may not always reflect itself in the commercial profit result.

Emergence of commercial profit depends on several other factors such as price level, capacity utilisation indirect taxes and other imposts. In view of the above we are not in favour of linking profit sharing with production/productivity".

The reply of the Indian Engineering Association, Eastern India, also throws light on some of the elements of the problem thrown up by this suggestion in the terms of reference. "We submit that it will not be possible to evolve a formula of productivity incentives or production incentives which can be universally applicable. Whilst it may be feasible to do so for certain homogeneous industries like Jute and Tea, (although in such cases, too, capital, production equipment and employment structures may be vastly different from unit to unit), it will be an impossible task to devise a scheme or even a set of schemes for an industry as diverse as the engineering industry. The extent of such diversity may be gauged from the list of selected industries.

"Furthermore, even if a set of schemes was evolved, all units would not be in a position to introduce a scheme of production/productivity bonus particularly in office establishment, engineering establishments which have been experiencing difficulties in the matter of procuring raw materials components, or suffering from lack of orders or where the production is controlled or restricted by the Government."

"There are already many engineering firms which have introduced incentive/production bonus scheme through which the workmen have been earning additional remuneration from 30 to 200% of their wages. It would be difficult for such firm to introduce an additional scheme related to production or productivity, nor would that be desirable."

The Indian Merchants' Chamber perhaps alone has voiced a vague hope for more effort and better light in this field. "They are not in a position to suggest any particular formula for being followed in this regard" but "would welcome a more thorough examination of this aspect by the Review Committee with a view to seeing if some guidelines can be evolved for implementing the concept of payment of bonus based on productivity". In general, the employers' view may be said to be unequivocally opposed to introducing a general link between the annual bonus and production/productivity, though the value of schemes having such a link on a unit-wise basis is widely acknowledged.

3.2 On the question of an increase in minimum bonus, the following points emerge from the replies of the Central Organisations of Employers to the circular letter inviting their views and the oral evidence of their representatives.

3.3 Referring to the concept of bonus as explained in paragraph 3.21 of the Bonus Commission, the Council of Indian Employers in its memorandum has observed that the dominant characteristic of bonus is that bonus is a share in the prosperity of the concern paid if profits exceed a certain minimum base. It is not paid to bridge the gap between the actual and the living wage or the need-based wage. If bonus were to be paid to bridge that gap it would be necessary to calculate the extent of gap and to vary the amount of bonus inversely with the wages per worker. The Council of Indian Employers quoted the following from the annual studies conducted by the Reserve Bank of India of the finances of 1501 companies for the year 1968-69: A size-wise analysis of 1501 companies reveals a rather disconcerting trend. The biggest companies having paid-up capital of Rs. 1 crore and above accounted for the bulk of the increase in sales and profits, while smaller companies numbering about 622 with a paid up capital between Rs. 5 lakhs and 25 lakhs experienced much smaller growth in sales and *actual decline in profits*. The top most size group of companies was alone able to plough back profits while in the case of remaining lower size groups the *retained profits were negative*."

3.4 The Council further pointed out that since the payment of Bonus Act was passed, the needs of the industries as regards (i) finance for repayment of short-term and long-term borrowings, (ii) provision for gratuity, (iii) reserves for contingencies and strengthening the enterprise generally and (iv) finance for rehabilitation, replacement, modernisation and obsolescence, had not been met because industries had not been left with adequate funds to cover them. The Council conducted a special survey among companies in order to study the working out of the formula under the Bonus in application to them during the year 1964 to 1970. The survey was based on the replies of 166 respondent companies. The following table gives the summary result in regard to net balance with industry after deducting from the gross profits the prior charges as defined under the payment of Bonus Act and the bonus paid.

Net Balance Remaining with companies after Paying Bonus by Industries during 1964-70

Industry	No. of Companies	1964	1965	1966	1967	1968	1969	1970
1	2	3	4	5	6	7	8	9
I Plantations	46	—69.07	—81.63	—19.10	—168.20	—265.34	—192.63	—171.84
II Coal Mining	3	—3.30	—110.59	—111.99	—90.37	—83.66	—69.53	—109.45
III Manufacturing	117	—197.84	—360.49	—813.31	—1429.75	—2121.15	—1656.55	—1050.16
Total (I+II+III)	166	—270.21	—552.71	—944.40	—1688.32	—2470.15	—1918.71	—1331.45

3.5 The table shows that for all industries the net balance was negative and further that the negative net balance increased from Rs. 270 lakhs in 1964 to as high as Rs. 2470 lakhs in 1968. Thereafter the position improved as the negative balance stood at Rs. 1331 lakhs in 1970. (The total net balance for a category of course represents the sum of positive and negative balances for individual concerns and gives the aggregate position for all units). On the basis of these data the Council feels that there is a case for removing the floor to payment of bonus altogether rather than raising it to a higher level.

3.6 Other organisations viz., the Indian Merchants' Chamber, the Bombay Chamber of Commerce, The All India Manufacturers' Organisation, the Federation of Electrical Undertakings, the Indian Cotton Mills Federation are also opposed to the suggestion for raising the minimum bonus. The Indian Merchants' Chamber based its opposition to an increase in minimum bonus on the wider ground of its possible effect on the economy as a whole, stressing in particular the problem of unemployment and its probable accentuation as a result of a higher minimum Bonus. The Bombay Chamber of Commerce in its oral representation opposed an interim report on part of the terms of reference and hinged its opposition to an increase in minimum bonus on the concept of bonus as profit-sharing as recently confirmed by the Supreme Court in the case of Premier Automobiles Ltd. and another *vs.* Union of India (writ Petition Nos. 327, 330, 331, 486 & 487 of 1969). In this case, the Court upheld the Government's opposition to inclusion of any part of bonus in the costs of the manufacturer on the score that even minimum bonus was part of an integrated profit-sharing Scheme.

3.7 The Indian Engineering Association (Eastern and Western Region) as well as the Engineering Association of India (Western Region) have highlighted the difficulties of the engineering industry and have pointed out that though several units may have agreed to pay higher than the minimum bonus, when this was not justified by their results of working, a raising of the floor would push up the entire scale of bonus payable, including by units which already pay higher bonus ; payment of bonus in individual units is often linked to the minimum bonus rate.

3.8 The representation of behalf, of, and the representatives appearing for, the tea Industry have pointed out that even the 4% minimum bonus is a heavy burden on these industries. The tea interests stressed the agricultural base, export-orientation and low profitability of the industry generally as factors supporting its claim for exemption from any increase in minimum bonus.

3.9 The Indian Mining Association emphasised that there should be no increase in the minimum bonus chiefly on the ground that only the minimum bonus was being paid by the mining companies generally with hardly any exceptions. This indicated the low level of profits in the industry which did not warrant any higher minimum bonus. The Mining Association further stated that the factors which have been mainly responsible for the continuing crisis in the coal industry were (i) an unprecedented failure in rail transport and (ii) denial of price increase by Railways since 1967 upto January this year when an inadequate average price increase of Rs. 1.76 per tonne only was conceded.

3.10 Similarly, the Bombay Millowners' Association, the Ahmedabad Millowners' Association and the South Indian Millowners' Association have opposed an increase in the quantum of minimum bonus. The Indian Jute Mills Association have based their opposition to an increase in the minimum bonus especially on the fluctuating fortunes of the industry, its export-oriented character and its uniformly low profitability as evidenced by the negative retained profits for a succession of years and the available indices of gross profits in relation to sales and capital employed, of profits after tax as percentage of net worth and dividend rates, all of which are lower than in the case of Cotton textiles and engineering.

3.11 Public sector undertakings, at least the Central Government enterprises, are paying either bonus when they are in the competitive category in terms of Section 20 of the Act, or are making *ex gratia* payments when they are non-competitive. Though as the Committee is informed by the Bureau of Public Enterprises, Ministry of Finance, this is the general position regarding payment of bonus, and payment is generally being made in terms of the *ad hoc* formula for payment of advances devised in September 1971, it is not precisely known whether all public sector enterprises have fallen in line with regard to application of the *ad hoc* formula. It is likely that in the State Government and Local Public enterprises, the formula has had less of an application than in Central Government undertakings.

3.12 The total wage bill in the public sector where bonus of *ex-gratia* payments are applicable, the number of employees covered, average pay per employee and the bonus paid, during the last three years, are indicated below.

Year	Number of Employees (No. in lakhs)	Salaries and wages including benefits (Rs. crores)	Average pay of employees excluding bonus (Rs.)	Bonus (Rs. Crores)
1	2	3	4	5
1968-69	5.98	254.8	4264	10.51
1969-70	6.13	290.0	4730	12.23
1970-71	6.60	357.2	5413	15.59

The increase in the amount of bonus paid in 1970-71 over the level of two years before is brought out above. It is furthermore estimated by the Bureau of Public Enterprises that if the minimum bonus were to be raised to 8.33% the total additional liability of the public sector would be of the order of Rs. 5.5 crores per year *at the current level of wages*. Of this the additional bonus liability arising out of the *ad hoc* 1971 formula is estimated at Rs. 2.70 crores. Information regarding the details of these estimates is given in the annexures to this chapter.

3.13 Four public sector enterprises led oral evidence before the Committee; these were Hindustan Steel Ltd., Air-India, Fertilizer Corporation of India and the National Coal Development Corporation etc. All of them equally emphatically opposed an increase in the minimum bonus.

3.14 The representatives of the Fertilizer Corporation of India, stated that its allocable surplus under the Bonus Act had all along been negative except in the Nangal Unit for the year 1969-70 when 11% bonus was paid. The Corporation was paying bonus on unit-wise basis until the year 1970-71 when it changed over to the Corporation-wise basis of payment of Bonus under the Act. Due to inadequacy of allocable surplus only the minimum bonus of 4% was paid in the year 1970-71, the total amount of bonus paid being about Rs. 35 lakhs. With the distribution of 4% minimum bonus under the Bonus Act, the cost of production of Fertilizers had already increased by Rs. 11.75 per tonne. With every additional 1% increase in bonus, the cost of production would go up further by Rs. 2.94 per tonne. That is to say, with 8.33% bonus, the cost of production would go up by another about Rs. 13 per tonne.

3.15 The representatives of Air-India pointed out that the company paid more than 4% bonus in some years, while it had paid only 4% in some years. Before the payment of Bonus Act, the National Coal Development Corporation did not pay any bonus under the LAT formula. In 1971 it paid 5% bonus under the *ad hoc* formula amounting to Rs. 91.5 lakhs, a part of it being treated as advance. The National Coal Development Corporation expressed the view that bonus is profit sharing and should remain as such, even 4% of bonus has been a burden on the Coal Industry, having cost the Corporation steeply rising amounts owing largely to revision and escalation of wages scales as follows:—

1965-66	Rs. 34.35 lakhs
1966-67	Rs. 42.23 „
1967-68	Rs. 53.05 „
1968-69	Rs. 70.06 „
1969-70	Rs. 69.76 „
1970-71	Rs. 91.75 „

The entire corporation is treated as one unit.

3.16 Hindustan Steel Ltd. along among employer organisations and units, advocated in the course of its oral evidence that minimum bonus should not be related to a percentage of wages but should be a uniform absolute figure for all employees eligible to bonus. However, if the 4% bonus is to be increased to help the lowest wage earners then the bonus for those getting Rs. 750/- should be proportionately less. In its written representation, HSL pointed out that “although an impression may be gathered that the minimum bonus has remained constant it is actually not so as in fact, the increase from the year 1965-66 to 1970-71 is 109 per cent”, that “There is no gain saying the fact that in so far as capacity to pay is concerned, there is very little case for increasing the percentage of bonus” but “the very fact that agreements have been signed based on the “Khadilkar formula” shows a certain acceptance by all concerned that there is a case for revision of the minimum bonus”.

The following figures show the total amount of statutory bonus paid by HSL for all units :—

	(Rupees lakhs)
1	2
1965-66	97
1966-67	117
1967-68	132
1968-69	141
1969-70	153
1970-71	187
Additional <i>ad hoc</i> bonus paid as advance for 1970-71	141

The amount of minimum bonus under Payment of Bonus Act paid to lowest paid worker in HSL from 1965-66 to 1970-71 was as given below:—

	(Rupees lakhs)
1	2
1965-66	55.20
1966-67	65.76
1967-68	75.36
1968-69	78.24
1969-70	78.00
1970-71	115.20

Percentage Increase in 1970-71 over 1965-66—109%.

3.17 Some very useful detailed information with regard to the facts on payment of bonus which have been summarised in paragraph 3.12 above has been received from the Bureau of Public Enterprises, Government of India. This is given in Annexure A to this chapter.

3.18 The Director-General, Bureau of Public Enterprises, sought the "Committee's permission to appear before the committee personally to give oral evidence". The Committee had, however, finished its programme of hearing oral evidence for the purpose of the interim report by the time this request forwarding "a Memorandum on behalf of the public sector as whole" was received. We reproduce below relevant extracts bearing on the subject-matter of the enquiry from the Memorandum on behalf of public sector enterprises:—

"It is felt that even if this huge additional amount is paid in the form of minimum bonus there would be no effect on production; or on productivity. This payment in other words will really amount to addition to the emoluments of the workmen and will not be really in the nature of bonus; bonus it may be added, is really either a form of profit sharing or in an instrument to improve production or productivity in an undertaking.

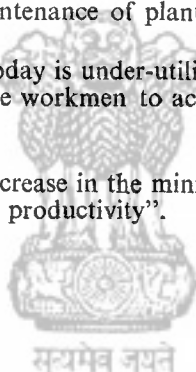
"Wages in most of the industries is regulated by the Wage Board. Even in industries for which Wage Boards have not been constituted so far, it should not be difficult to set up such boards for determining fair and equitable wages. The Bonus Act should not be used as an instrument for regulating wages.

"I would be generally willing to support any move in which increased quantum of bonus is linked to improvements in production and in productivity. If there is no increase in production or in productivity, bonus paid would only set up further inflationary spirals and whatever advantages are desired to be given to the workers, would, in practice, get mopped up by increase in prices. As a matter of fact, if inflationary trends are set in motion, the danger would be that prices may go up to such levels that real wages would be reduced to levels below the real wage levels before the increase in the quantum of bonus.

"In order to improve production and productivity and also increase the 'real wage' of a workman, other types of bonus payments can also be introduced in the form of incentive for reducing the absenteeism, for reducing the lay-off periods for machine and for proper maintenance of plant units.

"The major problem of the public sector today is under-utilisation of capacity and overstaffing. I would support any move for giving additional bonus to the workmen to achieve greater utilisation of capacity and to reduce overstaffing.

"I have given in brief the effect that any increase in the minimum bonus will have on public sector without corresponding increase in production or in productivity".



Ch. III—ANNEXURE A

Statement I

Name of undertaking	Extent of additional liability on account of adl. advance of bonus under ad hoc formula of 1971 (Rs. lakhs)	*Extent of additional liability if the minimum bonus is raised from 4% to 8—1/3% (Rs. lakhs)
1	2	3
1. Hindustan Steel	150.00	202.00
2. Heavy Engineering Corporation	7.33	31.00
3. Mining & Allied Machinery Corporation	2.63	11.00
4. Tungabhadra Steel Products Ltd.	1.30	1.30
5. Fertilizer Corporation of India	16.00	32.50
6. Film Finance Corporation	0.03	0.03
7. Cotton Corporation	0.04	0.15
8. Handicrafts & Handloom Export Corporation	0.20	0.87
9. Rural Electrification Corporation	0.26	0.26
10. National Projects Construction Corporation	0.75	3.25
11. Praga Tools Ltd.	0.53	2.40
12. Goa Shipyard	0.06	0.06
13. Indian Motion Pictures Export Corporation	0.09	0.09
14. Neyveli Lignite Corporation	6.50	28.17
15. National Coal Development Corporation	20.00	80.00
16. Hindustan Zinc Corporation	1.30	5.20
17. National Mineral Development Corporation	0.53	6.75
18. Electronics Corporation of India	+1.04	4.50
19. Central Fisheries Corporation	0.36	0.36
20. State Farms Corporation	0.29	0.29
21. Hindustan Photofilms	0.60	2.60
22. Heavy Electricals (I) Ltd.	6.21	26.92
23. Tannery & Footwear Corpn.	0.61	2.63
24. Hindustan Salts	0.57	0.57
25. Sambhar Salts	0.82	0.81
26. National Small Industries Corpn.	0.74	3.15
27. Air India	3.69	3.69
28. Indian Airlines Corporation	10.00	10.00
29. Hindustan Machine Tools	3.20	18.20
Total	235.68	478.75

*1. Based on the information furnished by the enterprises.

2. An addition will have to be made in respect of undertakings from which information has not been received.

3. Undertakings under Bonus Holiday will have to make bonus payments soon after the Bonus Holiday is over.

4. The liability on account of 2 and 3 above is likely to be of the order of Rs. 75 lakhs.

+ Bonus payable only from 1972-73.

Statement II

Undertakings already paying more than 5 to 8-1/3%

1. State Trading Corporation	20%
2. Minerals & Metals Trading Corporation	20%
3. Indian Oil Corporation	20%
4. Hindustan Steel Works Constn. Corpn.	20%
5. Engineers India	20%
6. National Research Development Corpn.	20%
7. National Industrial Development Corpn.	20%
8. Hindustan Antibiotics	16%
9. Cochin Refineries.	16.6%
10. Hindustan Insecticides	14%
11. Food Corporation of India	10%
12. Mogul Lines	10%
13. Export Credit & Guarantee Corporation	12.5%
14. Central Warehousing Corporation.	10%
15. National Seeds Corporation	5 %
16. Garden Reach Workshops	7% + adhoc Rs. 90/—
17. Hindustan Housing Factory	7.4%
18. Indo Burmah Petroleum	4% Plus ad hoc amount over an agreement with union which amounted to Rs. 2.6 lakhs for 70-71.
19. Instrumentation	14%
20. Bharat Electronics	20%
21. Bharat Earth Movers	12%
22. Mazagaon Dock	8.5 %
23. Hindustan Teleprinter	20%
24. Indian Telephone Industries	15.8%
25. Bharat Heavy Electricals	Hyderabad & Hardwar divisions are under Bonus Holiday. Trichy unit pays 20 % Bonus
26. Lubrizol	20%
27. Indian Rare Earths	4% plus ad hoc amount Rs. 3.2 lakhs for 1970-71.

Statement III

Information as to quantum of Advance Bonus not available

1. Shipping Corporation	Paid Rs. 19.9 lakhs for 1970-71. Rate of Bonus not indicated.
2. Oil & Natural Gas Commission	Has stated to be making ex-gratia payments. Rate of Bonus not indicated.
3. Hindustan Aeronautics	Question of payment of Bonus pending settlement in court.
4. Hindustan Shipyard	
5. Fertilizers & Chemicals Travancore	
6. National Buildings Construction Corpn.	
7. India Tourism Development Corporation	
8. Central Road Transport Corporation	
9. Rehabilitation Industries Corpn. Ltd.	
10. National Textiles	
11. Indian Oil International	
12. Madras Refineries	
13. National Newsprint & Paper Mills	
14. Hindustan Cables	
15. Cashew Corporation	
16. Hindustan Latex	
17. National Instruments.	

CHAPTER IV

VIEWS OF THE COMMITTEE

4.1 Having set out the views of employees and employers on the two terms of reference we proceed now to state our own views on the issues raised therein.

Linkage of bonus with production/productivity

4.2 On the question of linking the minimum bonus with increase in production/productivity, the evidence of both employees and employers has been against the possibility of forging such a link. The employees have opposed the suggestion on the grounds that minimum bonus should be unconditional and that it is impracticable to separate out the contribution of labour to the increase in production/productivity. The employers have recognised that schemes of bonus related to production/productivity have an important contribution to make towards improvement of productivity in industry, but they have said that these can be applied only, and are being applied on a unit-wise basis. The problems of measurement of production/productivity in terms of a *common* denominator applicable to the entire field of industry and trade within the purview of the payment of Bonus Act, are indeed large and complex. The problem of indentifying the contribution of employees of various grades to any increase in production/productivity in the absence of a general measure of such contribution, in particular limits the possible scope of bonus linked to production/productivity (a) to individual establishments as against any wide sector of industry or the country as a whole, and (b) to specific types of industrial operations which lend themselves especially well to work measurement. We have therefore, come to the tentative conclusion that no general system of bonus linked to increase in production/productivity could be worked out so as to provide a substitute for, or alternative to, the general scheme of annual profit bonus in industrial and commercial establishments.

4.2A However, there is apparently room for appreciable expansion of bonus systems (so-called) related to production/productivity, a spectrum of which is in vogue in Indian industry. Schemes of bonus related to production/productivity are, in the main systems of incentive wages or payment by result, and they are more complementary to wage payments, which are made on a monthly or shorter frequency, and where the relationship between effort and reward can be more clearly established, in the eyes of labour as well as in the calculations of the managements. The same direct relationship of contribution and result cannot hold so clearly and easily between production/productivity and the bonus *on an annual basis*. We believe however, that the query posed in the term of reference (v) concerns the desirability of extending the scope of minimum bonus rather than of systems of bonus (or incentive payments) related to production/productivity. We agree that efforts should be maintained and multiplied manifold, through the National Productivity Council and other organs, to widen the scope of systems of bonus related to production/productivity both as a complement to the system of annual profit bonus, and wherever feasible on an industry or unitwise basis in replacement thereof. We expect to go into this aspect of the terms of reference somewhat more fully in the final report in connection more especially with the fourth term of reference but also in relation to the Fifth terms of reference depending on the stage of the matter. This subject has a bearing on the rate of increase in minimum bonus as well as on annual profit-bonus generally.

Interim Report to be within present frame work of the Act : the concept of Bonus under the Act

4.3 Our general approach to the problem of considering the question of an increase in minimum bonus has been guided by the fact that for the time being viz., for the purpose of the interim report, the broad framework of the Bonus Act, including the concept of bonus implicit therein, remains as it is. We also feel that it is necessary for a proper appreciation of our treatment of this question to set out briefly the evolution of the concept of bonus and why it is that in framing our present recommendations the current concept has to be conformed to.

4.4 The term bonus as an annual payment made to industrial employees has undergone various changes of meaning since its inception in India from the later stages of World War I. It started as War Bonus of various form and as a precursor of the dearness allowance. As such it was paid for a few years after the first World war to textile workers in Bombay. However, as the Bonus Dispute Committee, 1924, headed by Sir Norman Macleod concluded the workmen had not established any enforceable claim—customary, legal or equitable, to the payment annually of bonus. Thereafter with the Great Depression and the steep decline in prices that followed, the question of bonus receded into the background. It came to a head again when industrial units commenced making abnormal profits

on account of the conditions created by the Second world war. From 1939 disputes about payment of bonus were referred to *ad hoc* adjudicators appointed under the Defence of India Rules and to Industrial Courts/ Tribunals. From being an ex-gratia payment, a gift or bounty of the employer, bonus became, as a result of the pronouncements of the Industrial Tribunals, Labour Appellate Tribunal, High Courts and the Supreme Court, over the years, a right of the worker. While actual wages were below the living wage, bonus served to fill the gap between the two and partook of the character of a deferred wage; once the living wage was attained, bonus assumed the character of sharing by labour in the profits to the making of which the workmen too contributed. This concept generally prevailed till the Bonus Commission made its report in 1964.

4.5 The Bonus Commission did not define the concept of bonus in precise terms, but made the following observation :

“We think it proper to construe the concept of bonus as sharing by the workers in the prosperity of the concern in which they are employed. This has also the advantage that in the case of low paid workers such sharing in prosperity augments their earnings and so helps to bridge the gap between the actual wage and the need-based wage”. The concept of bonus as a form of profit-sharing which had the *incidental* advantage of acting *in effect* as a supplement to wages thus came to be established.

4.6 The sharing in profits was based on the available surplus for arriving at which the Industrial Court, Bombay had laid down a formula of prior charges which formula later on came to be described as the LAT (Labour Appellate Tribunal) formula. The Bonus Commission altered the formula for the available and allocable surplus to a certain extent and also recommended a minimum bonus of 4% of the total basic wages and dearness allowance, following the practice that prevailed in the Bombay and Ahmedabad Cotton Textile Industry based upon five year bonus pacts between the respective Millowners' Association and the representative union.

4.7 It happens that the Commission came to recommend the minimum bonus of 4 per cent as a sequel to their recommendation of a maximum rate of bonus. A maximum rate itself was proposed in order to prevent disproportionately high rates of bonus in relation to wages in unusually affluent individual units which, the Commission thought might give rise to industrial discontent and therefore, not be conducive to industrial peace. The Scheme of maximum and minimum bonus, buttressed by a system of 'set on' and 'set off' or carry-forward of surpluses and deficits in profits was expected to avoid excessive fluctuations in bonus.

4.8 We except ourselves to review the working in practice of system since the coming into force of the Bonus Act and to consider in our final report how far it has served the purpose expected of it; our fuller questionnaire (Appendix III) is directed to this end. Meanwhile, we note that the incorporation of minimum bonus as an integral part of the scheme recommended by the Bonus Commission and embodied in the Payment of Bonus Act does not detract from the character of minimum bonus—irrespective of profits for the year but linked, through the system of 'set on' and 'set off' to the trend of profitability of a concern—as an *element of profit sharing*, though it may have the added merit of augmenting workers' earnings and approximating them to some standard of wages or the other. As part of our enquiry we shall have to consider this concept and whether and how far it is desirable and feasible to modify the concept. A change in the concept, as was remarked by the Bonus Commission quoting the Supreme Court, requires a thorough enquiry including evidence of employees and employers and comprehensive consideration of the question from all angles, and is obviously ruled out for the purpose of this interim report. Pending such fuller consideration of all aspects of this complex question, our report must assume the present framework and general basis of the Bonus Act to remain intact.

4.9 Indeed, a possible doubt whether, in concept, bonus should be deemed to be a sharing by the employees in the profits of the employer-concern, could only arise in regard to minimum bonus which is payable irrespective of the profits of the year, and not in regard to bonus generally. This possible doubt has been set at rest as recently as November, 1971, in the judgment of the Supreme Court in the Premier Automobiles Case. The plea that minimum bonus be treated as an element of costs like other items of cash remuneration such as wages etc., and an escalation in ex-works costs allowed on that score for the purpose of price fixation, was rejected by the Court after consideration of the nature of bonus as incorporated in the Payment of Bonus Act and as already interpreted by the Court in an earlier case. Bonus, including minimum bonus, remains therefore, as a share in profits, though it may help in the result to increase the total earnings of workers.

4.10 It is in the above context that we have to consider whether and how far there is a case for an increase in the minimum bonus under the Act.

Case for increase in minimum bonus to be assessed in terms of trends in profitability in industry and trade

4.11 Under the terms of reference of the Committee we are required to review the operation of the Payment of Bonus Act, 1965, and to suggest suitable modifications to the scheme outlined therein and, in particular, to make recommendations on. . . . (ii) is there a case for raising the minimum bonus (4%) and if so, to what level?” Though

we decided to endeavour to make an interim report, we have, all the same, the responsibility to review the operation of the Act in its bearing on a particular provision before recommending a change in it. Since the amount of minimum bonus was fixed as a minimum to a structure of provisions geared to profits and profitability of the industrial and other establishments, it becomes necessary for us to take atleast a summary look at the trends in this respect in the economy since the passing of the Bonus Act, and to appraise broadly the state of profitability and of general capacity of the industry and trade as well as the economy to sustain a higher minimum bonus. This is necessary also as the Committee is required to make a careful assessment of the likely impact of any proposals it evolves on the national economy.

Analysis of Trends of Profitability : Public Limited Companies

4.12 A fair indicator of the trends of profitability in industry generally is to be found in the financial results for 1501 public limited companies with share capital of Rs. 5 lakhs and above which the Reserve Bank has consistently analysed and published for all the years since 1965-66, the year after the Bonus Act came into operation. These results with regard to profitability and capital formation for "All Industries" for 1965-66 to 1969-70 are given in the following table.

Profitability Ratios

All Industries

1501 Public Limited Companies

	1965-66	1966-67	1967-68	1968-69	1969-70
1. Gross profits as percentage of sales	9.7	9.5	8.3	7.9	8.6
2. Gross profits as percentage of total capital employed	10.0	9.7	8.5	8.4	9.4
3. Profits after tax as percentage of networth	8.8	9.0	7.1	6.8	9.3
4. Dividends as percentage of networth	5.6	5.5	5.2	5.1	5.4
5. Ordinary dividends as percentage of ordinary paid-up capital	10.3	9.6	9.0	8.8	9.7
6. Total dividends as percentage of total paid-up capital	9.8	9.1	8.6	8.5	9.2

Reserve Bank of India Bulletin, April, 1972.

Capital Formation Rates

All Industries

(Percentage change over previous year)

	1965-66	1966-67	1967-68	1968-69	1969-70
1. Gross fixed assets formation	—	10.3	8.9	7.5	7.3
2. Net fixed assets formation	—	8.7	6.8	5.0	3.8
3. Inventory Accumulation	—	12.2	9.1	2.3	7.8
4. Gross Capital Formation	—	10.9	9.0	5.9	7.4
5. Net Capital Formation	—	10.2	7.8	3.8	5.5

4.13 The above tables generally indicate that the profitability of industry suffered a relapse for two or three years after 1965-66, but revived in 1969-70, more or less uniformly in terms of all indices. The impact was severe on capital formation which, in terms of its core viz., net fixed assets formation has shown a disconcerting trend, with no revival even in 1969-70.

Private Limited Companies

4.14 The Reserve Bank of India Bulletin for July 1972 enables us to see the comparative picture of the main profitability and capital formation trends also for private limited companies. It appears that the broad trends, though not the levels, of the various ratios upto 1969-70, are similar in private and public limited companies.

4.15 The recession in industrial profits and investment was basically due, of course, to the usual phase of stagnation of industrial production during 1966-67 and 1967-68, which in turn traced itself atleast partly to the unprecedented drought of 1965 and 1966. To this background were added the extra-ordinary defence demands for the period. One aftermath of this train of misfortunes, it will be recalled, was that the programme of planned development fell out of gear, putting off the fourth plan by three years.

4.16 The more recent data for 1970-71 and later indicate that recovery in the financial health of the industrial sector, reflected in the results for 1969-70, has continued at a satisfactory pace since. Profitability has improved to, or slightly above the level of 1965-66. However, capital formation has lagged, because distribution of dividends, with only a small reduction in dividends during a phase of impaired profits, took a larger proportion of profits, thereby entrenching upon profits retained by industry and upon capital formation. A robust recovery has occurred in inventory formation, but the growth of net fixed assets appears to have continued to decline sharply.

Profitability Trends in the economy do not justify significant increase in minimum bonus

4.16(A) A survey of trends in profitability and capital formation in the economy in the years since the Payment of Bonus Act was passed indicates that while profitability of industry following a serious relapse during a period of industrial stagnation, has been restored, capital formation continues at a very low ebb as retained profits have been eroded. On the whole, the trends in industry and trade and in the economy to-date do not by themselves justify any significant increase in minimum bonus.

Analysis by size-wise group of companies

4.17 An important aspect of the trends, which had also been brought up in the course of evidence, concerns the incidence both of the industrial stagnation and of the subsequent recovery according to size-group of companies; the bearing of this on the minimum bonus issue will be clear presently. We, therefore, looked into the various profitability ratios, size wise for the last two years, 1968-69 and 1969-70, of the sample of 1501 public limited Companies. Even a cursory glance at the figures given in the table below shows : (1) that there is a consistent pattern of steady increase in *all* the profitability ratios, with the ascent of a company in the scale of size, which also means that profitability consistently declines with a fall in the size of companies and (b) that in terms of *every* measure of profitability selected for the table, in the lowest size-class, viz., with paid-up capital of Rs. 5-10 lakhs, the ratio of profitability is *less than half* of that for the class of large companies, viz., having paid-up capital of Rs. 1 crore and above. This implies that profitability increases with size, and the large concern on the average emerges much better in the result than the smaller ones. Even in terms of dividends distributed, the small company makes a very poor showing in comparison with the large company.

Profitability Ratios, Size-wise, 1968-69 and 1969-70

Size-group (Paid-up capital)	Number of companies	Gross profits as percentage of sales net of rebate and discount		Gross profits as percentage of sales net of rebate and discount and excise duty and cess		Gross profits as percentage of total capital employed	
		1968-69	1969-70	1968-69	1969-70	1968-69	1969-70
	1	2	3	4	5	6	7
Rs. 5 lakhs—Rs. 10 lakhs	180	3.9	4.2	4.0	4.3	4.2	5.0
Rs. 10 lakhs—Rs. 25 lakhs	436	4.3	4.7	4.5	4.9	5.9	6.6
Rs. 25 lakhs—Rs. 50 lakhs	330	5.5	6.4	5.9	6.8	6.9	8.4
Rs. 50 lakhs—Rs. 1 crore	261	6.3	7.0	6.8	7.6	7.3	8.2
Rs. 1 crore and above	294	9.2	9.9	10.3	11.0	9.1	10.2
All Industries	1501	7.9	8.6	8.7	9.4	8.4	9.4

Profitability Ratios, Size-wise, 1968-69 and 1969-70

Size-group (Paid-up capital)	Profits after tax as percentage of net worth		Dividends as percentage of net worth		Ordinary dividends as percentage of ordinary paid-up capital		Total dividends as percentage of total paid-up capital	
	1968-69	1969-70	1968-69	1969-70	1968-69	1969-70	1968-69	1969-70
	8	9	10	11	12	13	14	15
Rs. 5 lakhs—Rs. 10 lakhs	—1.9	—0.3	2.7	2.8	4.6	4.9	4.6	4.9
Rs. 10 lakhs—Rs. 25 lakhs	0.4	3.1	3.6	3.7	5.6	5.9	5.5	5.8
Rs. 25 lakhs—Rs. 50 lakhs	2.4	6.0	3.7	4.2	5.7	6.6	5.5	6.3
Rs. 50 lakhs—Rs. 1 crore	4.2	6.5	4.2	4.4	7.0	7.3	6.7	7.0
Rs. 1 crore and above	8.3	10.6	5.5	5.8	9.9	10.8	9.6	10.3
All Industries	6.8	9.3	5.1	5.4	8.8	9.7	8.5	9.2

SOURCE : Reserve Bank of India Bulletin, April 1972.

4.18 A study published in the July 1972 issue of the RBI Bulletin on "Recent Trends in the Finances of Public Limited Companies," brings out the consistent relative improvement of the position of the large companies in comparison with the smaller ones, described as medium, in the study. The relevant data are given below :

*Percentage increase in value of output
(At current prices)*

Year	290 large Companies	1211 Medium Companies	1501 Companies
1966-67	12.6	9.0	11.2
1967-68	9.3	5.0	7.7
1968-69	9.1	7.8	8.6
1969-70	11.4	11.1	11.3
1969-70 over 1965-66	49.6	37.2	44.8

Important profitability ratios of Companies

(1) Gross profit as percentage of sales

Year	290 large Companies	1211 Medium Companies	1501 Companies
1965-66	11.3	7.0	9.7
1966-67	11.0	6.9	9.5
1967-68	9.9	5.5	8.3
1968-69	9.2	5.5	7.9
1969-70	9.9	6.2	8.6
1970-71	10.3	—	—

(2) Profits after tax as percentage of net worth

1965-66	10.0	5.9	8.8
1966-67	10.2	5.9	9.0
1967-68	8.9	2.4	7.1
1968-69	8.3	2.7	6.8
1969-70	10.6	5.4	9.3
1970-71	11.5	—	—

Growth in fixed assets

Year	290 large Companies		1211 Medium Companies		1501 Companies	
	Gross Fixed Assets	Net Fixed Assets	Gross Fixed Assets	Net Fixed Assets	Gross Fixed Assets	Net Fixed Assets
1966-67	11.5	9.7	9.1	8.6	10.3	8.7
1967-68	9.8	7.8	7.1	4.8	8.9	6.8
1968-69	8.3	5.6	5.5	3.4	7.5	5.0
1969-70	7.8	4.3	6.0	2.9	7.3	3.8
1970-71	7.0	2.6	—	—	—	—

From the above and other data given in the studies referred to, the conclusion is clear that the large companies are getting larger relatively to the medium and small, being possessed of larger profits, more resources, greater economies of scale etc., the growth rate of the medium (and small) companies in particular declined sharply during the phase of industrial set-back in 1967-68 and 1968-69, and their assets formation remains at an inordinately low ebb.

4.19 Even in relation to banks the Banking Commission has brought out clearly that the smaller banks have much poorer profitability than the large banks. The following quotations from the Report of the Banking Commission refer to the relative profitability of the large vs. the small bank:-

“The analysis of profitability for the survey quarter reveals that the funds activities are almost the only source of profit for banks. It is seen that the larger the size of the bank, the greater is the margin of profit on funds activities, mainly because servicing costs and to a large extent, interest costs are relatively lower as size increases.”

“The margin of profit on deposits computed by deducting the costs (*i.e.* interest paid and servicing charges) from the income (*i.e.* interest received on advances and investments made out of deposits) on per cent per annum basis, works out to 1.24 for large sized banks, 1.10 for medium sized banks and 0.52 for small sized banks.”

“The margin of profit on advances per cent per annum works out to 1.77 for large sized banks, 1.37 for medium sized banks and 0.63 for small banks.”

Loss Making Concerns

4.20 In some ways the simplest and at the same time most significant index of the general financial position of the concerned enterprises—significant from the point of view of the problem we have under consideration of the appropriate level of minimum bonus, which is an element of profit-sharing—is the trend with regard to the number and proportion of enterprises which make profits and those which do not (including those which incur losses). The table (in Annexure A) gives an industry-wise statement of the trends in this respect. It will be seen therefrom that the number and proportion of companies incurring losses (*viz.*, with net or pre-tax profits negative) were appreciably higher in 1969-70 than in 1966-67, though they had been higher still in 1968-69. The number of non-profit making concerns should have gone down further in the last couple of years or so, coincidentally with improvement in the financial position of industrial and trading establishments as measured by other indices.

4.21 The analysis of size-wise trends in profitability which reflected the serious relative weakness of the medium and small units as against the large ones, is strongly suggestive of a comparatively high incidence of losses among this vulnerable part of the corporate sector, and points to the need for a degree of special regard for the plight of this less affluent section of the industrial and trading establishments.

Some Considerations in favour of Increase in minimum bonus appraised

4.22 Against this general background of the trends of profitability in industry and trade and the evidence received, we have to assess the case for and to appraise the force of some of the considerations which have been urged in favour of or against an increase in minimum bonus.

- (a) The demand for an increased minimum bonus is an old one made before the Bonus Commission ten years ago. It is true that this demand is linked to the gap between actual wages and need-based or living wages, and as such is precluded from being taken into account in terms of the present concept of bonus, which regards bonus, including minimum bonus, as profit-sharing. However, the fact of its being a long-standing demand suggests the need of making the maximum response practicable to it within the existing framework of the legislation.
- (b) It may be recognised that the economic argument for an increase in the minimum bonus is not particularly strong, owing chiefly to the debilitated phase through which the economy has passed since the Bonus Act was enacted, what with two wars and their aftermath, and the drought and industrial stagnation of the later sixties, from which the economy had been hopefully recovering well until the events of the last year began again to obscure the current economic outlook.
- (c) However, to be reckoned with on the other side, is a structural shift in expectations of the employee classes and these expectations have risen to a higher floor. This social argument for an increase in minimum bonus gathers force from the winds of social change and rising hopes of the working classes, even if these have to be contained, within the framework of the present Act. In appraising the scope for response to these raised expectations, raised partly by the operation of the democratic process, a balance sheet, all-be-it on a social scale, has to be drawn of the claims of the existing employed section of the community against the vast numbers of the unemployed, and lowly employed, for whose employment and better employment investible resources, which have suffered erosion, have to be conserved and committed. This has a bearing on the *extent* of response which may be shown to the claims of one section of the community against those of other eligible and rightful claimants. Not the least deserving among these other claimants is the consumer. Though the class of consumers itself partly overlaps with the existing employed, the large number of consumers whose income is unprotected by the consumer price index numbers have been the most hard-pressed part of the population, and their claim to some consideration in the sharing of such surplus as there may be acquires a certain urgency when, with inflation and scarcity again raising their heads, the plea for austerity acquires a new edge.
- (d) With all this, the demand for an increase in minimum bonus is now a strong and insistent one voiced on behalf of the employees covered by the Act and in a number of units, especially in some areas and industries as well as in the public sector, the actual minimum bonus has gone up. The need is, therefore, increasingly felt for some rationalisation and consolidation of *ad hoc* arrangements related to, or emanating from, the *ad hoc* formula of 1971 for advance payments towards an increase in minimum bonus.
- (e) In particular, in many establishments bonus has been raised to or above 8½% and this seems to argue for an increase in the minimum bonus to this level. There are, however, two points to be considered. Firstly the bonus has not been raised in many more establishments than those in which it has been raised, and the former include smaller concerns whose capacity is relatively more limited. Secondly, a statutory increase in the minimum creates pressures all over the system for further increases, even where increases have already been made.

Some general Considerations on procedure

4.23 At this point we come to some general considerations pertaining to the problem of formulating our specific recommendations in view of a certain stand that has emerged in relation to this question. This stand backed by some members in the Committee is that the demand for an increase in minimum bonus to 8½ per cent could not be subjected to any condition or qualification. There has been no dilution or relaxation in this stand and, therefore no real discussion in the Committee regarding the merits of alternative approaches to the problem. In terms of the stand, the question is not open to being examined as there is no flexibility about the demand. The reasons offered in support of it are stated to be of a socio-political cum politico-economic character, in brief, that the 8½ per cent minimum bonus has become the chorus and rallying point of the entire trade union movement, and it is now beyond the authority of any individual member of the movement to negotiate any terms and conditions, much less modify, the figure of 8.33 per cent. We hope we have been able to state the general stance on behalf of employees accurately. This stance made the work of the Committee assigned with terms of reference which require an examination of a number of related issues and consideration of the pros and cons of alternative solutions to the problems referred to the Committee extremely difficult and a highly delicate one.

4.24 Though we had decided to try to make an interim report in the first instance, on the questions of minimum bonus and its possible supplementation by bonus linked to production/productivity, as the enquiry has proceeded, we have been more and more impressed by the snags and pitfalls in proceeding to take a decision in isolation on the single issue of minimum bonus. We feel we have to spell out some of the short comings of a process of decision-making on the assumption that other things about bonus might remain the same, when these other things have to be reviewed and revised, almost immediately hereafter, and some of them may not remain the same. Each of us has, therefore, to make his own assumptions regarding the likely outcome on the other related issues before us. This has led to a serious handicap in making progress with arriving at a view on the issue selected for prior consideration, integrally connected as this is with a number of the other questions which the Committee has yet to deal with.

4.25 To take the simple illustration of the 'set off provision for example, a higher minimum bonus would become easier for the concerned establishments with a longer 'set off' period than with a shorter one, as the possibility of setting off any additional loss on account of payment of higher minimum bonus is strengthened thereby. But it is difficult to make an assumption regarding the Committee's likely view in the matter. Similarly, the question of maximum, the fixation of which gave rise, in the view of the Bonus Commission, to the minimum bonus, has a considerable bearing on the minimum issue; the possible outcome regarding one affects the area of flexibility regarding the other, though there are aspects of each which could be considered separately. Again, the formula for gross profits, deductions and prior charges, and available and allocable surplus is very much related to the appropriate level of minimum bonus. The minimum is the floor to the structure of the formula, and the two can be properly framed and fitted together only simultaneously. There is another issue of the range and rate of minimum bonus, with reference to which we would like to explain the dilemma of the Committee with regard to the process of decision-making on this question.

4.26 If in one view, the rate of increased minimum bonus is non-negotiable, the question arises : would the range of *minimum* bonus, which is the same as that of bonus, viz., as applicable to wage/salary (at the same rate) upto Rs. 750 and thereafter (as if the wage/salary were Rs. 750) upto Rs. 1600, provide some leeway for flexibility, at least as a matter for consideration? We could not take into account such a possibility, having limited the prior consideration to the single issue, in regard to which, however, we discovered that there was no room for discussion. What we refer at this point, then, is not the actual scope of such a possibility, at this stage which we cannot take into consideration, but the serious shortcomings of the approach of isolated treatment of an issue which precludes the scope for alternative possibilities of flexibility being investigated. The kind of queries that arise, for example, with regard to range, are : if the rate of minimum bonus of 8.33% is unalterable according to a point of view, must this *new, higher rate* apply to the person having a wage/salary of Rs. 750 or Rs. 1600, as much as to the person, at, say, Rs. 250? If the minimum bonus, is indeed, to be the festival payment, customary or traditional, can't it—in a society with egalitarian objectives, which have been underlined by developments since the stance was originally formulated, be more nearly equal, e.g., an absolute figure which might be 8 1/3% of emoluments at the lower end of applicable pay range but would automatically be a lower proportion—at higher levels? And, though bonus may extend to fairly high levels of pay, must minimum bonus, which originates in different compulsions, also extend all the way up that bonus does? If, the minimum bonus must be proportionate to wage/salary, *because it is profit-sharing*, what about the other implications of its profit sharing character? Unfortunately, these questions could not be considered—if there were the possibility of considering them—only in relation to minimum bonus, for they concern the scheme of the system of bonus as a whole. The handicap of prior consideration of a single issue has thus limited the scope of the Committee's deliberations. It has done so initially, because the issue of minimum bonus is considered against an assumption, viz., that other things remain as they are, which will not hold; it will do so later when other issues are considered, because prior decision on the issue of minimum bonus will have foreclosed some of the possibilities for adapting or improving the system. Notwithstanding the shortcomings of a piecemeal treatment of our terms of reference, however, we agreed to go along with the suggestion of our colleagues to send forward our interim report and recommendations to Government, in view of the stress that has been placed on remitting the immediate issue of minimum bonus to Government so as to make it possible for a decision, to be arrived at.

A complication of a Steep increase in minimum bonus

4.27 We come now to the immediate question, viz., of the rate of minimum bonus which we have before us. At the outset, we would like to refer to a rather serious implication of the procedural issue itself to which we have referred at some length above, from the point of view of the very proposal to raise the minimum bonus to 8.33 per cent. Over and above the substantive difficulties of this high rate of 8 1/3% for a section of the concerned establishments as well as for the economy, we have genuine doubts that a minimum as high as this would be consistent with the structure of the Act which is linked to a formula on profit-sharing. We have to view the minimum in relation to the structure of which it is an adjunct and part. It has been represented before us in evidence that in the private sector coal industry, for example, only the minimum bonus has been generally paid in all the years that the Act has been in operation. This implies: (a) that the principle of the Act, viz., profit sharing, has *not* applied, perhaps at all, to the sector just referred to, and (b) equal treatment (viz., through the same

rate of minimum bonus) has been meted out to concerns in un-equal, perhaps widely varying, situations. The Coal industry is only an illustration of a phenomenon which is said to be widespread. We do not have the facts and have asked for them in the main questionnaire. But if the minimum were to be raised to the figure suggested, it would come to prevail over the profit-sharing formula and would become the bonus paid over perhaps much the larger part of the field. The consequence will be that the situation of inequality of treatment (viz., equal treatment of unequal situations) may come to be so dominant as certainly to impair and possibly to Jeopardise the principle which underlies the Act. This illustrates and underlines the wide measure of discrimination in treatment that is likely to ensue, if the floor to the structure is steeply raised without an alteration in the structure itself. We would add at once that we are opposed to a straight and steep increase in the minimum bonus to 8½% both on the ground explained of the inequality of treatment among concerns and on broad economic and social considerations.

4.28 We would also like to refer here to an argument which has been advanced on behalf of employees in favour of a higher push to the minimum bonus for loss making concerns than we are able to recommend. The argument hinges on the decline over a long period in the real earning of labour, on a fall in the share of labour in the value added by manufacture, and on the failure of real wages to keep pace with the rise in productivity in the economy. We have looked carefully into these arguments and examined particularly the trends in the available series during the period of our review of the working of the Payment of Bonus Act, viz. from 1965-66 onward, with a special reference to the limitations imposed in relation to our immediate task by the concept of bonus incorporated in the act. We consider that the argument for a more substantial rise in minimum bonus is not strengthened by a reference to the controversy about these various series, at least partly on account of lack of their relevance to the bonus question. However, also and in particular, the series on the share of labour in the value added by manufacture since 1965-66 to date does not indicate any significant change in the share of labour in the value added by manufacture during the period of our review. Reference is invited in this connection to Annex B which gives the shares of different factors of production in value added by manufacture from 1965-66 to 1969-70.

Alternatives considered and not favoured

4.29 At this point we would like to set out the range of alternatives, as we see it for a decision on his question and our own conclusions and recommendations with regard to these. These include two sets of alternatives two variants of a straight increase in the minimum bonus as a single rate for the entire class of concerns or establishments which come within the purview of the Act, and another couple of variants with more than one minimum rate each, for a clearly defined category of establishments.

4.30 Of the single minimum rate alternatives, leaving alone the unqualified increase to 8 1/3%, which we regard as too high, there could broadly be two variants: (a) an increase of the minimum bonus to 8½ per cent (under section 10) with a recommendation to Government to use Section 36 liberally and systematically and set up a tripartite machinery to deal with references from concerns liable to be harshly affected by the increase in minimum bonus, each year, based on the financial position and capacity of the concerns, and on criteria and guidelines laid down in advance; (b) an increase of the minimum bonus as a single minimum rate to a lower level than 8 1/3 per cent. The first alternative is akin to a suggestion mooted in the Committee, by some members but not elaborated as above. If the alternative is developed adequately with guide-lines and all, so as to make the minimum bonus liability of concerns reasonably clear and to minimise dependence on the machinery, it might be only a little different from the second set of alternatives we give below. If the guide-lines are not defined well enough, the setting up of a decentralised country-wide machinery to deal with references from thousands of establishments is likely to prove an unworkable substitute for clarity in defining the obligation of concerns to pay minimum bonus, to start with. For these reasons, we do not favour this alternative.

4.31 The second alternative is more in conformity with the conclusion of our analysis which suggests the justification for some increase in the minimum bonus but not to the extent of nearly 110 per cent in what is a rate or proportion of an expanding base, and not a quantum. However, in terms of the ad hoc formula of 1971, the employees of many concerns have already come to receive the benefit of the rate of 8.33 per cent under certain conditions. It would not be a practical alternative to deprive a significant section of employees, both in the private and public sectors, of a rate of bonus which they have come to enjoy. We would therefore, not recommend this alternative. Though in principle in a de novo consideration of the problem there might be something to be said for a single rate at a lower level than 8 1/3%.

4.32 The second set of solutions comprises a couple of alternatives of three or two tiers of minima for bonus, based on defined categories in terms of profit-making or absence of profits. The first of these alternatives is the ad hoc formula of 1971, which has three tiers. It is to be appreciated that if it is adopted, the coverage of the formula which at present extends, besides the textile industry in Bombay and Ahmedabad, to a comparatively small part of private industry, though perhaps to a much larger part of the public sector undertakings, especially Central Government Undertakings, will come to be enlarged very considerably. This formula is, however, avowedly of an ad hoc

character, and employee and employer organisations have not favoured its continuance as such. This can be understood, as the formula besides being somewhat complicated, based as it is on multi-minima, was not intended to be applied indefinitely. It might however, have some claim not to be excluded from consideration only if another, interim arrangement were thought of, in the alternative.

The essential content of our recommendations

4.33 We have ourselves, however, another alternative formulation of the minimum bonus. The essential content of this alternative formulation comprises two rate of minimum bonus to form the basis of our recommendations :—

- (i) a rate of minimum bonus of 8- $\frac{1}{3}$ per cent for concerns making profit, even a marginal one, and (ii) a rate of minimum bonus of 5 percent for concerns not making a profit, including those making a loss. It seems necessary to set out the significance of this substance of the proposed formulation in relation to (a) the present position in the Act, bringing out the very considerable advance in regard to increase in minimum bonus that it would present, and in relation to (b) the uniform 8-1/3 per cent minimum bonus, under-lining our concerns which the proposed formulation seems to safeguard.

4.34 At the outset, it is necessary to explain, that in contrast to the formula in the Act, the definition of profit for determining the obligation to pay minimum bonus in the proposed formulation is such that most concerns which today are *liable to* pay the minimum rate of 4% only, because with the deductions and prior charges in the formula of the Act they come to have a minus allocable surplus, will have the amount of profit required to attract the 8-1/3 per cent rate. This implies that for most of the concerns covered by the Act, the rate of 4% will go upto 8-1/3 per cent. In relation to a small part, viz., of loss-making concerns which, again, are much more strictly defined so as to place in this category only those which are able to meet depreciation in contrast to the much larger number of those under the formula which made sizeable profits but because of permitted deductions and charges showed a technical loss, the rate would go up to the lower minimum proposed specifically for this class of concerns. We feel that it is necessary to underline the fact that in the concept of two minima, which we now propose the *lower minimum is for loss-making* concerns generally, with a higher minimum for profit making concerns generally unlike at present when large numbers of profit-making concerns pay only the minimum bonus of 4%. If it is asked how a minimum rate of bonus can be laid down for *loss making* concerns since bonus is *profit-sharing*, the answer is the same as that formulated by the Bonus Commission and accepted by the Supreme Court, viz., that the loss-making concern is one which makes a loss *during the year* under reference, but may make a profit later, or may have made it earlier, and these profits could be used to set off the loss. On the other hand, having constituted a special category of Loss-making establishments as such, it does not stand to reason that the statute should add very significantly to their obligation to pay bonus, which would increase the loss. It is to be understood, of course, that once a concern re-enters the profit-making category, it would immediately become liable to pay 8-1/3% bonus; and this marks a very considerable advance, from the employee's point of view, over the existing position under the law.

4.35 As regards the proportion of concerns which are not profit making or loss-making, it is understood that among public limited companies with paid-up capital of Rs. 5 lakhs and above, 313 out of 1501 or 21 per cent fell in this category in 1965-66, and the proportion is somewhat higher now (365 in number in 1970-71 or 24 per cent). (This however exclude public limited companies in this category with paid-up capital below Rs. 5 lakhs, as well as private limited companies). Among public limited companies, the number of workers who would be employed by concerns in the loss-making category, and therefore, eligible for the lower minimum bonus rate is not likely to be above one half to two-thirds of the proportion in terms of number of concerns, or about 12 to 16 per cent. This conclusion seems to follow from a comparison of the value of output of medium and small concerns as against large, and the implication of the much lower profitability of smaller concerns for the likely distribution of loss-making units as between the large and small sectors. Taking into account a 25 per cent increase in the rate of minimum bonus for loss-making concerns and 108.33% increase (from 4 to 8.33) in the rate of minimum bonus for the far more numerous profit-making concerns, our proposals constitute *an over 95 per cent* increase in the effective rate of and coverage of minimum bonus. This implies a *nearly 90 per cent*, response to the demand as stated above in Chapter II for an increase in minimum bonus, again in terms of rate and coverage (viz. number of workers) together under the Act together. It may be added, however, that these estimates refer to public limited companies, with paid-up capital above Rs. 5 lakhs. No estimate regarding relative applicability of the lower or higher minimum rate has been possible for the multitude of very small establishments or for public sector undertakings, Central State and Local.

4.36 Our concern with the establishments in the marginal and losing class which, too, would pay a higher minimum bonus if our proposed formulation is accepted, stems principally from the fact that this roughly one-quarter of the units (among public limited companies with paid-up capital above Rs. 5 lakhs) has a high representation of medium and small concerns, and of new entrepreneurial talent engaged in yet vulnerable enterprises which are striving hard to come up, with many odds against them. With our hopes pinned on the up-coming sector of small and medium enterprises for a strengthening of the basis of democracy, and with our faith in the future of this

sector, which contains a large number of units which are struggling to be established, as against the preponderance of established units in the large category, we have felt that we could not take upon ourselves to propose loading the dice against them, when they are not making profit, which it is the purpose of bonus to share. Hence the lower rate proposed for them. Many of the large number of very small concerns would also fall in this class.

4.37 It may be reiterated that the minimum bonus is not a quantum but a proportion, applicable to a base which is expanding. Even the lower minimum bonus rate would represent a substantial addition to the burden of minimum bonus on industry and trade including public sector undertakings, for concerns not making a profit and incurring losses of varying magnitude. In particular, we do not recommend an increase higher than this, for concerns in this situation, having regard especially to the plight of labour-intensive, agriculture-based, export-oriented, and low profitability industries (these are readily indicated by a reference to the table on 'Concerns making Losses' (in Annexure A) and generally bearing in view the situation of the important segment of medium and small industries, which continue to yield ground steadily to the larger units. This last point regarding incidence on the smaller-sized units applies equally in the banking sector where a requirement for payment of a high amount of minimum bonus would hit especially hard the smaller and weaker banking companies, which are relatively well attuned for meeting the needs of small business. We believe that it is important to eschew orientation of policy measures in a direction which might operate, in the general thrust, against the smaller institutions, even if these institutions are in the private sector, and the larger institutions are in the public sector.

4.38 Another sector of establishments whose current fortunes and future progress are vitally involved with the scheme of minimum bonus and the scale of burdens it imposes is that of public sector enterprises, the Central as well as the more numerous and variegated-in-purpose State and Local enterprises. Prospectively, this sector is of very considerable importance both as an instrument of public policy and for the objectives of State policy. This sector is taking some commendable strides in difficult condition and against heavy odds. This is also a sector, which has, for reasons that require to be better spelt out than has perhaps been done, a relatively high proportion of units that sustain losses or obtain only marginal returns. The reasons chiefly are that many public sector undertakings embark on the more difficult productive tasks which are left over by private enterprise *because* they are least profitable—tasks which entail heavy capital investment and promise only low returns, being often of a public utility, social welfare or infra-structure character, and, therefore, such as would contribute to the larger profitability of private sector projects, without having the opportunity or capacity for producing large returns themselves. An essential handicap of their situation derives from the wide measure of public interest in, and concern with, the prices they charge for their products or services, whether these are final consumer articles or services, or materials of industry like coal or steel or producer goods such as machines, where large profits are obtained, they may be fortuitous or an incident of quasi-monopoly conditions and in part an equivalent of indirect taxation for the deliberate purpose of financing further public investment. In any event, *profits of public enterprises, being for a public purpose, are to be distinguished from commercial profits for private ends.* The importance of the scheme of minimum bonus which we have outlined thus consists also in the recognition that it shows of the special circumstances of public sector enterprises which are known to have longer than usual gestation periods, and which have nevertheless, been on their own, most responsive to the demands of employees in general for better wages, bonuses and living conditions.

4.39 A view is often voiced that increases in wages and bonus can always be absorbed in an economy where prices are, or can be regulated on a cost-plus basis. This view overlooks the serious shortcomings of an approach which attaches such an inadequate importance to costs. Quite apart from the need to keep costs down in the interests of exports, which with foreign assistance on the wane, are more important than ever to the economy, continuous efforts and vigilance with regard to costs are the *sine qua non* of efficient and steady development. In any event, the problem of marginal and sub-marginal firms cannot be dealt with through any such approach.

4.40 We should perhaps deal more fully with the problem of mixture of concepts involved in whatever decision might be taken on the question of an increase in the minimum bonus. It might be thought that the substitution of one figure (*viz.* 8-1/3%) for another (*viz.*, 4%) is, from the point of view of concept, a simple change. But as we have explained in paragraph 4.27, a considerable increase in the minimum bonus is likely to complicate the problem of comparative treatment of concerns and therefore, to involve conflict of concepts. On the other hand, too, we are aware that in the scheme of our recommendations on minimum bonus, the concept of net profit or loss, which determines whether a concern has to pay the higher or the lower minimum bonus, is different from the way the available surplus, which forms the basis of distribution of bonus under the Act, is computed. We consider however, that the scheme we have proposed of a lower minimum bonus for one category of concerns and a higher minimum bonus for another category, with the formula of the Act intended to look after the distribution of bonus in a still third category of enterprises, of an even higher profitability, provides a steady gradation of increasing bonus liability for concerns in progressively improving financial situation and as such is, also, technically superior to a straight and steep rise in the minimum bonus to the level, say of 8-1/3%.

4.41 The technical improvement with regard to comparative treatment of enterprises in terms of our recommendations (*viz-a-viz* the single increase to 8-1/3%) results from the fact that while the single minimum of 8-1/3% would contain under it concerns in situations varying very widely from differing amounts of actual losses at one end

to fair-sized profits converted into technical losses (or negative allocable surplus) at the other end, in our proposed formulation, the lower minimum rate would be applicable only to the class of concerns making actual losses, the next higher rate (*viz.*, the higher minimum rate of 8-1/3%) would apply to many of those units which have fair profits as well as marginal profits, while the highest rates under the formula of the Act would be applicable to concerns with even higher profits. This would provide for a smoother shift in the bonus liability of concerns and thus be more equitable on the whole.

Our Recommendations

4.42 Our recommendations then are as follows:

- (a) The minimum bonus for establishments making a net profit should be 8-1/3%; the corresponding absolute figures of minimum bonus for such establishments will be Rs. eighty and Rs. fifty for persons above and below the age of fifteen, respectively.
- (b) Net profit for the purpose of (a) above shall be equal to gross profits as defined in the Second Schedule to the Payment of the Bonus Act to the following deductions:
 - (1) depreciation as in Section 6(a) of the Bonus Act, and
 - (2) 2 per cent of the total wage and salary bill of a concern in respect of employees eligible for bonus under the provisions of the Act.
- (c) When an establishment, according to the profit and loss account, does not show a net profit as in (b) above the minimum bonus shall be 5 per cent. The corresponding absolute figures of minimum bonus for such establishments will be Rs. fifty and Rs. thirty-two for a person above and below the age of fifteen respectively.
- (d) In the case of a banking company the net profit which would attract the higher minimum would be the gross profits as defined in the First Schedule to the Act subject to the following deductions:
 - (1) Any sum which interms of the Third Schedule item 2(iv) (a) and (b) is transferred to reserve, and
 - (2) 2 per cent of the total wage and salary bill of banking company in respect of employees eligible for bonus under the provisions of the Act.
- (e) As a matter of clarification it may be added that pending the final report, the present 'set on' and 'set off' arrangements in terms of the formula of the Act should continue to operate in relation to the new minima of 8½% and 5% proposed by us as they do now with reference to the existing minimum of 4%.

Non-repayment of advances towards bonus made during 1971

4.43 Since the *raison d'être* of the interim report is to allay the industrial unrest, we are concerned about the bearing of our recommendations on certain agreements regarding advances made towards bonus especially during 1971 for the accounting year 1970 and 1970-71. We believe that the implication of our recommendations is that the advances which have been conditional on the adoption of our recommendations—interim as these are—are not liable to be recovered, but should be converted into *ex gratia* payments, if our recommendations are adopted. We consider that measures should be taken preferably through a Resolution as in respect of decisions on Wage Board Recommendations to ensure that such payments made last year are protected and do not have to be repaid. Any amendment of the Act, if made, for giving effect to our recommendations should not be made retro-active, as we do not propose that for the sake of a small minority of concerns which have entered into agreements for payment of advances towards bonus, and whose interests can be protected otherwise as suggested by us, the majority of concerns which have closed their accounts and have no outstanding problem about bonus may be legitimately asked to implement for the past recommendations made now about minimum bonus.

4.44 Perhaps a Committee asked to review the operation of the Act and to suggest suitable modifications to the scheme outlined in it, and before finalising its recommendations to form a careful assessment of the likely impact thereof on the economy, would be expected to attempt some estimate of the likely magnitudes of additional bonus payments involved as a result of the recommendations, in the private and public sectors. We have asked for data in our main questionnaire (appended) which should make it possible to attempt this. In anticipation of receipt of the information requested of individual concerns it is extremely difficult to furnish an estimate which would be anything more than conjectural. However as explained in paragraph 4.35, our proposals constitute a nearly 90 per cent response, in terms of the rate and coverage of workers under the Act of minimum bonus, to the demand for an increase in minimum bonus as in Chapter II. Taking into account the increase of 108.33% that the rate of 8.33% represents over 4% and the likely relative coverage in terms of benefitting workers, of the proposed higher and lower minimum rates, the proposals constitute an over 95 per cent increase in the effective rate and coverage in terms of workers of minimum bonus. Both these estimates pertain to private sector public limited companies with paid-up capital above Rs. 5 lakhs. The proportion may be different for smaller concerns and for public sector enterprises.

4.45 Finally, we commend our proposals to the Government, to employees and employers alike in the hope that they will provide an answer to a difficult problem. We feel that these proposals represent the utmost response that the industry and economy can be called upon to make to the demand of employees for an increase in the minimum bonus in the current state of the country's economy. The response will be justified, provided the employees, taking duly into account the full import of the phase through which the economy is passing, the nature of bonus (including minimum bonus) as inextricably involved with the fortunes of industry, accept it as a fair and just solution. As regards the ability of industry and trade in general to bear the extra burden of higher minimum bonus, we hope the current difficulties of the economy may prove temporary and will not magnify, and believe that the medium term economic prospect of the country is reasonably good. Provided the scale and pattern of the minimum bonus proposed are accepted by all, the necessary environment of industrial peace and stability should enable industry generally to set the house in order, improve profitability, and absorb the impact of the larger bonus liability.

NUMBER OF COMPANIES INCURRING LOSSES IN 1966-67 TO 1969-70

Industry	Number of selected companies	Number of Companies for which											
		Gross profits were negative*				Pre-tax profits were negative				Profits retained were negative			
		1966-67	1967-68	1968-69	1969-70	1966-67	1967-68	1968-69	1969-70	1966-67	1967-68	1968-69	1969-70
1. Tea Plantations	134	11	10	36	40	20	21	56	57	46	42	74	75
2. Coffee Plantations	16	2	2	3	4	2	3	4	5	5	10	8	8
3. Rubber Plantations	22	3	5	3	1	4	5	4	2	7	10	8	6
4. Coal Mining	41	9	6	6	5	11	9	10	7	14	12	11	8
5. Edible vegetable and hydro-generated oils	16	—	6	1	1	—	10	2	2	—	12	2	2
6. Sugar	81	4	19	10	14	14	32	17	26	30	51	22	33
7. Tobacco	5	—	—	—	—	—	—	—	—	—	—	1	—
8. Cotton Textiles	265	48	51	65	45	90	112	137	84	120	138	167	105
9. Jute textiles	44	13	18	9	13	25	30	24	21	29	33	27	24
10. Silk & rayon textiles	15	—	—	1	1	3	4	2	2	5	4	3	3
11. Woollen textiles	9	1	1	—	—	5	4	1	1	5	4	1	2
12. Iron and steel	2	—	—	—	—	—	—	—	—	1	—	—	—
13. Aluminium	4	—	—	—	—	—	—	—	—	—	—	—	—
14. Other non-ferrous metal (basic)	8	—	1	2	1	—	1	2	2	2	1	2	2
15. Engineering	288	32	49	65	53	52	92	93	81	67	111	120	105
16. Chemicals	127	7	13	15	17	13	20	31	24	23	36	38	32
17. Matches	2	—	—	—	—	—	—	—	—	—	—	—	—
18. Mineral Oils	4	—	—	—	—	—	—	—	—	2	2	1	3
19. Cement	16	—	—	3	1	—	—	4	2	3	2	6	2
20. Paper & paper products	29	8	10	5	3	12	16	12	7	15	18	14	7
21. Electricity generation and supply	32	—	—	—	1	2	2	2	1	4	3	3	3
22. Trading	75	6	8	5	11	12	18	17	16	32	31	37	29
23. Shipping	11	3	3	3	3	3	4	3	3	5	4	4	3
24. TOTAL (including others)	1501	175 (11.7)	233 (15.5)	272 (18.1)	251 (16.7)	316 (21.1)	433 (29.9)	479 (31.9)	401 (26.7)	500	620	637	547

Figures within brackets indicate the proportion to the total of companies incurring losses.

*In this computation, depreciation has already been deducted before arriving at gross profits, but interest has not been deducted. Pre-tax profits are net of interest as well as depreciation.

SOURCE : Reserve Bank of India Bulletin, April 1972.

CHAPTER IV

Annexure

TABLE

Distribution of Value Added Among Different Factors of Production/Item of Expenditure.

	1965-66	1966-67	1967-68	1968-69	1969-70
1	2	3	4	5	6
1. Value of Input In Rs. Crores	2852.73	3182.32	3414.15	3723.39	4169.37
2. Value Added „	1793.15	1988.97	2142.51	2317.68	2557.76
3. Total Wage Bill (Salary P.F. Welfare) „	689.50	741.96	822.44	886.17	958.10
4. Share of Wages in Value Added In %	38.45	37.31	38.38	38.24	37.45
5. Total Tax Provision In Rs. Crores	165.48	164.70	146.18	148.07	170.96
6. Share of Tax Provision in Value Added In %	9.22	8.28	6.82	6.39	6.68
7. Total Excise Duties & Cess In Rs. Crores	369.80	414.68	472.15	539.64	580.37
8. Share of Excise Duties & Cess in Value Added In %	20.62	20.85	22.03	23.28	22.69
9. Managerial Remuneration In Rs. Crores	17.16	18.21	16.28	16.83	17.15
10. Share of Managerial Remuneration in value added In %	0.96	0.92	0.76	0.73	0.68
11. Selling Commission In Rs. Crores	36.23	42.51	45.55	50.79	52.67
12. Share of Selling Commission in value added In %	2.02	2.14	2.13	2.19	2.05
13. Payment of Interest by Cos. In Rs.	102.43	129.44	154.79	168.35	173.77
14. Share of interest in value added In %	5.71	6.50	7.22	7.26	6.79
15. Divident Paid In Rs. Crores	104.37	108.50	107.55	111.25	126.41
16. Share of Dividends in value added In %	5.82	5.46	5.02	4.80	4.94
17. Profits Retained In Rs. Crores	59.77	70.50	40.24	38.54	90.12
18. Share of Profits retained in value added In %	3.33	3.55	1.88	1.66	3.52
19. Other Expenses (including bad debts)	248.41	298.07	337.35	358.03	388.23
20. Share of other expenses in value added In %	13.87	14.99	15.76	15.45	15.20

NotE : Based on Data contained in the R.B.I. Bulletin, April, 1972.

Sd/-B. K. Madan
Chairman

Sd/- N. S. Bhat
Member

Sd/- Harish Mahindra
Member

*(R. P. BILIMORIA)
Member

*(MAHESH DESAI)
Member

*(G. RAMANUJAM)
Member

*(SAT ISH LOOMBA)
Member

Sd/- S. D. PUNEKAR
Member

Sd/K. R. Wazkar
Secretary

Delhi : 12th September, 1972.

*These members have not signed this report; they have submitted a separate report.

NOTE

By

N. S. BHAT & HARISH MAHINDRA

1. We have, after considerable thought, concurred fully with the recommendations made in the main report to which we have affixed our signatures. However, we consider it necessary to append a note explaining our reasons for agreeing with the conclusions in the report.

2. We are identified as representatives of private employers. We would like to put the record straight by clarifying that all members were invited by Government to serve on the Committee in their individual capacity. The Resolution of Government, while outlining the Terms of Reference, has clearly cast on the Committee a duty to "make a careful assessment of the likely impact of its recommendations on the national economy before finalising them". This stipulation is binding on all members and must be kept in mind. We have, therefore, examined and will continue to examine the issues before us not from the point of view of private employers alone. We will take into account the effect of our recommendations on the national economy. Considerations of economic growth and social justice must constitute the guiding principles for the Committee. Industrial harmony is important, but it must subserve to and promote economic growth without which there can be no social justice.

3. The Committee had no time so far to study in depth the various questions remitted to it by Government. These questions are not only inter-related, but also have a bearing on much wider national issues. They are particularly relevant to the new programmes of development which Government wants to undertake. These programmes are intended immediately to help millions of unemployed and under-employed. The number of people who are below the poverty line, as per the Approach Document of the Planning Commission, aggregates to 220 millions. In a developing economy like ours the responsibility of taking care of this huge under-privileged section of society cannot be discharged unless a conscious effort is made to increase the rate of saving formation by Government, the corporate sector and households. We submit that any Wage Policy including bonus payment must be attuned to employment generation. Indeed, the whole complex of policies must be reoriented to service such a programme.

4. In the circumstances, we strongly feel that an Interim Report on an important term of reference namely "Is there a case for raising the minimum bonus and, if so, on what lines?" is as premature as it is unjustified. We are unhappy that the Committee should be placed under heavy pressure to increase the minimum bonus from 4 per cent to 8.1/3 per cent coupled with the slogan "Bonus for All". Some important spokesmen of Government have not refrained from expressing their views on this issue, thereby pre-empting the Committee from autonomous functioning.

5. The demand in essence is for 13 months wages for 12 months in all establishments and Government departments. Our Committee is neither a National Wage Board nor a Pay Commission. As such, we believe that the Committee will be unfair to itself and to the people at large if it attempts to cover matters which should be dealt with by a different machinery. It is up to Government to come to a decision in this behalf after balancing the pulls and pushes of economic reality and political expediency.

6. The bonus controversy is more than two decades old, and it has been heightened by conceptual semantics. The word 'bonus' has lost its ordinary dictionary meaning, namely, gratuity to workmen beyond their wages. The concept developed into one of profit-sharing. Before the Bonus Ordinance of 1965 and the Payment of Bonus Act, 1965, bonus was payable under the Labour Appellate Tribunal Formula, which was generally approved by the Supreme Court. Under that formula, no bonus was payable if a concern had suffered a loss for the year or if there was no available surplus after providing for certain prior charges. The bonus Commission, while accepting the concept that bonus is the workers' share in the prosperity of the concern, recommended a minimum of 4% and a maximum of 20% on the ground that it would avoid wide fluctuations in the amount of bonus from year to year. If the object was to reduce fluctuations, logically the maximum should have been much lower than 20%. We are also unable to appreciate the reasoning that a minimum bonus should be payable in all circumstances. We know of cases where even the present minimum bonus had to be paid by borrowing, there being no profit or reserves to draw from.

7. Leaving aside the foregoing considerations, under the Bonus Act the minimum bonus, with the application of set off and set on principle, is in the nature of advance profit sharing and not deferred wage. Otherwise new establishments would not have been exempted from paying bonus. The concept of advance profit sharing assumes that an establishment will make enough profits over a specified period of time and that the minimum paid when there is no available surplus can be set off against the profits of good years. Experience has, however, shown that an establishment is not able to generate profits for several years, and in some hard cases losses have been incurred continuously. It is for the reason, among others, that a good number of establishments have become 'sick' and have been taken-over by Government, and under Government management they are exempted from payment of the minimum bonus as well as other dues such as full dearness allowance otherwise payable. It is true the public sector enterprises, which have also to pay minimum bonus, have been able to withstand the burden. This is due to their special position which is well known. However, the fact remains that the phenomenon of incurring losses is common to establishments in both the sectors.

8. Bonus is calculated on both basic wages and dearness allowance. Since the passing of the Bonus Act in 1965, basic wages have increased in most industries, and all workers have received substantial increases in dearness allowance. In other words, even the 4 per cent minimum bonus places in the hands of the workers a larger sum of money year after year. This is an increasing and unbearable burden on the loss making units. Any further increase in the rate of minimum bonus without regard to the capacity of the establishments and whether they make profit or loss would be a positive disservice to the marginal units as well as industrial development. A rational approach will be to provide bonus on the basis of the capacity of each establishment to bear the enhanced burden. This approach will involve the study of the subject in depth which will take time and cannot be done in haste.

9. If the demand for 13 months wages for 12 months service is conceded under the guise of bonus regardless of profit or loss we believe we shall be, in effect, supporting those who are already making similar claims in all non-competitive Government undertakings such as Railways, Post and Telegraph Department, Government and Municipal services etc. quite apart from non-commercial undertakings such as hospitals, educational institutions etc. We are not prepared to do so. The recent strike of the Civic workers in Bombay ought to have opened the eyes of those who argue for "8.4% bonus for all" to the magnitude of public suffering which can result from any popular approach to this problem.

10. Our colleague from the Public Sector stated that the Public Sector undertakings were already paying a minimum bonus of 8.4% or more regardless of profit or loss. On the contrary, according to a statement laid before the Lok Sabha on 10th August 1972 by the Union Minister for Labour and Rehabilitation in answer to a question, 22 out of 52 Public Sector undertakings provided for only 4% bonus for 1970-71. In any event where is the evidence to show that a burden which the Public Sector is able to withstand due to its special position, can be borne by all establishments in the country.

11. It was pointed out that some industries had paid last year advances to make up 8.4% bonus. We fail to see the logic of a temporary arrangement in some industries being forced as a permanent commitment for all.

12. Our colleagues representing labour and public sector have not denied that there are hard cases due to losses which deserve special treatment. However, they maintained that Section 36 of the Act is sufficient to give protection to them. Quite apart from the impracticability of getting relief under this Section, it must be realised that it is the appropriate Government that has to give the relief. This means that there will be as many standards and considerations as the number of States in India for giving relief. Section 36 is already there and we do not know of any case so far in which relief has been given under this Section though we know of many sick units and units which closed down. We do know, however, of sick units taken over by Government being given relief in the form of denying any bonus in such units.

13. A suggestion was made by our colleagues representing labour and the Public Sector that a machinery can be set up to give relief under Section 36. No one has spelt out so far what type of machinery is to be set up although we asked for elucidation. The only reply we got was "some machinery". We cannot conceive of any machinery that can tackle the cases of all loss making units in time before bonus is due to be paid. It takes about 4 months for the accounts of any fairly large company to be audited and finalised after the close of the accounting year and bonus has to be paid within 8 months from the close of the year. Is it conceivable that any machinery will be able to investigate and decide all such cases in 3 or 4 months or even less after the accounts are published. We believe this suggestion is ill-conceived and impracticable. It will only create more problems for the industry and to Government. Our colleagues were unable even to say what standards or considerations should guide the machinery under Section 36 to give relief. This suggestion is only an attempt to shift our responsibility to someone else.

14. We have a responsibility to consider the cases of loss making or marginal units. We are not prepared to abdicate this responsibility or pass it on to someone else and create more confusion and embarrassment to Government. We have a duty to say clearly how such units should be dealt with. It is up to Government to consider our recommendation on merits and take further action.

15. There are thus weighty considerations against coming to an interim conclusion on the question of raising the rate of minimum bonus even in respect of those categories of employees presently covered by the Act. In fact, the various reasons advanced in the Report lead to the irresistible logical conclusion that there is no case whatever to raise the present rate of minimum bonus. Nevertheless, we are conscious of the expectations which have been aroused and the wisdom of avoiding if possible industrial strife especially, in the Silver Jubilee Year of India's Independence in which the maximum utilisation of capacity should be our goal. We are also anxious to ensure that further deliberations leading to the final recommendations of the Committee are not vitiated by any inflexible stand taken by us at present. At the same time we cannot ignore our obligation to reduce the weight of the additional burden on the weaker units which make either marginal profits or suffer losses. We cannot be parties to kill units which are fighting for survival.

16. In order to demonstrate our genuine desire to meet the workers' point of view as far as possible we offered during our discussions to agree to increase the minimum bonus to 8½ per cent in the case of profit making units subject to the profit being adequate to cover the additional 4½ per cent. We are distressed to record that even this step forward by us met with no positive response from our colleagues representing labour and the public sector. Nevertheless, we must say in fairness that they appreciated our point of view.

17. Although various proposals and counter proposals were made during the discussions without any commitment on anyone's part, the Chairman and the independent member finally put forward a proposal to increase the minimum bonus to 8½ per cent in the case of profit making units and to raise the minimum to 5% in the case of units making no profits or suffering losses. We could not see the logic of this proposal even on the basis of the arguments put forward in the report. In essence this proposal amounted to increasing the losses of the loss making units. Nevertheless, in our anxiety to achieve an agreement and to demonstrate our genuine desire to help the workers as far as possible we felt we ought to respect the views of the Chairman and the independent member which we for our part regarded as completely objective and impartial. In this spirit and after a great deal of thought we finally agreed to accept the proposal put forward by the Chairman and the independent member in the hope that our colleagues representing labour and public sector would respect atleast the objective view point of the Chairman and the independent member. However, it is a matter of great distress to us that the spirit of accommodation which we demonstrated was not forthcoming from them.

18. The nation is passing through a difficult period full of economic problems. In the name of buying immediate peace in industry let us not shut our eyes to the problems we might create by short-sighted decisions. We appeal to our colleagues who have appreciated our point of view to demonstrate that appreciation by giving our point of view some accommodation. So far they have not moved an inch from the extreme position they took on the day the Committee was inaugurated.

19. Notwithstanding our deep sorrow at the uncompromising attitude demonstrated by our colleagues representing labour and the public sector we have decided to agree with the recommendations in the report in the hope that Government would appreciate our stand and commend it to employers and the workers bearing in mind the state of economy of the country today and in the foreseeable future. We are optimistic and we still hope that our colleagues representing labour and the public sector will change their views even at this late hour and accept the recommendations made in the report in the spirit in which they have been made.

Sd/-
N.S. BHAT

Sd/-
HARISH MAHINDRA

Dated :

BONUS REVIEW COMMITTEE

(Appointed by Govt. of India)

INTERIM REPORT



SEPTEMBER 1972



सत्यमेव जयते

FOREWORD

It is unusual for a Committee to submit two separate reports subscribed to by equal number of members. It is because of this that we feel the necessity to explain the circumstances that led to the submission of two such separate reports.

It was at the request of some of the signatories to this Report, with a view to salvage the Committee which suffered a total breakdown at this meeting held on 2nd and 3rd September at Bombay, that a meeting of the full Committee was convened in Delhi on the 12th September, 1972. The object of this meeting was to make a final attempt to produce one report so that the areas of agreement could be subscribed to by all the members, and the points of disagreement could be covered by their respective minutes of dissent. To our surprise, we were supplied on the previous day a copy of the final Report of the two members representing the private sector employers on the Committee and the independent member and the Chairman.

In view of the above, the signatories to this Report had to finalise their position by a separate report. Even so, on the morning of the 12th September when the Committee met at 11.00 A.M. in New Delhi, an attempt was made by the signatories to this report to prepare and submit a single report on the common proposition of 8.33% as minimum bonus with such reservations as any member might have. Unfortunately, this was not agreed to by our colleagues. Alternatively, we suggested that the draft report prepared by us might be subscribed to by them indicating whatever reservations they might have on specific issues. That suggestion too did not find favour with them. Besides the difficulties of procedure which have contributed to the submission of two separate reports, the signatories to this Report were constrained to this conclusion by the fact that the principal recommendation of two minima of our colleagues had no foundation in the written or the oral evidence from a single individual or organisations representing either the workers or the employers whether from the public or the private sector. Likewise, separate treatment of banking industry was not canvassed at any stage before the Committee by representatives either of Bank workers or bank managements. The reasoning for denying the retrospective effect assumes that it was only a small minority who had implemented the interim formula. This is factually inaccurate. The formula proposed by our colleagues in respect of the computation of the lower minimum will lead to more disputes and industrial unrest and thereby frustrate the very objectives of this Committee.

In the circumstances two separate reports became inevitable.

We want to make it clear that since four Members have signed each of the two reports, each should be treated as the main report. The Committee has been equally divided and neither report is to be taken as the minute of dissent to the other.

In the circumstances, the Secretary has been directed to forward to Government both the Reports.



सत्यमेव जयते

CONTENTS

	PAGE
Chapter I Introduction	37
Chapter II Views of Employees' and Employers' Organisations	40
Chapter III Recommendations	43





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CHAPTER I

INTRODUCTION

Appointment of Committee—

Terms of reference

The Government of India, in the Ministry of Labour, Employment and Rehabilitation under the Resolution No. U. 23018/1/72-WB dated the 28th April, 1972, constituted the Bonus Review Committee consisting of the following persons :—

Chairman : Dr. B.K. Madan

Members :

1. Shri N.S. Bhat
2. Shri Harish Mahindra
3. Shri R.P. Bilimoria
4. Shri G. Ramanujam
5. Shri Satish Loomba
6. Shri Mahesh Desai
7. Dr. S.D. Punekar.

The terms of reference to the Committee are :

“To review the operation of the Payment of Bonus Act, 1965, and to suggest suitable modifications to the Scheme outlined therein, and in particular, to make recommendations on the following issues :

- (i) Whether establishments (other than factories) employing less than 20 workers, may be covered by the Act, and if so, upto what limit of employment? Should there be a separate formula for payment of bonus in these small establishments?
- (ii) Is there a case for raising the minimum bonus (4%) and, if so, to what level?
- (iii) Whether the present upper limit on payment of bonus and the system of ‘set-on’ and ‘set-off’ require any alteration, and if so, on what lines?
- (iv) Whether the entire bonus payment should be related in some way to production/productivity in the undertaking?
- (v) Whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through a suitable scheme of production/productivity?
- (vi) To consider and make recommendations on any connected/ancillary matters.

The Committee shall also make a careful assessment of the likely impact of its recommendations on the national economy before finalising them”.

1.2 On 5th June, 1972, Shri K.R. Wazkar, Retired Registrar of the Industrial Court, Bombay, was appointed as Secretary of the Committee.

1.3 The first meeting of the Committee was held on the 5th June, 1972, at Bombay. The proceedings were inaugurated by the Minister of Labour, Shri R.K. Khadilkar, who addressed the members. The Minister of Labour of Maharashtra, Shri Narendra Tidke, also addressed the Committee. Soon after inauguration, the Committee met and decided to invite advance submissions from parties on 'Minimum Bonus' in view of the urgency of the problem.

1.4 In his inaugural address, Shri Khadilkar highlighted the events of the last year during which the demand for a higher minimum bonus became very insistent. He then referred to the coming 1972 Pooja and Diwali festivals and underlined the urgency of the Committee realising its responsibility and, in this context, of reviewing and examining the vital issues of bonus on which would depend to a large extent the climate of industrial relations in the future.

Shri Tidke, Labour Minister of Maharashtra, who followed him, in his address was categorical that "anything short of a minimum of 8.33% bonus will not satisfy the workers." He was equally categorical that "the question of bonus for workers in small factories, shops and establishments employing 20 persons or less, who are at present outside the pale of law, needs urgent attention. Even if there was a single employee, he should be eligible to get bonus."

Procedure of Interim Enquiry Programme of Public Evidence and Meetings

1.5 Following the first meeting of the Committee on 5th June, a press communique was accordingly issued on the 12th June, 1972, inviting the views of organisations and individuals on the Committee's terms of reference in general and in particular on items (ii) and (v) relating to the question of minimum bonus and its possible relationship to schemes of production/productivity. The views of organisations of employers and employees were specially invited through a circular letter addressed to them (*Appendix I*). They were requested to send their written views to the Committee on or before 12th July, 1972. The names of organisations and individuals from whom written memoranda were received are in *Annexure I*.

1.6 The second meeting of the Committee was held in Bombay on 28th June, 1972, when the programme for hearing the oral evidence of representatives of workers and employers on the issues of 'Minimum Bonus' was finalised. Public sittings for recording oral evidence were held in Bombay in two sessions. The first session was held on the 24th, 25th and 26th July, when the representatives of Central Organisations of labour and the All India Federations of Unions affiliated to them were heard. The second session was held on the 31st July, 1st and 2nd August, 1972 when the representatives of the Central Organisations of Employers and the All India Federations of Employees of different industries affiliated to them appeared before the Committee to tender oral evidence. Some important public sector undertakings—Hindustan Steel, Air-India, Fertilizer Corporation of India, The National Coal Development Corporation and Bharat Heavy Electricals also responded to the invitation to give written as well as oral representations with regard to their respective sectors. *Annexure II* gives the names of workers' and employers' organisations and their representatives, who appeared before the Committee to tender oral evidence.

1.7 It will be seen the Memoranda received and evidence presented on behalf of employees and employers have been fairly representative as well as comprehensive.

1.8 Following the series of meeting for receiving oral evidence, the Committee had four sessions of two days each on 10th and 11th August, at Bombay, 22nd and 23rd August at Bangalore, and again 2nd and 3rd September, 1972, at Bombay and 12th September at Delhi to consider and arrive at its conclusions and recommendations on the issue of 'Minimum Bonus' and matters incidental there to and to finalise its interim report to Government.

1.9 The need for an interim report arose out of the delay in setting up the Bonus Review Committee. Whereas it had been decided to set up a Committee as early as in September, 1971, it could only be notified at the end of April 1972 and hold its inaugural meeting on 6th June, 1972. Had the Committee started functioning by the end of 1971, it is quite possible that by this time it could have reached its final conclusions. But having started functioning hardly three months before the payment of annual bonus was due and in view of the gradually building tempo of agitation and unrest supported by various commitments from different quarters, the Committee unanimously decided to submit an interim report to Government by mid-September 1972 on the important issue of quantum of minimum bonus and matter incidental thereto. In its interim report it is not the intention of the Committee to submit detailed argumentation which will form the subject of the main report but to cover some salient features leading to its conclusions.

1.10 It was in the above context that the Committee decided, in favour of making a serious effort to consider certain urgent questions first. To this end the Committee also decided to have a quick procedure of inviting views of representatives of employees and employers in particular and of the public generally, especially on the question of minimum bonus and the possible linking of any increase in it to production/productivity, besides other suitable

modifications in the Act. Among substantive issues, the oral evidence was largely confined to these issues though in the course of written replies and oral submissions, other suggestions for changes in the Bonus Act were also made. In particular the workers' representatives unanimously urged that the Committee's recommendations should include the question of coverage of workers under the Act.

1.11 Both the written and oral representations and evidence addressed themselves to the initial procedural aspect of whether the Committee should make an interim report. The views of employees and employers on this point were diametrically opposed, the employees being emphatically in favour of the Committee making up for lost time and submitting its interim recommendations on the most urgent issues as they saw them. The employers on the other hand did not favour the submission of an interim report on the plea that the issues raised by the terms of reference are of such fundamental importance to the national economy that their consideration should not be rushed through or prejudiced by any interim decision.

1.12 The Committee unanimously decided on conclusion of the oral evidence that it should make an interim report on parts of its terms of reference. With a view to limiting the scope of the report to certain minimum essential aspects, the interim report should be concerned only with the question of minimum bonus and matters incidental thereto as also of possible linkage of any increase in minimum bonus to production/productivity. The present report is accordingly thus limited in its scope to the terms of our reference, viz., Terms (ii) and (v) and matters incidental thereto.



CHAPTER II

VIEWS OF EMPLOYEES AND EMPLOYERS' ORGANISATIONS

The general case of labour for an increase in minimum bonus appears to rely upon the observed fact that as a result of actual working of the provisions of the Payment of Bonus Act, 1965, the available surplus in large number of concerns is either meagre or a minus quantity. After 1965 many concerns have not been able to give more than 4% as minimum bonus. Having regard to the order of rise in prices as reflected in the Consumer Price Index Numbers and the poor percentage of neutralisation in all cases, labour has felt that the 4% minimum bonus, although paid on basic wages plus D.A., has proved too inadequate. Widespread agitation started in the year 1970 and became more pronounced in 1971 for increase in minimum bonus due for the years 1969 and 1970 respectively, and the demand has been for raising the minimum bonus of 4% to 8.33%.

2.2 On a perusal of the memoranda submitted by the Central Organisations of Labour, the following train of events seems to indicate as to how the demand for such an increase in the rate of minimum bonus has gathered momentum. A private member's bill No. XII of 1966 was introduced by Shri Chitta Basu, in the Rajya Sabha on 19th August, 1966. The Bill came up for discussion on 8-5-70, on 7-8-70 and again on the 26th March, 1971. The Bill was withdrawn on an assurance given on behalf of the Government of India to the effect that the Government themselves were thinking of bringing forward a legislation for amending the Payment of Bonus Act. On 24th September, 1970, the late Shri D. Sanjivayya, then Labour Minister of the Central Government addressing a meeting of the Bombay textile workers under the auspices of the Rashtriya Mill Mazdoor-Sangh, Bombay reportedly said that Government would shortly take a decision on the issue of payment of higher minimum bonus to workers. He said that he was conscious of the fact that workers were unhappy on account of the present provision in the Act for the payment of minimum bonus at 4% of the total wages. He also referred to Shri Chitta Basu's non-official bill recommending a minimum bonus of 8% of the total wages which was then before Parliament and added that Government would take a decision on the Bill soon.

2.3 Following this announcement of the Labour Minister, an agreement was reached between the millowners and the representatives of unions in Coimbatore for the payment of minimum bonus at 8.33% for the accounting year 1969 (1969-70) and 1970 (1970-71). The agreement provided for payment of bonus by certain mills for more than 8.33%, by certain other mills between 4% and 8.33% with an advance to make up 8.33% and for the remaining mills only 4% for the year 1969 (1969-70). The agreement contained a clause to the effect that in respect of advances paid in excess of the then statutory bonus liability, the parties shall strive to reach a settlement before 15-8-71 in respect of advances for 1969-70 and failing such agreement the sum in excess of the bonus liability will be recovered in 12 monthly instalments commencing from Sept. 1971 onwards. The representative of the South Indian Millowners' Association while giving evidence said that the advances for the year 1969 (1969-70) have been recovered. There was a similar clause in respect of bonus for 1970 (1970-71).

2.4 Shri Sidhartha Shankar Ray, the then Union Minister incharge of West Bengal announced a minimum bonus of 8% to the workers of Jessop & Co. Ltd., Calcutta, a Government of India Undertaking for the year 1970.

2.5 On 26th March, 1971 in the Rajya Sabha the Union Labour Minister, Shri R. K. Khadilkar is reported to have said that he proposed to bring suitable legislation in due course to include the non-competitive public sector undertakings within the purview of the Payment of Bonus Act. A similar pronouncement was made by the Minister on 1st July, 1971 in the Lok Sabha stating that fresh legislation would be brought before Parliament by which the entire public sector would be brought under the purview of the Bonus Act. In August, 1971, the Labour Minister convened a conference of the State Labour Ministers which discussed the question of minimum bonus among other subjects. It was reported that the consensus in the Conference was that the minimum bonus should be raised to 8.33%. On 18th September, 1971, the representatives of INTUC, HMS and AITUC held a meeting in Delhi in which a unanimous demand was made to increase the minimum bonus to 8.33% for all workers in the private and public sectors including the departmentally run undertakings and to call upon the Government to promulgate an ordinance for enhancing the minimum bonus. On 20th September, 1971, the Union Minister convened a bipartite Conference which ended without any agreement. Following the breakdown of the talks a tentative agreement was reached between some parties and Government on 22nd September, 1971 on the basis of an ad-hoc interim formula (hereafter referred to as the ad-hoc formula of 1971) which prescribed the payment of bonus as follows:

- (a) Units which do not make enough gross profits to cover normal statutory depreciation will make a payment of 1% of the total annual emoluments in addition to the present statutory minimum of 4%.

- (b) Units whose gross profits show a surplus of 1% of total annual emoluments after charging normal statutory depreciation, will make a payment of 2% over and above the minimum 4%.
- (c) Units whose gross profits show a surplus of 2% of total emoluments after charging normal statutory depreciation will make a payment of extra 4-1/3%.

The difference between the amount payable under the Act and the actual amount paid under this ad-hoc formula will be treated as advance to be suitably adjusted against future payment under a new bonus formula that may be evolved in pursuance of the contemplated review of the working of the Act.

2.6 This agreement also provided that a Committee consisting of representatives of employees, employers and economists with an independent chairman would be set up immediately to go into the entire scheme of bonus including the minimum and maximum and that this Committee should be requested to submit its report within six months.

2.7 The question of bonus was also discussed at the meeting of the Labour Consultative Committee in Parliament on 1st November, 1971, when the members urged that the Government should bring forward legislation fixing the minimum bonus at 8.33%. In the 27th Session of the Indian Labour Conference held in October, 1971 the Union Labour Minister said :

“Matters relating to bonus payable under the Payment of Bonus Act have resulted in a good deal of agitation. The Government is trying to review the working of the Act. Obviously amendment can be promoted only after full discussion and consideration”.

In the Indian Labour Conference it was generally felt that the entire issue of bonus should be gone into by a Committee which should be bipartite or tripartite. The employers' representatives on the Committee should include a representative of the public sector, and the Committee should submit its report within a period of six months.

2.8 The foregoing account of the background sets out how the demand for an increase in minimum bonus was made in the Parliament, in Tripartite Labour Conference, accepted at the Labour Ministers' Conference and elsewhere and how this led to a review of the question of bonus by this Committee.

2.9 As explained earlier, the Committee has decided to attempt an answer to two of its terms of reference in the present interim report, viz., (ii) “Is there a case for raising the minimum bonus (4%) , and if so, to what level?” and (v) “whether the present minimum bonus of 4% may continue but a provision be made for its being supplemented through suitable schemes of production/productivity?”. To take first the latter question, viz., that relating to the possible linkage of increase in minimum bonus to suitable schemes of production/productivity, the evidence on behalf of employees' organisations tendered before the Committee, both written and oral, has been uniformly opposed to any such nexus being established between the annual bonus and production or productivity. Some representations of labour did not attempt to answer the question presumably on the implicit ground that in terms of the current demand for an increase in minimum bonus, it should be untrammelled by any condition.

2.10 It is the unanimous stand of all labour organisations that apart from the justification for raising the minimum bonus to 8-1/3% on the basis of assurances by the Union Labour Ministers, the acceptance by the Labour Ministers' Conference and the actual conduct of some employers and the inequities in the existing formula, there is also the broad fact that the cost of living has since risen considerably, that the percentage of neutralisation had always been poor and never full, with the result that the value of the pay packet has been eroded and the gap between the actual wage and the living wage has widened. Labour organisations also pointed out that labour's share in the value added by manufacture has been going down, which proves that justice still remains to be done to labour.

2.11 Looking at all these circumstances they demanded an interim recommendation by the Committee raising the minimum bonus to 8-1/3% of the total wages/salary earned in a year instead of the present 4%. They also stated that such bonus should be payable to all employees, whether they are employed in non-factory establishments employing more than 20 persons or less, in all public sector undertakings, whether competitive or monopolistic, whether run departmentally by or under the authority of a Government, or as a Corporation or Company, Public or Private, or partnership or proprietary concerns or cooperatives, whether banking or non-banking. They also added that the recommendations of the Committee should be made applicable to all bonus disputes relating to the accounting year commencing on any day in the calendar year 1970, unless there are specific agreements between parties in respect of earlier years which anticipated these developments and made the finality of those agreements conditional upon state action either by way of review or legislation on the question of bonus.

2.12 The labour organisations were unanimous in their view that there should be only one minimum payable regardless of profit or loss and that such minimum should be at 8-1/3% of the annual wages/salary earned by the employees.

2.13 On the question of the impact of such rise in the minimum bonus on the national economy the labour organisations pointed out that already many employers who were required to pay a bonus of only 4% under the Act have been paying 8-1/3% and even higher and that, therefore, there will be no adverse impact on the economy by the Committee recommending 8-1/3% as minimum bonus.

2.14 Discussing the overall impact on the economy, the labour organisations urged that the impact on the economy by refusing to raise the minimum bonus to 8-1/3% will indeed be disastrous, looking to circumstances we are placed in and the commitments and hopes raised by responsible persons in Government, the acceptance by the Labour Ministers' Conference and the widening gap between actual wage and the living wage and the conduct of the employers themselves.

2.15 The employers generally were against the idea of any interim recommendation on 'Minimum Bonus'. They contended that bonus has a character of profit-sharing and that any minimum bonus, regardless of profit or loss, would tend to make it a deferred wage. They also stated that because of the Bonus Act, industries are not able to repay short or long-term borrowings and build up sufficient reserves for contingencies and also provide for rehabilitation and modernisation. They also took the stand that bonus is not intended to bridge the gap between the actual wage paid and the living wage due. They pleaded that an increase in minimum bonus would have adverse effect on the economy as a whole. They, however, admitted that several employers have paid a higher bonus than the minimum 4% when they were required to pay only 4% under the law, but added that such payment was under duress. They also said that employers will be willing to pay a higher bonus than that due under the Act through collective bargaining but not through raising the minimum by statute.

2.16 On behalf of the public sector it was argued that public sector undertakings are all paying bonus according to the Act, or are making *ex-gratia* payments where they are not required to pay bonus under the Act because they are not competitive. The quantum of such *ex-gratia* payments was always arrived at on the basis of the Act as if the Act applied to them. It was also stated on behalf of the public sector that in 1971 payment was made generally in terms of *ad-hoc* formula devised in September, 1971. They also said that increase in minimum bonus will further affect the loss making units and thereby the economy of the country, but conceded that some increase in bonus is unavoidable. A suggestion was also made that bonus could be paid as a fixed quantum of money rather than a percentage of earnings.

2.17 As regards linking of part of bonus to production/productivity almost all employers' organisations have deemed it unpractical and likely to increase the area of disputes. They also argued that improvement in productivity/production does not always lead to improvement in profits. They were, therefore, not for a national formula linking-productivity to bonus.

CHAPTER III

RECOMMENDATIONS

3.1 We have carefully considered all the memoranda submitted by the parties and the oral evidence tendered by them not only on the question of minimum bonus but also on the possible linking of any part or whole of the minimum bonus with production/productivity. We have also considered the scope of coverage of our recommendations, as also the accounting year from which these should take effect and how best they could be implemented. We have naturally considered the repercussions of our recommendations on the economy as a whole.

3.2 A recent study by Dr. S. L. Shetty in the Division of Monetary Economics of the Reserve Bank's Economic Department is quite revealing. Based on an analysis of finances of 1,501 large and medium companies published annually by the Reserve Bank, Dr. Shetty has found that while manufacturing costs of companies had remained at 55% of the value of output, their wage cost had declined from 14% in 1965-66 to 13.2% in 1970-71. This shows that labour is not even having the same share in 1970-71 as it had five years before, i.e. in 1965-66.

3.3 It is obvious that all the wage increases granted since then have been more than offset by increase in productivity. Also it is an undisputable fact that real wages too have been continuously eroded. Dr. Shetty further adds that profitability of the 1,501 companies registered a notable recovery over these six years; the liquidity position of the Corporate Sector was comfortable due to the rise in retained profits in the context of the continued sluggishness in investment activity; the position in respect of the companies' net worth and depreciation provision has also improved; and not only were the owned funds in excess of the gross assets created, but the excess generated steadily increased.

3.4 We take it that the Reserve Bank's selection of 1,501 companies is representative, and that being so, this latest study in the series reveals that the raising of the minimum bonus from 4% to 8.33% will not be burden beyond their means.

It may be recalled that the fall in labour's share of value added by manufacture, however, is not a new feature originating from 1965-66. The National Commission on Labour had also observed that this has been a persisting trend right from 1947. We have referred to the statistics from 1965-66 to point out the fact that inspite of the Payment of Bonus Act and the minimum bonus provision therein, this trend has not been arrested and the fall in labour's share of the value added is still persisting.

3.5 Thus the shortfall in labour's share in 1970-71 as compared to 1965-66 is 14% minus 13.2%-0.8%. This 0.8% is 1/17th of the labour's share of 14% as it stood in 1965-66. This approximately represents a fall of 6% in the labour's share in 1970-71 as compared to 1965-66. Thus the percentage of wage cost has gone down by 6% of the total wages, which included cost of labour welfare, bonus under the Act, provident fund, E.S.I. contributions etc. The raising of minimum bonus to 8.33% will only involve an increase of 4.33% of the total wages i.e., basic wages and dearness allowance without the cost of labour welfare, provident fund, E.S.I. contributions, etc. Therefore, even with the 8.33% as minimum bonus, the wage cost would be less than the 1965-66 level.

3.6 But we are not guided only by these statistical figures. We have to keep in mind the circumstances that led to the appointment of this Committee, the widening gap between actual wage and the living wage, the commitments made and hopes created, the general atmosphere in the country, the numerous voluntary agreements entered into for payment of bonus in one form or another at 8.33% and higher, where only 4% was due and the need for maintenance of industrial peace.

3.7 Specifically on the issue of commitments, apart from those recorded earlier in the summary of workers' evidence statements have been made from time to time by various labour ministers in different states, urging the Central Government to legislate for raising the minimum bonus to 8.33% or in the alternative allow the State Governments to legislate for themselves. For instance, Shri N.M. Tidke, Labour Minister of Maharashtra is reported to have observed that:

"the State Government had favoured payment of bonus by commercial or industrial organisation, irrespective of the number of employees. The Government had urged the Union Government to amend the Central bonus law suitably. If the centre could not do so, it had sought its permission to allow the State Government to enact such a law.

He said the expressions 'Bonus' and 'ex-gratia' payment had now become almost synonymous.....
".*

It has also been brought to our notice that as recently as August 1972, the Chief Minister of Madhya Pradesh has given an award in respect of bonus to cotton textile workers to the extent of 8.33% made up as follows :—

4% according to the Payment of Bonus Act, plus 2% as advance making a total of 6% to be paid before Raksha Bandhan that is before 24th August, 1972 and 2.33% additional bonus to be paid as advance before the end of October 1972. It is also mentioned *inter alia* that the final decision on the payment of bonus will be taken according to the Bonus Review Committee's recommendations.

Ample evidence has also been brought forward to show that both in the private sector and in the public sector, in a number of cases, 8.33% or more has been paid where only 4% bonus was the entitlement. Further, some of our colleagues have pleaded that they would like to bargain with their respective unions and pay even 8.33% bonus or more, where only the minimum is due but the statutory limits should not be raised to that level. It is difficult to accept the validity of this argument because in the payment of quantum which has been statutorily laid down, one cannot have a statutory minimum and a bargainable minimum as they will frustrate the very purpose for which legislation on bonus was originally contemplated. Such action would only open the flood gate for agitation in respect of the minimum bonus.

Quantum of Minimum Bonus

3.8 Looking to all these circumstances, we are convinced that we should recommend an increase in the minimum bonus from the present 4% to 8.33%. The absolute figures mentioned in Section 10 of the Act should also be consequently raised to Rs. 80/- and Rs. 50/ respectively for those above and below the age of 15 so that the workers get whichever is higher of the two, viz., the 8.33% of the total annual wages/salary or the absolute figures mentioned here. We, therefore, recommend that Section 10 of the Payment of Bonus Act be amended accordingly.

Some of our colleagues in the Committee wanted the increased minimum bonus of 8.33% to be made applicable only to profit-making units. They wanted to recommend a 'lower minimum' for the loss-making units. We do not agree with this proposition. If we agree to such a proposition, 8.33% will obviously cease to be the minimum, and the very concept of minimum bonus will undergo a retrograde change.

3.9 We wish to make it clear that we are not changing, by our interim recommendation, the concept of minimum bonus. The concept of minimum bonus is already incorporated in the present Payment of Bonus Act and the prescribed minimum will have to be paid, regardless of profit or loss in any year. That concept, we recommend, shall continue.

3.10 If an establishment makes a loss in one year that should not be taken as a basis for justification for a lower minimum. In fact, the Payment of Bonus Scheme does not take a year as a unit. That is why it provides for 'set-off' and 'set-on' against subsequent years' profits or losses. This provision must be able to take care of loss making units. The question may be raised "what about a unit which goes on making losses for all the four years continuously and is thus denied the opportunity to 'set-off' the payment of minimum bonus against subsequent years' profits?" Our answer to this is simple. If there is an establishment which goes on making losses continuously for four years, evidently there is something basically wrong with such an establishment and the remedy lies in other directions. Any tinkering with the minimum bonus is not going to provide the solution. The working of such units requires a thorough study and radical remedies will have to be evolved and implemented. Therefore, we can not agree to the patent contradictions of recommending two minima—a 'lower minimum' and a 'higher minimum'. Further we are of the opinion that the present provision under section 36 of the Payment of Bonus Act, 1965 is sufficient to take care of the interests of all units which might require special consideration.

3.11 Shri R.P. Billimoria desired to add that when the minimum is raised from 4% to 8.33% as recommended earlier, a bipartite standing machinery should be set up under this section to lay down appropriate norms and to process expeditiously cases of real financial distress. In the alternative, a tripartite body could lay down norms for this purpose.

3.12 Having dealt with the quantum of minimum bonus, we feel there are still four other matters incidental to the issue of minimum bonus which have to be decided by us in this interim report. They are:

1. The accounting year from which the revised rate of minimum bonus should be made payable.
2. Linking of any part of the minimum bonus to production/productivity.

3. Coverage of employees; and
4. Manner of implementation of our recommendations.

Accounting year from which applicable

3.13. We recommend that the revised minimum bonus of 8.33% shall be paid to all employees from the accounting year commencing on any day in 1970. We are informed that in the Textile Industry in Coimbatore, and following that in other centres also in South India, agreements have been reached whereby 8.33% of total wages has been paid partly as bonus and partly as advance, soon after the announcement by the then Union Labour Minister, Shri D. Sanjeeviah in Bombay in 1970. These agreements are subject to the follow up action by the State on that pronouncement. Therefore, centres like Coimbatore who had entered into agreements even in respect of accounting years prior to 1970 should be eligible for the difference in the payment of minimum bonus at 8.33% in the light of our recommendations, whether or not the advances paid to bring up the minimum to 8.33% have been recovered.

Linking Bonus with Production/Productivity.

3.14 All organisations of employers and workers have pointed out to us the impracticability of linking any part of bonus to productivity or production. In the circumstances we agree with the views of both the parties and we recommend that no part of this bonus shall be linked to production/productivity.

Coverage

3.15 On the issue of coverage all workers' organisations are unanimous that the Act should be extended to cover all wage and salary earners in all areas of employment.

At present some areas of employment are excluded from the purview of the Act itself while some other have been excluded by the provisions of the Act or by Court pronouncements.

Although the Payment of Bonus Act 1965 excludes workers in certain public sector establishments they have been receiving bonus as *ex-gratia* payments as if the Act applied to them. Therefore there is no valid reason why workers in such establishments should not be included in the Act itself. Hence we recommend for their inclusion.

In regard to the employees employed in non-factory establishments employing less than 20 persons we feel there is no justification in perpetuating their exclusion as these employees were already in receipt of bonus under the previous dispensation. The Act was never intended to deprive any section of the employees of their existing benefits. We are therefore of the opinion that workmen employed in non-factory establishments employing less than 20 persons could not be debarred from claiming bonus including the 'minimum bonus' under the law. A question may be raised that if all these establishments employing less than 20 persons should be covered by the Act, should we not fix any minimum limit of employment. Our answer to this question is that just as Payment of Bonus Act covers all factories we recommend that the Act should cover all Shops and Commercial establishments as defined by the Shops & Establishments Acts in the country.

The members representing the workers on the Committee are of the view that the other sectors of employment also should be brought within the scope of the Act.

Shri R.P. Billimoria is of the view that the question of extending the coverage of the Act in the interim report to certain categories of workers does not arise because the Committee has had no opportunity to hear either the representatives of employers employing less than 20 persons or those undertakings run departmentally by the Government. Further, the Union Labour Minister is reported to have made a statement in Parliament that this issue is being taken care of by the Third Pay Commission, which is now in session. Evidently, the two Bodies, viz., the Bonus Review Committee and the Third Pay Commission cannot be seized of the same issue concurrently. Even otherwise, on an important issue of this nature which has far reaching repercussions on the national economy, a study in depth is required. It is certainly not claimed that such a study has been made by this Committee as yet. However, he is in agreement with our recommendations that the public sector undertakings excluded under Sec. 20, Clause 1 and which have been making *ex-gratia* payments at rates determined according to the provisions of the Act even though the Act did not apply to them may be brought within the purview of this Act.

Manner of implementation of our Recommendations

3.16 We have already pointed out that we want our interim recommendations to be brought into force immediately. Apart from the retrospective effect of our recommendations, we are anxious that our recommendations should

be implemented immediately so that we may avoid wide-spread industrial unrest and stoppage of production on the issue of 'Minimum Bonus' in respect of 1971-72 bonus disputes also. We, therefore, recommend that Government should take immediate and effective steps to make our recommendations enforceable without loss of time.

Mode of payment

3.17 A suggestion was made that the minimum bonus in excess of 4% may be paid in the form of bonds or savings certificates. Our experience in this regard has not been happy and, we, therefore, propose that the 8.33% minimum bonus shall be paid in cash except where the workers agree that it may be paid otherwise.

Shri R.P. Billimoria, is however of the view that at least the increased quantum of minimum bonus should be paid in National Savings Certificates.

3.18 Lastly we would like to make it clear that although we call this our 'interim recommendation', this is our final recommendation in so far as the quantum of 'Minimum Bonus' is concerned. Our present recommendation in this regard is called 'interim' because we are dealing with only two of the terms of reference to us in this report. Our report will become final only after we have done with the remaining terms of reference as well.

We wish to place on record our appreciation of the co-operation and assistance rendered to us by the organisations of workers and employers in the country, who submitted their written memoranda and appeared before us and thus assisted us in our work. We also wish to record our appreciation of the co-operation and assistance we received from our colleagues on the Committee including the Chairman, and the staff including the Secretary.



Sd/-

R.P. BILLIMORIA

Sd/-

MAHESH DESAI

Sd/-

SATISH LOOMBA

Sd/-

G. RAMANUJAM

NEW DELHI,

September 12, 1972.

Sd/-

K.R. WAZKAR

Secretary.