

Bangladesh Legal Aid and Services Trust
NOTE ON COMPENSATION FOR WORKPLACE DEATHS AND INJURIES IN
BANGLADESH

1. Legal Framework

1.1 Bangladesh Labour Act 2006, as amended 2013

Under the Bangladesh Labour Act 2006, as amended 2013, ('BLA') the maximum amount of compensation which may be awarded in cases of **workplace deaths** to the dependents of a deceased worker is Taka 1,00,000 (one lakh).¹ In case of death, the sum must be deposited in the Labour Court by the employer. In such cases the pay outs are relatively speedy and may be realised within a year or so by the bereaved family members of the deceased worker.

In case a worker suffers **permanent disablement** as a result of a workplace injury, the amount of compensation provided will be Taka 1,25,000 (one lakh twenty five thousand).² In case of workers who suffer **temporary disablement**, compensation may be assessed for the period of their disablement or one year whichever is less. Thus the amount of compensation payable for the first two months will be the entire monthly wage, the amount of compensation for the next two months will be two-thirds of the monthly wages and for the remaining months, it will be half of the monthly wages.³

Clearly these amounts as fixed under the BLA are grossly inadequate to cover the actual losses caused.

1.2 Fatal Accidents Act, 1855 ('FAA')

In respect of deaths or injuries occurring as a result of any wrongful act, any person directly aggrieved (the injured person, or in cases of death, members of the bereaved family) may file a case for causing death by wrongful act, neglect or default under S. 1 of the FAA, 1855. The Civil Court has the discretion to award such compensation as it deems commensurate to the loss resulting from such death (S. 1 of the FAA 1855) and in doing so it may add to the damages any pecuniary loss that was caused to the estate of the deceased after his/her death. The timeline for the settlement of such cases is in practice extremely lengthy, given existing backlogs and delays, and the prospect for multiple appeals, and can extend upto 10-20 years. The pecuniary jurisdiction filed depends on the value of the suit.

¹ Section 151 (1)(a) Bangladesh Labour Act, 2006 read with Schedule V appended to the Bangladesh Labour Act, 2006, as amended 2013.

² Section 151 (1) (b) Bangladesh Labour Act, 2006 read with Schedule V appended to the Bangladesh Labour Act, 2006, as amended 2013.

³ Section 151 (1)(c) Bangladesh Labour Act, 2006 read with Schedule V appended to the Bangladesh Labour Act, 2006, as amended 2013.

2. Recommendations for Reform

The legally mandated amounts of compensation which are practically realisable in the Labour Courts are woefully inadequate and do not take into account factors such as past or future earning capacity of the deceased or injured workers and the cost of living of the dependents of the workers.

According to recommendations for reform made by BLAST to the Parliamentary Standing Committee on Labour as well as forwarded to civil society organisations through advocacy initiatives, the following changes were suggested to the current law governing compensation for workplace deaths and injuries:

In case of workplace accidents that result in deaths of workers, the following factors should be taken into account in computing the amount of compensation:

- Amount which he/she could have earned during her/his life time until retirement or losing ability to work;
- Gratuity and other legal dues owed at retirement;
- Estimated cost of living for his/her dependent/s;
- Arranging for employment of one of the dependents of the deceased at an establishment suitable to his/her qualifications.

In case of workplace accidents that result in permanent disablement, the following factors should be taken into account in computing the amount of compensation:

- Amount which s/he could have earned during her/his life time till s/he until retirement or losing ability to work;
- Gratuity and other legal dues owed at retirement;
- Payment of medical expenses;
- Estimated cost of living for the worker as well as her/his dependents.

In case of workplace accidents that result in temporary disablement, the following factors should be taken into account in computing the amount of compensation:

- Payment of her/his medical expenses;
- Payment of monthly wages and the corresponding benefits during the period of disability.

The criteria enumerated above are based on the judgment of the Hon'ble High Court Division, Supreme Court of Bangladesh in *Bangladesh Beverage Industries Ltd v*

*Rowshon Akhter*⁴ in which the Court awarded Taka two crores as compensation to the dependents of a journalist killed in a road traffic accident in 1989. In calculating the quantum of compensation for causing wrongful death, the Court took into account the deceased's salary until retirement @ Taka 19,07,008, compensation for dependents, including wife and children @ Taka 1,50,00,000 and gratuity @ Taka 3,40,000. However, the matter is pending in appeal at the Appellate Division and the compensation amount remains unrealized even though 24 years have passed since the accident.

Currently in one of the public interest litigations relating to the Rana Plaza disaster, the High Court Division of the Supreme Court has directed the setting up of an expert committee, under the General Officer Commanding of the 9th Division of the Bangladesh Army, and comprising economists, social scientists, healthcare experts and others, to propose a set of criteria for assessing the rates of compensation due to Rana Plaza victims. Their proposals have been submitted and are pending consideration by the Court.

⁴ 62 DLR (2010) 483