

Implementing an Employment Injury Insurance in Bangladesh



SHUROKKHA
Advocacy for
Employment
Injury Insurance



TOOLKIT

1. INTRODUCTION TO THE EMPLOYMENT INJURY INSURANCE

The role of the International Instruments in the protection against work-related injuries

The right to protection against work-related injury is enshrined in the [Universal Declaration of Human Rights \(UDHR, 1948\)](#):

- *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (UDHR, Art. 25.1).*

Protection from work-related injury has been the object of several Conventions and Recommendations adopted by the International Labour Organization (ILO)¹ from its early days 100 years ago.

According to ILO [Convention No. 102 \(Part VI\) 1952](#),

- any condition that impacts negatively on health, and
- which is due to a work-related accident or disease, and
- the incapacity to work and earn that results from it, whether temporary or permanent, total or partial,
- **must be covered.**

It must **include medical care and cash benefits** to the injured person or his/her dependents, as the case may be, at a guaranteed level and on a periodic basis, serving an income replacement or support function. The protection also includes, where a worker dies because of a work-related accident or disease, the loss of support suffered by her or his dependents.

ILO [Convention on Employment Injury Benefits \(No. 121\)](#), 1964 and its associated [Recommendation \(No.121\)](#), set the standards for the provision of the broadest possible protection in terms of population coverage and level of benefits to be provided. This Convention requires the State to take measures to prevent employment injuries, provide rehabilitation services and the placement of partially disabled workers persons in suitable employment.

¹ The only tripartite agency of the United Nations (UN), which brings together governments, employers, and trade unions to set labour standards, develop policies and devise programmes promoting decent work for all women and men.

THE DIFFERENCE BETWEEN AN ILO CONVENTION AND A RECOMMENDATION

A **Convention** is a legally binding international treaty. When ILO member states ratify a Convention:

- they commit themselves to apply the Convention in national law and practice and reporting its application at regular intervals;
- in addition, complaints can be made against countries for violations of a Convention they have ratified, through the ILO's supervisory procedures.

A **Recommendation** is a non-binding guideline which either:

- supplements a Convention by providing more detailed guidelines on how it could be applied; or
- stands on its own (i.e. not linked to any Convention).

Conventions and Recommendations are negotiated by representatives of governments, employers and workers of ILO Member States and are adopted at the ILO's annual International Labour Conference.

Once a standard is adopted, Member States are required under the ILO Constitution to submit them to their competent authority (normally, the Parliament) for consideration. In the case of Conventions, this means consideration for ratification. If it is ratified, a Convention generally comes into force for that country one year after the date of ratification.

Modalities of Employment Injury Protection

Countries have developed different systems of Employment Injury Protection for ensuring the health services and financial compensation to the employees in case of accident or disease arising out of and in the course of his employment (or to their families, in case of fatal work-related accidents or diseases). The most common systems of Employment Injury Protection are:

- **Employers' Liability System.** Employers can assume individually their responsibility and directly compensate the victims in case of a work-related injury. Coverage and benefits are defined by law and/or settled in court.
- **Private Insurance System.** (It could complement the Employers' Liability Systems). Employers can choose (or are forced by law) to subscribe to an insurance contract to transfer the risk of high cost and volatility of claims to a private insurance company. Coverage and benefits are defined by law and/or settled in court.
- **Employment Injury Insurance Scheme (EIS).** Employers collectively finance a Social Insurance scheme against the risk of work-related injuries and diseases. Typically, employers' affiliation and contributions are mandatory, and it is managed by a Government institution.

The Employment Injury Insurance (EII) scheme: the three principles

○ THE NO-FAULT PRINCIPLE

Employers and workers agree to a trade-off, whereby employers are free from individual compensation responsibilities and court cases for compensation for work-related injuries or diseases and workers are automatically entitled to benefits of the compensation scheme. This leads to adequate and speedy compensation without court cases.

- **Employers:** Take on the collective responsibility to finance a workers' compensation plan against the risk of work-related injury or disease. In return, they cannot be individually sued by the worker to obtain compensation for the injury or the disease.
- **Workers:** They are entitled to full benefits of the workers' compensation plan with no need to prove the responsibility of anybody but abandon the right to sue their employer when a work-related injury occurs.

○ COLLECTIVE SHARING / RISK POOLING OF COSTS BY EMPLOYERS

The total cost of the compensation system is shared by all employers. All employers of the scheme contribute to a common fund in advance. Compensations are guaranteed regardless of employers' behaviour or financial solvency, even for cases of work-related diseases in the long past.

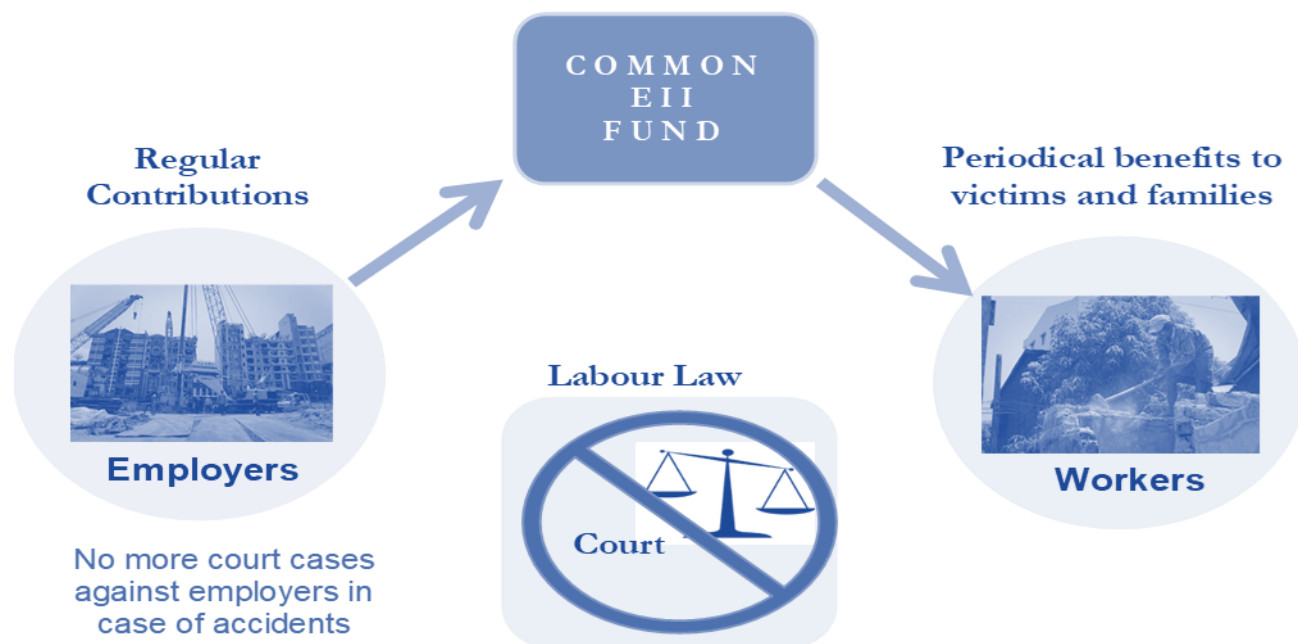
○ NEUTRAL GOVERNANCE

The right to the benefits is established outside contractual relationship worker/employer and through a public or private carrier. There are no direct disputes or complaints, leading to systematic, objective, professional and speedy decisions.

A WIN-WIN GAME

| What employers win? | What workers win? |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> ○ The employers' liabilities are limited to the premium they pay to the common fund. ○ Employers are protected from the uncertainty of excessive damages that can result from tort systems. ○ Employers reduce the generation of disputes with workers. | <p>The injured worker has free of charge and timely access to:</p> <ul style="list-style-type: none"> ○ Health care ○ Adequate compensation for loss of earning (rapidly and fairly) through periodical payments ○ Medical and social rehabilitation and return to work services <p>If the injured worker dies, his/her dependents receive periodical payments replacing lost wages.</p> |

How the Employment Injury Insurance works?

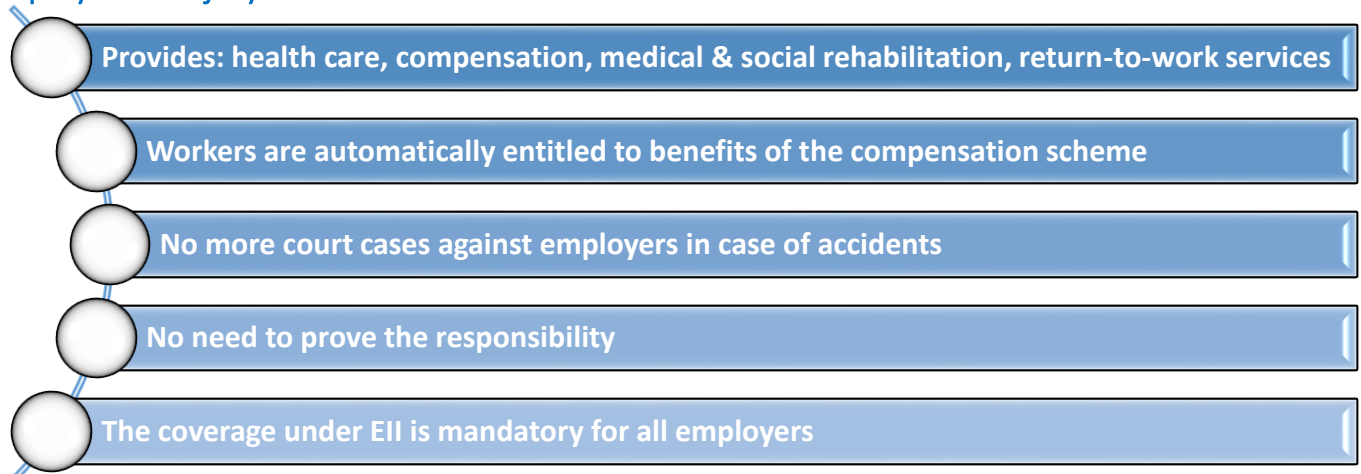


| Who is responsible for EII insurance? | How is an EII usually administered and by who? |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Employers have the responsibility to support the consequences of employment injuries.</p> <ul style="list-style-type: none"> ○ The employer determines the conditions under which the employees work, accordingly, the employer must take care of the safety and health of the employees. ○ Industrial accidents should be compensated regardless of who is responsible for the accidents. | <ul style="list-style-type: none"> ○ Employers should maintain a safe working environment. ○ Officers of the public institution have large powers of inquiry to verify statements made by the employers and the workers and to inspect worksites to ensure that practices of the companies are in line with safety standards fixed by regulations. ○ The responsible public institution is usually under the authority of the Ministry of Labour. ○ The direction of the responsible public institution is supervised by a governing board composed of the workers and the employers, in line with the ILO's conventions of members. This tripartite governing board is responsible to adopt the strategic planning of the institution, its financial statements, its policies relative to financing, compensation, prevention, to make agreements with other institutions about the delivery of services to workers and employers. |

Benefits for the Worker under Employment Injury Insurance and how they are financed

| What are the employment injury benefits that the worker receives? | Who contributes to the financing of the EII scheme? |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> ○ Injured workers receive all medical services they need, including hospitalization, surgery, medical treatments, drugs, appliances. ○ They receive periodical cash benefits during temporary disablement, beginning after the waiting period if any, and up to the recovery or the maximum payment period. ○ The institution administering the scheme; <ul style="list-style-type: none"> • Pays directly for the supply of the services; or • Reimburses the workers if they are paid in advance (i.e. drugs). | <p style="text-align: center;">Employers - Workers - Government</p> <ul style="list-style-type: none"> ○ The employers are usually the only contributors ○ Sometimes the government pays a small part of the costs, for example to; <ul style="list-style-type: none"> • Cover a part of administrative expenses at the start of the programme; or • Cover the expenses for inspection services. • Workers normally do not contribute. ○ The coverage is mandatory for all employers belonging to a category or an economic activity determined by the legislation. |
| Amount of benefit | |
| <ul style="list-style-type: none"> ○ The amount of benefits equals the percentage of the worker's average wage for the months preceding the injury; <ul style="list-style-type: none"> • In ILO Conventions = 60% • In many countries with Employment Injury Insurance schemes = 70-75% <p>The amount of benefits is adjusted from time to time, often yearly, to protect against an increase in the cost of living.</p> | |

Employment Injury Insurance in a nutshell



A Cross-Comparison with the existing Employment Injury Benefit System

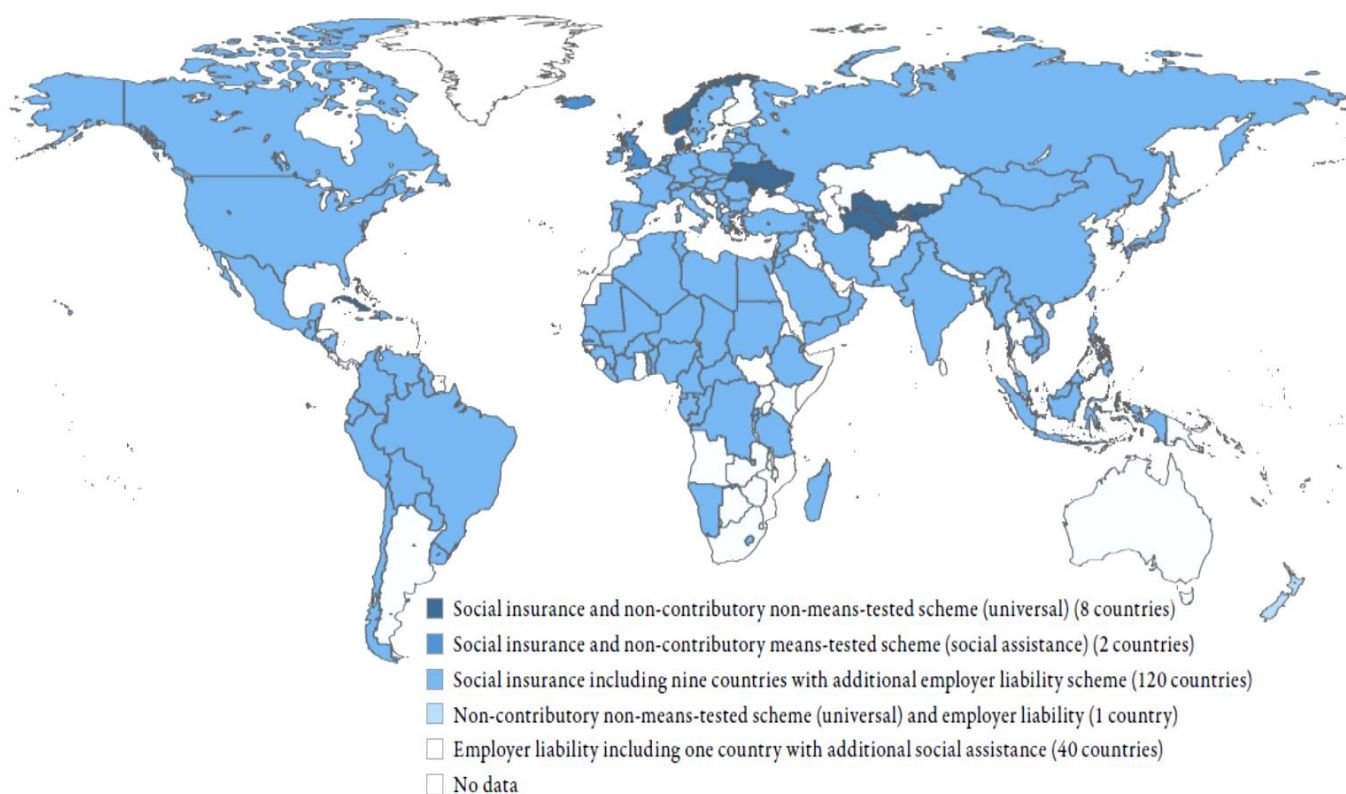
| Weaknesses of Employers' Liability Systems | Advantages of Employment Injury Insurance |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> ○ Disputed claims must go before the courts; this causes delays in settlement, and employer-worker confrontation, - which often results from such proceedings. ○ Pressure may be exerted on the worker to accept what, at first sight, may appear to be an attractive settlement but which, in reality, may not correspond to his or her long-term financial situation or physical handicap. ○ Many schemes do not provide periodical payments or pensions. ○ Lack of coverage of all workers. | <ul style="list-style-type: none"> ○ Coverage and benefits are defined mainly by law. ○ If a work-related injury (accident or disease) occurs: workers should be covered with no need to establish fault. ○ Employers' contributions are mandatory. ○ Workers receive periodical cash benefits during temporary disablement, beginning after the waiting period if any, and up to the recovery or the maximum payment period. ○ The injured worker has free of charge and timely access to health care, medical rehabilitation, social rehabilitation and return to work services, Adequate compensation for loss of earning (rapidly and fairly). ○ When an accident or a disease occurs, procedures are set in motion to; <ul style="list-style-type: none"> • Provide rapid first aid to the injured worker • Secure the workplace for other workers • Improve risk control ○ Notify the injury (accident or disease) |

2. EMPLOYMENT INJURY INSURANCE IN THE WORLD

A scheme for the protection of the employment injuries constitutes in many countries the oldest branch of Social Security.

Most of the countries adopted the modality of Employment Injury Insurance Scheme (EIIS) (also called Social Insurance System) for compensation for work-related injuries and diseases. However, some countries keep some elements of an Employer's Liability Systems for those workers who are not compulsorily included in such EIIS. They should be compensated directly by employers.

The observed trend is that some countries with Employers' Liability Systems are making efforts to implement an Employment Injury Insurance mechanism for providing employment injury benefits.



Regional Status Quo²

Cambodia

Type of program: Social insurance system and employer-liability system.

Coverage: Private-sector employees.

Special systems for public-sector employees and military personnel.

Source of funds:

Employer: *Social insurance:* 0.8% of monthly covered earnings & for *Employer liability:* The total cost.

Government finance any deficit under the *Social Insurance Scheme*.

Benefits under Social Insurance:

Temporary: 70% of the insured's average daily earnings in the last six months

Permanent: insured's average daily earnings in the last six months multiplied by 80% of the assessed degree of disability is paid.

Benefits under the Employer's Liability: Temporary: 100% of the employee's net daily earnings is paid for the first day of incapacity.

Myanmar

Type of program: Social insurance system.

Coverage: Employed persons & apprentices // Voluntary coverage for self-employed and other professionals // Special systems for civil servants.

Source of funds:

Employer: 1% to 1.5% of monthly covered payroll, depending on the size of the business and the accident rate.

Benefits:

70% of the insured's average monthly earnings for Temporary disability
Disability pension for permanent disability

Indonesia

Type of program: Social insurance system

Coverage: Private-sector employees, self-employed persons, and foreign workers who have worked at least six months in Indonesia.

Special system for public-sector employees.
Scaling up Employment Injury Benefits for all workers

Source of funds: Self-employed person: 1% of monthly declared earnings.
Employer: Pays a contribution that varies depending on the class of risk.

Benefits: Temporary disability benefit: 100% of the insured's earnings in the month before the disability began is paid for the first four months; 75% for the fifth to the eighth month; and 50% thereafter until rehabilitation or certification of permanent disability.)

Permanent disability pension: For a total disability, a lump sum of 70% of 80 months of the insured's earnings in the month before the disability began is paid, plus 200,000 rupiah a month for 24 months.

Nepal

Type of program: Employer-liability system through a private carrier.

Coverage: Private-sector employees.
Exclusions: Self-employed persons and certain journalists.
Special system for civil servants, military and police personnel, and miners.

Source of Funds: Employer: The total cost (pays insurance premiums or provides benefits directly to employees).

Benefits: Permanent disability benefits: For a total (100%) assessed degree of disability, a benefit is paid.
Partial disability: For an assessed degree of disability of less than 100%, a percentage of the full permanent disability benefit is paid based on the assessed degree of disability

² [Social Security Programs Throughout the World: Asia and the Pacific, 2018.](#)

Malaysia

Type of program: Social insurance system

Coverage: Private-sector employees; public-sector employees not covered by a separate public-sector system; and self-employed taxi drivers and commercial drivers.

In 2017 extended EI to Self-Employed

Source of funds: Self-employed person: 13.10 ringgits to 49.40 ringgits/month

Employer: 1.25% of monthly payroll, based on 45 wage classes

Benefits:

Temporary disability benefit (Disablement Benefit): 80% of the insured's average daily covered earnings in the six months before the disability

Permanent disability pension (Permanent Disablement Benefit): For a total (100%) disability, 90% of the insured's average daily covered earnings in the six months before the disability

Viet Nam

Type of program: Social insurance and employer-liability (temporary disability) system.

Coverage: Public- and private-sector employees, including household workers, with at least a one-month contract; employees in agriculture, fishing, and salt production; civil servants; employees of cooperatives and unions; police and military personnel; part-time workers in communes, wards, and townships, and certain foreign citizens legally working in Vietnam.
Exclusions: Self-employed persons

Source of funds:

Employer: *Social insurance:* 0.5% of monthly payroll. *Employer liability (temporary disability benefits):* The total cost.

Government: None

Benefits:

Temporary disability benefit (employer liability): 100% of the employee's earnings from the first day of treatment until the employee is recovered.

Various Permanent disability benefits: None; contributes as an employer. *Employer liability (temporary disability benefits):* None; contributes as an employer

India

Type of program: Social insurance system.

Coverage: Employees with monthly earnings of up to 21,000 rupees (no limit for persons with disabilities) and working in a factory or firm with at least 10 workers. Employees working for government-run firms covered by equivalent private plans may opt out. Coverage is being extended gradually.

Exclusions: Self-employed persons, seasonal workers agricultural workers, and workers in certain other sectors

Source of funds: Insured persons 1.75% of wages. Employer: 4.75% of payroll. State governments pay 12.5% of the cost of medical benefits. This fund covers work injury, sickness and maternity benefits.

Benefits:

Temporary disability benefit (Disablement Benefit): 90% of the insured's average daily wages is paid for the duration of the disability (must last at least three days). There is no maximum duration of payments.

Permanent disability pension (Permanent Disablement Benefit): A monthly pension is paid depending on the assessed loss of earning capacity. For a total (100%) disability, 90% of the insured's average daily covered earnings in the six months before the disability

Pakistan

Type of program: Social insurance system

Coverage: Social insurance system. Employees and household workers with monthly earnings up to 18,000 rupees (22,000 rupees in Punjab province).

Exclusions: Self-employed persons and family labor.

Source of funds:

Insured person: A monthly flat-rate contribution of 40 rupees. **Employer:** 6% of monthly payroll. This fund covers work injury, sickness and maternity

Benefits:

Temporary disability benefit (employer liability): 60% of the insured's earnings (100% in Punjab and Sindh) is paid for up to 180 days.

Permanent disability pension: For a total disability (loss of earning capacity of at least 67%), 75% of the insured's last monthly earnings (100% in Punjab) is paid.

Partial disability: For an assessed loss of earning capacity of at least 21% but less than 67%, a percentage of the full permanent disability pension is paid, according to a schedule in law. For an assessed degree of disability of less than 21%, a lump sum is paid.

3. STATUS QUO IN BANGLADESH

Currently, there is an Employers' Liability System in Bangladesh in which the employers assume individually their responsibility, cover the health costs, and directly compensate the workers in case of injury or disease. The coverage and the benefits provided are defined by Labour Law (but frequently, are settled in court). The current compensation amounts of the Employers' Liability system based in the Bangladesh Labour Act (BLA) are the following:

| Contingencies | Amount Payable (Post 2018) |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Death | 200,000 taka |
| Permanent total disablement | 250,000 taka |
| Permanent partial disablement | A determinable proportion of 250,000 taka according to the level of partial disablement stated in the 1 st schedule of BLA. |
| Temporary disablement | 100% of the employee's average earnings is paid for the first two months of incapacity, 66.7% of earnings for the next two months, and 50% of earnings for each subsequent months of disability or for up to a year, whichever is shorter |

This system of direct employers' compensations under Labour Law is affected by frequent shortcomings.

- Non-compliances / reject by employers. Some employers may simply reject or be reluctant to provide compensation and injured workers must take them to the court to get the compensation.
- Settle disputes through court cases is difficult, takes long and is costly and generate disputes between employers and workers.
- Law does not foresee periodic payments for long-term compensations nor foresee compensation for work-related diseases of the long past.
- Fixed compensation amount. For the two most litigated contingencies (i.e. death and permanent total disablement), the amount of compensation is fixed and the prescribed amounts are very inadequate. It does not factor in the personal circumstances of the affected worker, e.g.: age of the worker, loss of previous income, number of dependents.
- Employers face rare but catastrophic financial risks for large-scale accidents. Employers may become bankrupt due to large-scale accidents or are uncertain about their financial responsibilities due to work-related health damages.
- The system does not generate reliable feedback information on the extent and the quality of the services and compensation provided, neither on the cases of work-related diseases or accident occurred.

The Rana Plaza Tragedy: Lessons from the experiences in Bangladesh



Rana Plaza Collapse, 2013

On 24 April 2013, the collapse of the Rana Plaza building, where 4 companies were hosted, killed at least 1,132 people and injured more than 2,500.

Despite the magnitude of the losses, no compensation was paid in application of the labour code provisions on employer liability.

A small number of global buyers and local players made some payments to victims in the months following the disaster, albeit on a voluntary basis.

These disasters, lead to the conclusion that the Labour Act was not applicable to a large-scale catastrophe such as the Rana Plaza collapse.

At the time of Rana Plaza catastrophe, Bangladesh Labour Act (BLA) provided for lump sum compensation paid by employers in cases of work-related injury or death.

Source: (ILO, 2021)

The aftermath of Rana Plaza: Key Milestones achieved

- In July 2013, the Government of Bangladesh and the social partners committed to developing a tripartite protocol for compensation of the families of workers who die and workers who are injured as a result of work-related accidents and diseases. The development of this protocol would include a review of the appropriateness of the level of current legal entitlements to compensation, bearing in mind the provisions of ILO Convention No. 121. *Commitment item no. 13 of the National Tripartite Plan of Action (NTPA).*
- In September 2013, representatives of the Government, the garment industry both locally and internationally, trade unions and non-governmental organizations (NGOs) came together to develop:
 - the Rana Plaza Coordination Committee (RPCC). [With the ILO acting as a neutral chair, an Arrangement was adopted](#), providing a single approach to compensation consistent with ILO standards, and more specifically with the [Employment Injury Benefits Convention, 1964 \(No. 121\)](#).
 - the Rana Plaza Arrangement (RPA). This scheme paid compensation to victims in line with international labour law standards (namely the ILO's Convention No. 121).

- The stakeholders agreed to establish a claims process to assist victims and their families to submit claims, to assess the level of payments to be provided to each beneficiary, to undertake medical assessments and to provide follow-up support where needed.
- The payments were funded through the Rana Plaza Donors Trust Fund (opened to contributions from any organization, company or individual, etc.) and processed by the Rana Plaza Claims Administration.
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| Issues which were addressed |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> - Needed to bring together all the major stakeholders involved in payments and be able to oversee the administration of the scheme. - Move from a system, not income-related to a system aiming at the compensation of loss of earnings. - Determination of the compensation for loss of income (always expressed in % of previous earnings). - Determination of eligible dependents to be receive compensation. - Determination of the conditions for ending the dependency status. - Apportionment of the award among the dependents of the deceased or missing worker. - Form of payment: Instead of paying monthly periodical payments to the victims and dependents, the scheme provided lump sums equal to the present values of those periodical payments. - Ceiling and minimum compensation. - Coverage of medical expenses. - Provision of medical assessment. |

Rana Plaza Legacy in the Normative Framework

In September 2015, the Government of Bangladesh adopted the Bangladesh Labour Rules (BLR). Chapter XII deals with technical aspects relating to compensation for workplace injuries and deaths, while Chapter XV sets up a Central Fund for the 100% export-oriented industrial sector.

Aside from compensation through the employer's liability system under the Bangladesh Labour Act (BLA), the law also prescribes certain social insurance mechanisms from which victims of work-related accidents may receive additional compensation or forms of monetary relief.



2013

Welfare Fund

- For large establishments with BDT 10 million paid up capital or BDT 20 million worth of assets
- Financed: 0,5% of profit of non-export oriented establishment
- Not as of right – grant based



2013

Group Insurance

- Compulsory
- Introduced for all establishments where at least 100 permanent workers are employed



2015

Central Fund

- 100% export -oriented industry
- Financed: 0,03% of the total of export (half goes into a fund dedicated amongst others to work-related injury compensation)
- Not as of right – grant based

The Central Fund and Welfare Foundation, even if they are not exclusively dedicated for a work-related injury, consider the work-related injury as one of the reasons for compensation of the workers.