

Supreme Court on Paid Maternity Leave for Adoptive Mothers

March 22, 2026 • vajiramandravi.com



Maternity Leave Latest News

- The Supreme Court has expanded paid maternity leave for adoptive mothers, striking down restrictive provisions in the Social Security Code, 2020.

Maternity Leave Framework in India

- India's maternity benefit framework has evolved over time to support working women and child welfare.
 - The **Maternity Benefit Act, 1961**, provided 12 weeks of paid leave.
 - The **2017 Amendment** increased leave for biological mothers to **26 weeks**.
 - It also introduced maternity leave for adoptive and surrogate mothers, but with conditions.
- Under Section 5(4) of the Act (later Section 60(4) of the Social Security Code, 2020), adoptive mothers were entitled to **12 weeks of leave only if the child was below three months of age**.
- This created a distinction between biological and adoptive motherhood in law.

Supreme Court Judgment and Legal Changes

- The Supreme Court struck down the restrictive provision limiting maternity leave for adoptive mothers.
- Adoptive mothers are now entitled to 12 weeks of paid maternity leave regardless of the child's age at adoption.
- The Court held that such restrictions violate principles of equality and child welfare.
- The judgment recognises adoptive mothers as having the same rights and responsibilities as biological mothers.

Rationale Behind the Judgment

- The Court's reasoning reflects a broader and more inclusive understanding of motherhood.
- **Beyond Biological Definitions**
 - The Court stated that motherhood cannot be viewed through a **"narrow lens of biology"** and must include adoptive relationships.
- **Child-Centric Approach**
 - Adopted children often face emotional and psychological challenges.
 - The initial bonding period is critical for their development.
 - The Court noted that children raised in institutional settings may have higher stress levels, requiring greater parental care after adoption.
- **Right to Reproductive Autonomy**
 - Adoption was recognised as part of an individual's reproductive choices, linking the judgment to broader constitutional rights.

Limitations of the Earlier Law

- The earlier provision was considered inadequate for several reasons:
 - The three-month age limit excluded most adoptive parents
 - Adoption procedures in India often take longer than three months
 - Data showed that less than 5% of adopted children were below three months of age
- As a result, many adoptive mothers were effectively denied maternity benefits.

Impact of the Judgment

- **Greater Inclusivity:** The judgment ensures equal treatment of adoptive and biological mothers under labour laws.
- **Improved Child Welfare:** Adequate maternity leave allows adoptive parents to:
 - Build emotional bonds
 - Support child development
 - Provide a stable home environment
- **Support for Working Women:** The decision reduces the conflict between career and caregiving responsibilities for adoptive mothers.

Court's Observations on Parenthood

- The Supreme Court emphasised that parenting responsibilities should not be viewed as solely maternal.
 - It highlighted the importance of shared parenting
 - Recognised the role of fathers in childcare
- The Court recommended that the Union government consider a formal legal framework for paternity leave.

Status of Paternity Leave in India

- Currently, male government employees are entitled to 15 days of paternity leave.
- In the private sector, policies vary across organisations.
- There is no comprehensive national law governing paternity leave, leading to uneven benefits.

Significance of the Judgment

- **Constitutional Values:** The judgment strengthens principles of Equality (Article 14) and Dignity & autonomy.
- **Gender Justice:** By recognising shared parenting, it moves toward a more gender-balanced framework.
- **Labour Law Reform:** It highlights gaps in India's labour laws and the need for modern, inclusive policies.

Source: **TH**

Source: <https://vajiramandravi.com/current-affairs/paid-maternity-leave/>

© Vajiram & Ravi. For personal use only.