

Circular No – 018/2026

Date: 23.03.2026

To
All Members of The Association

ADOPTIVE MOTHERS ENTITLED TO MATERNITY LEAVE REGARDLESS OF CHILD'S AGE, RULES SUPREME COURT

1. The Supreme Court, in its judgment dated 17.03.2026 in *Writ Petition No. 960 of 2021 (Hamsanandini Nanduri vs. Union of India and Others)*, declared the protection of maternity leave for working women to be a basic human right. The Court urged the Union Government to legally recognise paternity leave as a social security benefit, noting that parenthood is not a solitary function to be performed by one parent alone.
2. In this case, the Hon'ble Supreme Court examined the following two issues:
 - a. Whether the age limit of three months stipulated under Section 60(4) of the Code on Social Security, 2020, violates Article 14 of the Constitution by being discriminatory toward women who adopt a child aged three months or older?
 - b. Whether the said age limit violates the right to reproductive autonomy of an adoptive mother and the right of the adopted child to holistic care and development under Article 21 of the Constitution?
3. **The Court held as follows:**The age limit for maternity benefits for adoptive mothers is unconstitutional.
 - Section 60(4) of the Code on Social Security, 2020, which restricted leave to adoptions of children under three months, is struck down.

- The distinction between adoptive mothers based on the child's age has no rational connection to the purpose of maternity benefits. The Court observed: "**The object of maternity benefit is not associated with the process of childbirth but with the process of motherhood. (Emphasis added)**"
 - The restriction violates the principle of equality and denies adoptive families adequate caregiving time.
 - Adoption is an equally valid exercise of reproductive autonomy under **Article 21** and is not secondary to biological parenthood.
 - The Court urged the Centre to recognise paternity leave as a vital part of social security benefits.
4. The Supreme Court has struck down the relevant provision of the Code on Social Security 2020 that restricted maternity benefits for adoptive mothers to cases where the child was below three months of age. The Court held that adoptive mothers are entitled to 12 weeks of maternity leave, irrespective of the age of the child at the time of adoption.
 5. The original provision of Section 60(4) of the 2020 Code stipulated that:
"A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be."
 6. The Court ordered that the provision must now read as:
"A woman who legally adopts a child or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the





child is handed over to the adopting mother or the commissioning mother, as the case may be."

7. The Hon'ble Court concluded the judgment with the observation:
"We urge the Union of India to introduce a provision recognising paternity leave as a social security benefit. We emphasize that the duration of such leave must be determined in a manner that is responsive to the needs of both the parent and the child."
8. **It is pertinent to note that this is the first major decision by the Apex Court concerning the Code on Social Security, 2020.**

For KARNATAKA EMPLOYERS' ASSOCIATION

**Sd/
[B C Prabhakar]
President**