MARKET ENTRY BRIEFING

EMPLOYING PEOPLE IN INDIA

Contracts, Payroll and Employer Compliance After Your First Hire

August 2026

GSRA & ASSOCIATES

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GUIDE STRUCTURE

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This document provides practical orientation for employer compliance planning and does not constitute legal or employment-law advice.

01 From Candidate to Employer

Article 6 covered how foreign businesses recruit in India. Once a candidate accepts an offer, the focus shifts. The company is no longer sourcing talent — it is becoming an employer, with documentation, payroll and statutory obligations that repeat every month.

Recruitment is a project with a defined endpoint. Employment is an operating model that runs continuously — and it starts the moment an offer is accepted.

THE OPERATING SHIFT

Before Offer Is Accepted:	After Offer Is Accepted:
Sourcing and screening candidates	Issuing a compliant offer and contract
Benchmarking compensation	Structuring and running payroll monthly
Deciding the hiring route	Operating the chosen route with recurring compliance
Entity setup and incorporation	Employer compliance: TDS, PF, ESI, registers, POSH

Businesses that have contracts, payroll and statutory registrations ready before the offer is signed scale far more smoothly than those that build these in parallel with onboarding.

02 Offer Letters and Employment Contracts

An offer letter and an employment contract are not the same document. Foreign companies that conflate them tend to under-document the employment relationship.

Document	Purpose	Binding?	When Issued
Offer letter	Confirms role, designation, compensation, proposed joining date; sets out conditions still to be met	Conditional — subject to BGV, medical, documents	After verbal acceptance
Employment contract	Governing legal document: duties, probation, benefits, confidentiality, IP, termination	Binding on both parties from signature	On or before joining date

What the Employment Contract Should Cover

- Designation, reporting line and place of work
- Probation period and confirmation criteria
- Compensation structure referencing the CTC breakdown
- Working hours, leave entitlement and applicable holidays
- Confidentiality, intellectual property assignment and data handling
- Notice period and grounds for termination
- Governing law and dispute resolution

As covered in Article 6, post-employment non-compete clauses are generally unenforceable in India under Section 27 of the Indian Contract Act, 1872. Confidentiality and non-solicitation clauses do the practical work — but require India-specific drafting. A European employment contract, translated and rebranded, is not a substitute for an India-drafted one.

03 Probation, Onboarding and the First 90 Days

Probation

Probation periods commonly run three to six months, occasionally extended once where performance is inconclusive. The contract should state the probation length, confirmation criteria, and consequences if not met — silence here creates ambiguity precisely when it is most likely to be tested.

Onboarding Checklist

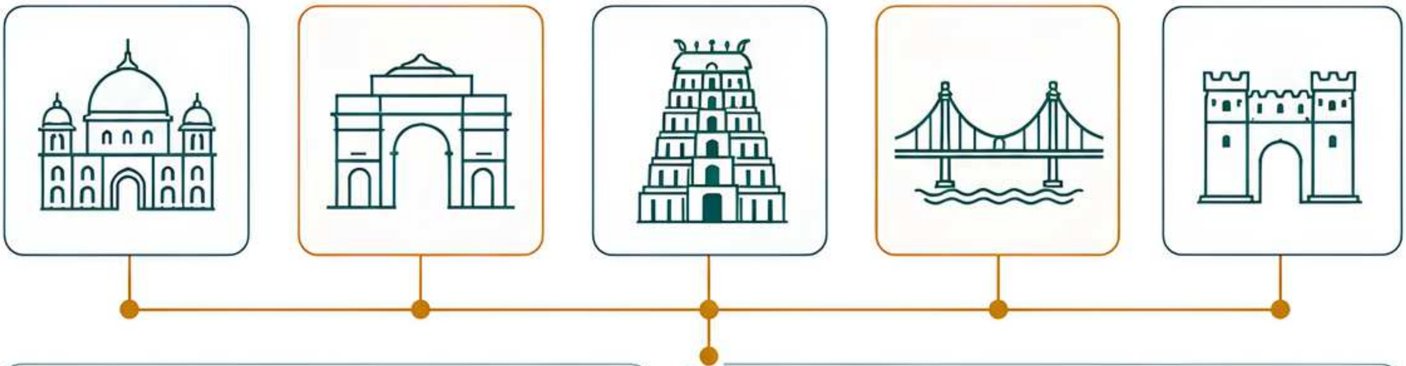
1. Collect PAN, Aadhaar (where applicable), bank account details and prior employment documents (relieving letter, salary slips)
2. Complete background verification before or shortly after joining
3. Enrol in EPF and ESIC where registrations are active
4. Collect nomination forms for provident fund, gratuity and any group insurance
5. Share and obtain acknowledgement of the POSH policy and code of conduct
6. Provision systems access, equipment and India-specific IT/security policies
7. Align on 30/60/90-day expectations

30 — 60 — 90

For a company's **first India hires**, onboarding is not only an HR process — it is the point at which statutory registers, policy acknowledgements and nomination forms either get created properly or get skipped. What is skipped at hire one is usually still missing at hire twenty.

04 Working Hours, Leave and State-Level Variation

Working hours and leave are the two employment terms foreign companies most often copy from a home-market template without checking — and both are governed at state level until the four Labour Codes are fully notified (see Article 6, Section 17).



Working Hours

8–9 State Shops & Establishments legislation typically caps normal hours at 8–9 hours/day and 48 hours/week, with a weekly rest day

2× Overtime beyond the normal limit is generally payable at twice the ordinary rate, subject to state-specific caps

The Occupational Safety Code, 2020 aims to standardise these nationally but applies only in states that have notified their rules

Leave Entitlements

Earned/privilege leave: commonly accrues at roughly one day per 20 days worked; carry-forward rules are state-specific

Casual and sick leave: typically a smaller separate allocation set by state rules or company policy

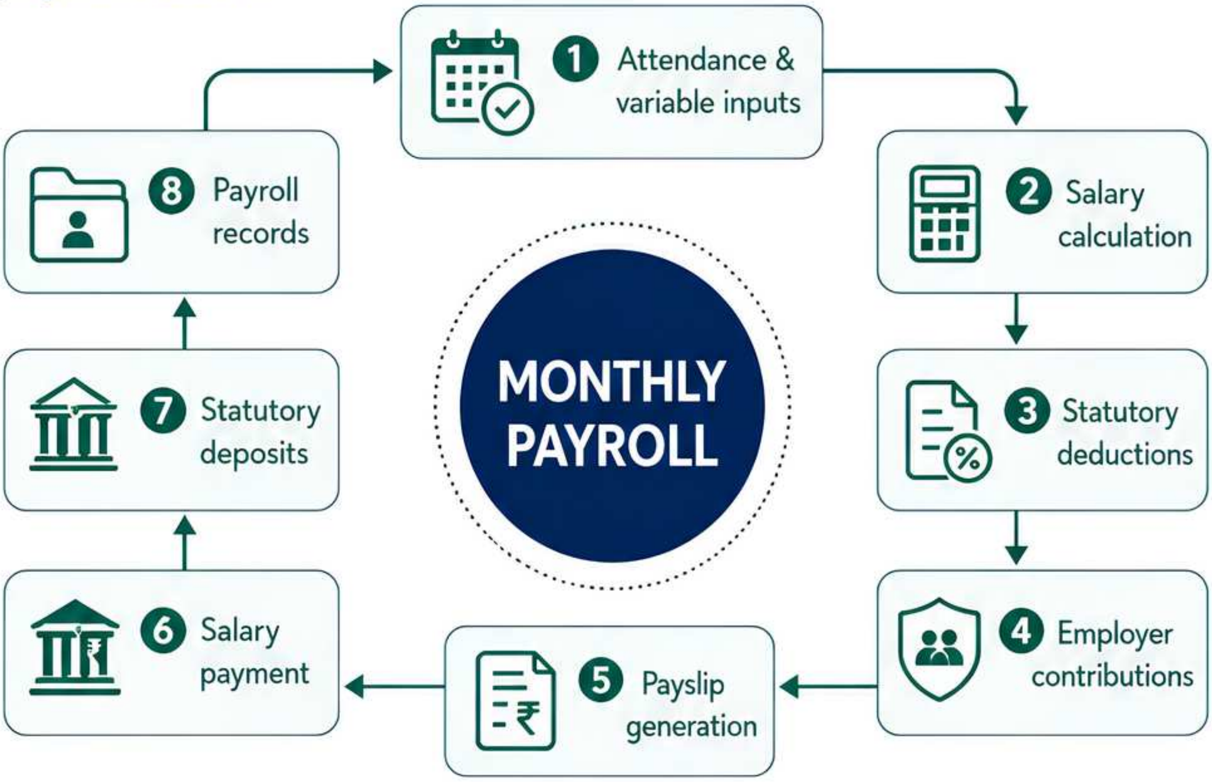
Public holidays: a mix of national and state-notified holidays; the applicable list depends on the state of the registered establishment

Leave encashment on exit should be defined in company policy — it feeds directly into the full & final settlement

Working-hours and leave provisions should be set per the state where the employee is based, not copied uniformly across a multi-city team. A single national HR policy is fine as a baseline, but should carry a state-specific annex.

05 Running Payroll: The Operating Cycle

Payroll is the operational centre of employer compliance. Every cycle links compensation to tax withholding, statutory contributions, financial reporting and employment records.



Tax Withholding on Salary (TDS)

Salary TDS is calculated on the employee's estimated annual income — not a flat rate per payment. This is different from flat-rate withholding on vendor payments (Article 5). Employers must:

1. Determine whether the employee has opted for the new or old tax regime and compute accordingly
2. Collect investment declarations (and proof) where the old regime applies
3. Recompute projected annual liability when pay changes materially
4. Deposit TDS by the 7th of the following month (30 April for March)
5. Issue Form 16 to each employee annually by 15 June, and file quarterly returns (Form 24Q)

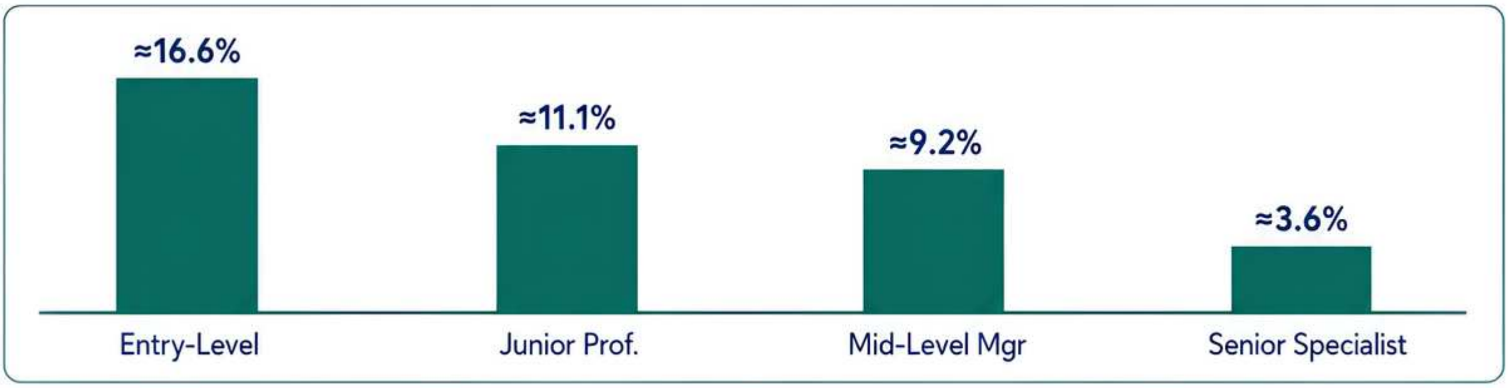
Salary TDS errors are one of the most common first-year payroll mistakes — usually from applying a flat percentage rather than an annual projection. Payroll software or an outsourced provider experienced with Indian salary TDS materially reduces this risk.

06 What Does an Employee Really Cost?

The gap between the CTC quoted in an offer letter and what actually leaves the company's account every month is where most foreign budgets go wrong. The table below is illustrative — actual figures depend on salary structure, state, and statutory thresholds — but the components and calculation method are real.

Component	Entry-Level	Junior Prof.	Mid-Level Mgr	Senior Specialist
Monthly gross CTC	₹18,000	₹40,000	₹1,00,000	₹2,50,000
Basic salary (~50% CTC)	₹9,000	₹20,000	₹50,000	₹1,25,000
Employer EPF (12% of basic)*	₹1,080	₹2,400	₹6,000	₹1,800
Employer ESIC (3.25%, if gross ≤21K)	₹585	N/A	N/A	N/A
Gratuity provision (4.81% of basic)	₹433	₹962	₹2,405	₹6,013
Statutory bonus provision (8.33%, capped)	₹583	₹583	N/A	N/A
Payroll admin cost	₹300	₹500	₹800	₹1,200
Total monthly employer cost	**₹20,981**	**₹44,445**	**₹1,09,205**	**₹2,59,013**
On-cost as % of gross CTC	**≈16.6%**	**≈11.1%**	**≈9.2%**	**≈3.6%**

*EPF employer contribution applies up to a basic-wage ceiling of ₹15,000/month; many employers cap contributions at this ceiling for higher earners. Gratuity and statutory bonus are monthly accrual provisions, not cash paid that month.

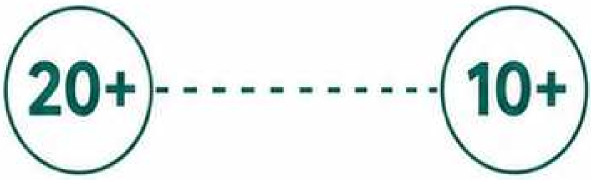


Statutory on-costs are proportionally heaviest at the entry level and lightest at senior levels — because ESIC, statutory bonus, and often EPF are wage-capped. A flat percentage markup applied uniformly across a team spanning support staff to a country lead will consistently mis-budget.

07 Statutory Bonus Under the Payment of Bonus Act

Statutory bonus is one of the most commonly missed obligations for foreign employers, partly because it has no direct equivalent in most European systems and is easily mistaken for a discretionary performance bonus.

Applicability: Generally applies to establishments employing 20 or more persons on any day during the accounting year (10+ in certain states). Once covered, the establishment generally remains covered even if headcount later falls.



Eligible employees: Employees earning up to a prescribed monthly wage ceiling; wages above a lower prescribed ceiling are capped for calculation.

Rate: Minimum 8.33% of eligible wages; maximum 20% depending on allocable surplus.

Payment: Due within 8 months of the close of the accounting year.

Newly established businesses may have limited exemption from bonus obligations for their first few accounting years, but the position is fact-specific and depends on when the business first shows a profit. Confirm with an Indian advisor rather than assuming either way.

08 Statutory Registrations, Minimum Wages and Employer Records

Activating EPF, ESIC and Professional Tax

Article 4 covers how these registrations are obtained (EPF and ESIC are allotted via SPICe+ at incorporation but remain dormant). Once active, the operational question is whether every eligible employee is correctly enrolled and reported:

1. Generate a Universal Account Number (**UAN**) for each EPF-eligible employee and link to **Aadhaar**
2. Register each **ESIC-eligible** employee for an Insurance Number before their first wage payment
3. File the monthly **ECR** for EPF and remit contributions by the 15th of the following month
4. File **ESIC** contributions monthly and returns half-yearly
5. Deduct and remit **Professional Tax** in applicable states alongside the monthly payroll

Minimum Wages

Minimum wages are set at state level and vary by sector, skill category (unskilled, semi-skilled, skilled, highly skilled) and, in many states, a variable dearness allowance revised periodically. A CTC that looks competitive can still fall below the statutory minimum for a given category and location if not checked against current state notifications.

Payment of Wages

- Wages must generally be paid by the 7th of the following month (smaller establishments) or the 10th (larger ones), per state rules
- Deductions are restricted to specified categories — arbitrary deductions are not permitted
- Bank payment is the practical default and, in many states, a compliance expectation

Statutory Registers

Employers must maintain attendance, wage and overtime registers under the applicable state legislation and keep them available for inspection. These are frequently the first documents a labour inspector requests.

09 Workplace Compliance: POSH and Statutory Records

This is one of the most consistently overlooked obligations for foreign employers.

10+

The POSH Act: The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 requires every establishment with 10 or more employees to constitute an Internal Committee (IC). The obligation applies to foreign-owned entities on the same basis as Indian companies.

A POSH policy must be communicated to all employees

The IC's composition (including an external member) must meet statutory requirements

An annual return summarising complaints handled must be filed with the District Officer

POSH compliance is often the single most overlooked item — because it does not appear on lists built around tax, payroll or ROC filings. It belongs on the onboarding checklist from employee one, not employee ten.

10 The Monthly and Annual Employer Calendar

Article 4 covers the broader ROC, tax and FEMA calendar. The table below lists only payroll and labour-specific obligations, so the two calendars can be read together without duplication.

Obligation	Deadline	Reference
TDS on salary — challan	**7th of following month** (30 April for March)	Section 05
EPF contribution and ECR	**15th of following month**	Section 08
ESIC contribution	**15th of following month;** returns half-yearly	Section 08
Professional Tax	**Monthly or annual,** state-specific	Section 08
Form 16 to employees	**By 15 June** following the FY	Section 05
Statutory bonus payment	**Within 8 months** of accounting year-end	Section 07
POSH annual return	**Annually,** to the District Officer	Section 09

11 Employment Risks Foreign Companies Overlook

Risk	Potential Impact
Assuming home-country probation or termination norms apply	Contract terms unenforceable or inconsistent with Indian law
Flat-rate salary TDS instead of annual projection	Under/over-withholding, employee dissatisfaction, assessment exposure
Treating statutory bonus as discretionary	Non-compliance once headcount crosses the threshold
No POSH Internal Committee at 10+ employees	Statutory non-compliance and reputational exposure
Wage structure below state minimum wage	Underpayment claims and penalties
Missing statutory registers	Exposure during a labour inspection
No documented exit / F&F settlement process	Disputed final payments and delayed relieving letters

12 Ending Employment: Notice, Settlement and Exit

1 Notice and Termination

- Notice periods and termination grounds should follow the employment contract; probation exits typically carry shorter notice
- For workmen under the Industrial Relations Code, 2020, retrenchment carries statutory compensation, and government approval is required at 300+ workers
- Notice pay in lieu of service is common where immediate exit is preferred by either party

2 Full & Final Settlement

Component	Typically Includes
Unpaid salary and dues	Salary up to last working day, reimbursements, unpaid allowances
Leave encashment	Value of accrued, unused leave per company policy and state rules
Gratuity (where eligible)	Payable on 5 years' continuous service, or pro-rata for eligible fixed-term employees
Pro-rata statutory bonus	Where covered under the Payment of Bonus Act
Deductions	Notice-period shortfall, outstanding loans/advances, asset recovery

F&F settlements are increasingly expected within a short window of the last working day. Delayed settlement is a common source of employee grievance, especially for early India hires. Build the process before the first resignation, not after.

3 Exit Documentation

- Issue a relieving letter and, where requested, an experience letter
- EPFO UAN — Process EPF exit — mark the exit date correctly on the EPFO portal (the employee's UAN allows online transfer or withdrawal)
- Update ESIC records to reflect exit date
- Retain exit documentation as part of statutory employment records

13 Employer Readiness Checklist

1 Before the Offer Is Issued

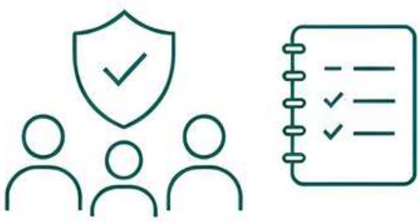
- ✓ Offer letter template prepared, distinct from the employment contract
- ✓ Employment contract localised for Indian law
- ✓ Probation policy and confirmation criteria defined

2 Before the First Payslip

- ✓ Payroll process established with salary TDS on annual projection basis
- ✓ EPF and ESIC enrolment ready for eligible employees
- ✓ Statutory bonus applicability assessed
- ✓ Minimum wage compliance checked against state and skill category

3 Before Headcount Reaches Ten

- ✓ POSH Internal Committee constituted and policy communicated
- ✓ Statutory registers (attendance, wage, overtime) in place



4 Before the First Exit

- ✓ Full & final settlement process documented
- ✓ Relieving and experience letter templates prepared
- ✓ EPF/ESIC exit procedure understood

14 Final Perspective

Employing people in India is not simply an HR activity layered on top of an incorporated entity. It is **a second operating system** — documentation, payroll, statutory registrations and workplace compliance — that runs in parallel with, and eventually outlasts, the incorporation process covered earlier in this series.

The businesses that manage this well share a pattern: they treat **the offer letter, the first payslip and the tenth employee** as compliance checkpoints, not just HR milestones — and they **build the exit process before the first resignation.**

Registration creates the **licence to operate.** Recruitment builds **the team.** Employment compliance is what **lets that team**, and **that licence**, last.

Disclaimer: This document provides practical orientation for employer compliance planning and does not constitute legal or employment-law advice. Employment, payroll and compensation practices are subject to Indian law, which varies by state for certain obligations. Readers should consult qualified Indian legal, tax and HR advisors before making employment decisions. Information reflects the regulatory framework as understood in August 2026.

Entering India successfully requires more than market interest - it requires *the right structure.*

Whether you are evaluating India for the first time or ready to move, the right tax strategy, compliance readiness, and operational structure can shape long-term outcomes. GSRA & Associates works with international businesses to build that foundation.

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