

Evaluating Optimal Practices in Compensatory Justice for Injured and Deceased Victims in the Workplace: Prospects for Bangladesh

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Abstract

The purpose of a compensatory mechanism is not to fully return the claimant to their previous State but rather through a monetary amount that, when combined with any residual earning capacity, will likely allow them to sustain themselves without relying on others for support. Compensation regarding workplace accidents is set by the Labour Act 2006. It would be accurate to say that this area of the Labour Act is not investigated and reviewed in the same way as the other areas because, despite years of enforcement and criticism for its apparent failure to uphold Justice, the amendment is not effective and sustainable in the long run and there is no realistic approach which may ensure compensatory Justice, where other countries show progressive realizations in the same field. This paper seeks to examine compensation systems in First World countries (UK, USA, India) to evaluate Bangladesh's mechanism. This study further evaluates the extent of the mechanisms that should be incorporated in Bangladesh and how the progressive approach can be implemented in labor law. This study was conducted using the qualitative method to analyze secondary data. The study finds out the failure of the Government in realizing practical scenarios for compensating workers. It also shows how the amendments lack significance in updating the mechanism progressively. However, this paper shows the government the criteria through which a labor law can adopt a progressive mechanism, competing with the other cited countries through inflation rate, standardization, and insurance schemes.

Keywords: Compensatory Justice, Employment Insurance, Industrial Accidents, Labour Policy, Workers

Introduction

Bangladesh is on the path to becoming a developed country. In every sector, most importantly in imports, exports, garments, and agriculture, the workers are continuously giving their labor; however, the question remains whether they are being treated accordingly when an incident occurs. This answer is not hard to seek, whereas the death report of 2020 (during the Covid-19) states the number of deaths of workers was 433 even though everything was shut down during the pandemic (Safety and Rights Society, 2021). Followingly, workplace accidents claimed at least 967 lives in 2022, mostly in the transport sector, and a total of 9,558 workers died in workplace accidents in the last ten years, which is an annual average of 955 (OSHE Foundation, 2023). There are lots of reports acknowledging the deaths and injuries, but fewer reports will be found on the matter of compensating the workers. In other countries, there have always been laws and policies, even special schemes, for compensating injured or dead workers. However, before 2022, there was not even one employment insurance policy except one quite ineffective law called the Bangladesh Labour Act of 2006, which has been given many rewards for other developments. After the disastrous Rana Plaza Incident, even though an insurance scheme had been made for compensation (International Labour Organization, 2016) and some measures were developed to meet the workers' claims (Clean Clothes Campaign, 2016), it was limited to that incident only.

After the Rana Plaza accident, the Government of Bangladesh introduced incentives like reducing advance income tax from 0.8% to 0.3% and providing low-cost credit for struggling RMG units, yet these measures fell short of meeting global buyers' expectations (Barua & Ansary, 2017). All the reports and increasing accidents, as well as limited arrangements in this era, express that compensatory Justice is yet to be ensured. The vulnerability of workers and their families following industrial accidents highlights the inadequacies in support mechanisms, as existing legal provisions in Bangladesh, notably the Labour Law 2006, fall short of the compensation standards set by the International Labour

Organization (Thakur, 2017). In Bangladesh, a worker, even if getting a minimum wage, works in conditions that may take his life or may make him/her disabled from working anymore, and still, the compensation he deserves does not provide him enough to go through his/her life. Needless to say, after an industrial incident, it has been always stated how many people are dead or injured. However, it is very rare to find the news or report on compensating properly with the deserved. Risk in the workplace is not decreasing in Bangladesh as there are no risk reduction activities visible to ensure safety for the workers of formal and informal sectors in working places.

Workers' compensation is a system designed to provide financial compensation in the form of wages and medical assistance to those who sustain injuries while doing work-related tasks. This system ensures that consumers eventually bear the expenses associated with these accidents via insurance since the premiums are included in the product's cost. The underlying social philosophy that drives compensation liability is rooted in the belief in the importance of offering financial and medical benefits to individuals who have sustained work-related injuries. This belief is based on the notion that an enlightened society would recognize the obligation to provide such benefits and aims to ensure that these benefits are provided in the most efficient, dignified, and certain manner possible. The societal context in which the impaired individual exists has the potential to choose one of three courses of action: Initially, there is the possibility of denying any assistance, so subjecting the individual to starvation on the streets. Alternatively, they may resort to occupying the sidewalk while possessing a limited number of yellow pencils, engaging in the Act of soliciting small monetary contributions from those who were previously considered their peers. The Workmen's Compensation concept serves to uphold workers' dignity and self-esteem as a veteran of the industry who has sustained an injury and it is deemed to be psychologically and morally optimal, as it ensures that the financial burden is appropriately borne by the consumers of the product, whose production led to the occurrence of the injury (Honnold, 1918).

In a Theory of Justice, John Rawls proposes a technique for establishing how a fair society would distribute its basic goods, that is, the things that every reasonable individual would seek, such as opportunities, freedoms, rights, riches, and the foundations of self-respect. Rawls' technique of adopting the original stance is expected to result in a fair distribution of such commodities. A fair society would also have the requirement to establish how victims of injustice should be rewarded, given that history indicates that social contracts are likely to be broken (Allen, 1998).

Procedural Justice proposes a philosophy of procedural fairness for the settlement of civil disputes. The procedural legitimacy thesis underpins the theory's central idea: participation rights are necessary for the legitimacy of adjudicatory proceedings. The theory provides two procedural justice principles: the accuracy principle and the participation principle. The two goals need a procedural system that aims for correctness while also providing appropriate participation rights subject to a practicability limitation (Solum, 2004).

According to the Reinforcement and Expectancy Theories, a response that is rewarded is more likely to happen again later on. Excellent employee performance followed by monetary compensation will result in future high performance. Similarly, good performance that is not accompanied by a reward makes it less probable in the future. Expectancy theory, like reinforcement theory, focuses on the relationship between rewards and behaviors, but it emphasizes anticipated rewards (Prasad, 2019).

According to equity theory, how far employees consider their employment relationship to be is determined by their views of what they do to the organization, what they get in return, and how their return-contribution ratio compares to those within and outside the organization. If workers witness injustice, they must intervene to make things fair again. However, some of these actions—like quitting or refusing to work with others may be harmful to the company (Prasad, 2019).

Agency theory focuses on the organization's owners' varied interests and aspirations, as well as how employee remuneration may be utilized to align these interests and goals. In contemporary organizations, ownership and management are distinct, unlike in the past when the owner and manager were the same person. Because most shareholders are distanced from day-to-day operations, so-called agency costs (resulting from the principals/owners' and their agents' or managers' interests not aligning) are produced. What is best for the agent/manager is not always best for the owner. Agency expenses involve managers spending money on oil perquisites or empire-building rather than maximizing shareholder value. Furthermore, the fact that managers and stockholders may have different views towards risks creates agency costs. As a consequence, managers may seek relatively less risk in their compensation (Prasad, 2019).

The reliance on international companies for worker compensation, rather than utilizing domestic funds, underscores a gap in domestic authorities' commitment to recognizing workers' right to compensation, with current measures often limited to transitional approaches (Prentice, 2021). That is a consistent problem even though the Labour Law has illustrated provisions relating to this issue. The continuous deaths of workers in the incidents incorporate how the law failed in implementing risk management activities. Still, after these incidents, the workers are getting minimal compensation. According to BLAST, existing compensation provisions are appallingly insufficient, failing to consider essential factors such as the cost of living for dependents or the past and future earning capacity of deceased or injured workers (BLAST, 2014). This study focuses on whether the amount of compensation paid ensures Justice for the workers in the long run. This paper will contribute to bringing out the practices of other countries where the conditions are quite meeting the expectations and find out whether those policies can be implicated in Bangladesh's system, which lacks potential policies. Moreover, the ultimate significance of this study lies in ensuring compensatory Justice for the workers who are being deprived of most of

it. This study is intended to bring out possible solutions by addressing the issue and mentioning the best practices of other countries.

This study fills a major gap in the current literature by examining the sufficiency and explanation of compensation amounts granted to workers in Bangladesh impacted by industrial accidents. Despite several studies documenting occupational accidents, no research has precisely assessed whether the compensation paid is acceptable, justified, or adequately meets the requirements of victims. In order to address this gap, this study will evaluate Bangladesh's compensatory labor mechanism, conduct a comparative analysis of the legal frameworks of foreign countries, identify best practices, and evaluate the merit of Bangladesh's compensatory framework in light of these international standards.

Materials and Methods

This research paper basically follows the qualitative method. Primary and secondary sources have been used in the research. The current legal frameworks of major countries have been compared to Bangladesh's. The legal framework of the research has been borrowed from domestic and international statutes, principles, and various case laws regarding the topic. The research considers the policies regarding this matter of various countries as a standard for the recommendation of this research. The conformity of existing national legislation with international standards has been examined. An analysis of international instruments regarding this matter and a comparative study have been introduced to assess the compensatory Justice that the workers deserve.

Selection of Relevant Countries

This research paper reflects the evaluation of compensatory mechanisms taken by Bangladesh along with three other countries such as:

1. United Kingdom
2. United States of America
3. India

The prerequisites taken to select these specific 3 countries include similar roots, the approach of different continental mechanisms, and the variety in governmental structure to bring out the different approaches by different governments, reflecting some dominance in a continent. On the other hand, Bangladesh is a developing country on the way to becoming a developed country. UK and USA have been selected on the basis of this ideology that on the path to becoming a developed country, Bangladesh should take the mechanisms of the developed or the first world countries to compare and evaluate what mechanisms Bangladesh lacks inside and what steps Bangladesh should actually take to take a step forward on being in that category. Meanwhile, India, being a neighboring country of Bangladesh, stays on the same footing for historical insights since many laws are the same and inspired by India, and all were the Indian subcontinent at the time. So, India has been taken to understand the influence of having such policies in Bangladesh, yet India has been a developed one, and Bangladesh is still lagging. For the selection of the countries, these are the ideologies taken and applied to evaluate and conduct the research to reach the aim.

Data Collection

A qualitative approach was adopted for this study. Primary data was gathered from statutes, which serve as original legal texts. Secondary data relevant to the topic was collected from books, journals, online journals, reports, articles, news sources, and other publications to ensure comprehensive research.

Results and Discussion

Analysis of National and International Framework

National Legal Framework

In the country's supreme law, the Constitution of the People's Republic of Bangladesh, the rights of the workers have been identified, and particular provisions cover employment. To provide for the welfare and all the basic rights and safety of the workers in Bangladesh, the Bangladesh Labour Act was implemented in 2006. To incorporate some of the sections more effectively, in 2015 Bangladesh Labour Rules came into existence. Labour Act 2006, after its implementation, has consistently been in controversies and debates for some of the sections and its defective sides. However, the Act has been amended several times. Lastly, in 2013, it was amended by adding some important sections along with the existing ones.

The Constitution of the People's Republic of Bangladesh, 1972, outlines several key ideas about employees. For instance, the State must guarantee individuals their right to employment, their right to compensation for their labor, and their right to compensation commensurate with their level of productivity. According to Article 15, in order to ensure that its citizens have the right to work—that is, the right to employment at a wage that is reasonable given the amount and quality of work and the State has a fundamental obligation to accomplish this by planned economic growth, a continuous increase in the number of employees and an ongoing rise in the material and cultural standards of living of the populace. Whereas Article 20 talks about work as a right and duty of the citizen who is capable of working and according to the principle from everyone according to his ability, to each according to his effort, everyone must be rewarded for their labor. Article 29 of Part III showcases employment as an enforceable right. However, the lack of effective compensation mechanisms in private law for workplace rights violations underscores the need for robust public law remedies, ensuring that workers have the means to seek Justice when their fundamental rights

are infringed (Huda, 2020). Thus, Article 31 can be a beneficial tool for the enforcement of some rights as inclusion as well where it is stated that Every citizen, no matter where they may be, as well as every other person temporarily present in Bangladesh, has an inalienable right to the safeguards of the law and to be treated solely in compliance with the law. Specifically, anything that might endanger someone's life, liberty, body, reputation, or property cannot be done unless it complies with article 32 of the legislation, this declares that someone cannot be taken away from their life or freedom unless it is permitted by law.

According to section 150 of the Labour Act, 2006, an employer is required to compensate an employee who sustains physical harm in the course of their employment. Nonetheless, section 151 specifies the compensation amount. It has always been the employer's main duty to compensate an injured worker. Under the Labour Act 2006, as revised in 2013, the maximum compensation that may be awarded to the surviving family members of a worker who dies at work is BDT 2,00,000. The employer is required to deposit the money at the Labour Court in the event of a death. In these situations, the payouts are rather quick and may be received by the grieving family members of the dead worker in as little as a year. The amount of compensation granted if a worker experiences permanent disability as a consequence of a working injury is BDT 2,50,000 and workers who have a temporary disability may be assessed compensation for the length of their disability or one year, whichever is less. These sums are manifestly insufficient to compensate for the real losses incurred. The amendment of the 2018 Labour Act finally addressed the amount, and through the amendment, it has been increased from 1 lakh to 2 lakh for death and 2.5 lakh for disabilities. However, after 12 years of enactment, the amount was changed.

International Legal Framework

Bangladesh has been a member state of the International Labour Organization. ILO works to set up mandates for ensuring economic and Social Justice, and to carry out its obligation, ILO has been establishing

conventions, code practices, protocols, etc., that set the international labor standards. This Employment Injury Benefits Convention, 1964, provides the rules that are adopted by the states for implementation in national legislation to provide benefits to victims of workplace accidents. According to the convention, a widow who is 25 years old and has two children shall get a monthly benefit equivalent to 50% of the worker's salary at the time of the accident. The total compensation would be at least BDT 600,000 if calculated at the time of the accident's minimum pay of BDT 3,000 per month. Any claimant who is denied a benefit or who has a complaint about the quality or amount of the benefit has the right to appeal.

This Workmen's Compensation (Accidents) Convention, 1925, was established to set out the rules for the compensation process that the states would adopt in their national legislation for providing compensation benefits to the dependents of injured or dead workers. The agreement states that benefits, whether they are payable from the employer, the applicable accident insurance institution, or the applicable illness insurance institution, must be paid no later than the fifth day after the accident. Additional compensation must be given when an injury leaves a worker permanently dependent on another person's assistance due to an incapacitating condition. Workers who suffer injuries have a right to medical care as well as any surgical and pharmacological assistance that is recognized as being required as a result of accidents where employers, accident insurance providers, or illness or invalidity insurance providers are all required to cover the expense of such assistance. Recently, Bangladesh has signed the Geneva Declaration for the implementation of the Employment Injury Scheme in Bangladesh with the International Labour Organization for the RMG sector (International Labour Organization, 2022). If it is established, this will be the first scheme for the workers related to the injury suffered.

From the establishment of the Labour Act till today, three amendments have taken place, but still, the reformations have not cleared out the confusion and controversies; particularly after all the incidents happened, the amount of compensation remains the same, and so is the

procedure. Recently, a scheme named the Employment Injury Scheme was taken, but that was initially established for garment workers only. Even though it is a good sign to take the initiative by signing the Geneva Declaration for the establishment of the Employment Injury Scheme, the workers of other sectors will have to wait for long to have an Injury Scheme completely incorporated for them. The other laws and policies aimed to provide welfare for the workers, but due to the lack of implementation, the vision of the Government was in vain. Among those, some acts and policies have remained unenforced for years, and no initiative has been taken, which shows the Government's unwillingness.

On the contrary, Bangladesh has not ratified any of the above ILO conventions, which indicates that these regulations are not going to be implemented until and unless Bangladesh ratifies them. These conventions put some tight obligations on the states and gave a picture of the standards set out by the ILO, which act as a guiding principle. It is submitted that there are several conventions relating to other issues, such as maternity benefits and working conditions, which Bangladesh has ratified, and this indicates the unwillingness and avoidance of being obliged to include the provisions in the Act. Even though Bangladesh has not ratified these conventions, Bangladesh is a member state of the International Labour Organization, and ILO, from time to time, sets up rules and regulations generally for creating the standards, and particularly for any member state, it carries out schemes. The laws relating to providing compensation to the workers, injured or dead, are not satisfactory when it comes to providing benefits to the workers by the employers, and most of the time, the employers bring out some defense and withdraw the responsibilities. It is submitted that the movements and demands for compensation, particularly after the Rana Plaza Disaster, were a clear indication of how most of the workers are being marginalized and deprived of getting what they are entitled to get. After the Rana Plaza Disaster, even though various types of schemes were set up to provide monetary benefits to dependents and injured workers, lots of cases have been filed for years advocating the fact that they are not compensated properly. Nowadays, every year, several accidents happen, and most of

these are so disastrous that they leave people astonished. However, in every accident, the issue of compensating and ensuring Justice is still controversial. Moreover, all of the constant debate advocates the fact that even after so many amendments to the Labour Law of Bangladesh, still it remains ineffective when it comes to ensuring Justice for the workers at large. Moreover, the mechanism, even though taken more than a decade later, is not sustainable and does not foresee the upcoming issues that need to be addressed for a strong manifestation of the law.

Practices of the Countries Relating to Compensatory Justice of Dead/Injured Workers: United Kingdom, United States of America, and India

The optimal practices of three countries—the UK, the USA, and India—have been articulated below. These countries were selected on the merit of varieties in structural and regional criteria to clarify different practices around the world. The main purpose of this section is to identify the mechanisms that may be incorporated in Bangladesh.

United Kingdom

Labor laws in the UK do not actually provide for the specific amount of compensation payable to injured or dead workers like most countries. It can be stated that it is more of paying an amount that is based on the salary and other conditional percentages. However, at present - The employment Income Manual, National Insurance Manual, NHS (Injury Benefits) Regulations 1955, Social Security Contributions and Benefits Act 1992, Employment Rights Act 1996, Health & Safety at Work Act 1974, and Injuries, Diseases, and Dangerous Occurrences Regulations (RIDDOR) 2013 deal with payments in case of injury, workplace safety, and reporting to the relevant authorities if any occurrence happens in work. The Employment Income Manual by HMRC, the National Insurance Manual, and the National Health Service (Injury Benefits) Regulations 1995 basically are the laws that talk about the compensation

claims paid to the workers in case of sick pay or injury suffered, and these manuals set the rules based on the other laws that are specified with the rules such as NHS (Injury Benefits) Regulations 1955, Social Security Contributions and Benefits Act 1992, Employment Rights Act 1996, etc.

The United Kingdom's approach to worker injury compensation is built upon a detailed and structured system, which offers tailored benefits based on injury specifics, service duration, and various worker characteristics. Compensation allocation involves assessing a worker's injury-related needs using established tables and criteria, including factors such as age and length of service. This system aims to provide compensation proportional to the worker's contribution and needs while also being sensitive to the employer's financial responsibilities. Differentiating compensation based on service length, although sometimes contested as discriminatory, is considered equitable, rewarding long-standing employees who have devoted substantial time to their roles. The UK's framework includes provisions in the Employment Income Manual and National Insurance Manual. Under the Income Tax (Earnings and Pensions) Act (ITEPA) 2003, injury benefits offered by employers, while not part of regular employment income, may be subject to taxation as financial benefits, especially if they substitute sick pay. Additionally, payments for reduced earnings following an injury are taxed like regular pay.

The NHS (Injury Benefits) Regulations 1955 provides two significant allowances: the Temporary Injury Allowance (TIA) and Permanent Injury Benefit (PIB). TIA compensates employees for short-term earnings loss due to job-related injuries or illnesses, restoring their income to 85% of pre-injury levels until they can resume work. The PIB, on the other hand, applies to employees whose earning capacity is permanently reduced by a job-related ailment or injury. Additionally, the National Health Service (Injury Benefits) Regulations 1995 mandate compensation based on an individual's loss of earning capacity. The Secretary of State disburses benefits when a worker's capacity to earn is permanently reduced by more than 10% or when regulations dictate payments without considering earning capacity. This regulation also

provides various allowances for dependents in the event of a worker's death due to job-related injury or illness. The structured nature of these provisions provides for the individual's immediate family first, followed by a broader set of dependents, ensuring fair and efficient distribution in cases of fatal work-related incidents. This structured and multifaceted approach by the UK offers insight into how Bangladesh could reform its compensation regulations by adopting a system like the NHS Injury Benefits Regulations. The UK's layered model prioritizes the earning capacity and familial dependents of affected workers, ensuring a fair and needs-based approach to industrial accident compensation.

United States of America

Since America is a federal country, there have been a bunch of policies and regulations that the states follow on their own, and sometimes they refuse to follow where they incorporate their own policy in some respective matter. At present, there are some laws regarding the compensation of workers, both sector-based and in general: Occupational Safety and Health (OSH) Act, Longshore and Harbor Workers' Compensation Act, Energy Employees Occupational Illness Compensation Program Act, Federal Employees' Compensation Act (FECA), Black Lung Benefits Act, Federal Mine Safety and Health Act of 1977 and Longshoring and Harbor Workers' Compensation Act. Among all these policies, the Federal Employees' Compensation Act (FECA) has been a general guideline that all states of the USA have accepted except three states. Interestingly, the states are strict in ensuring the compensation claimed. Reportedly, 90% of American Workers are covered by State and Federal Compensation laws except for some farm workers, self-employed workers, etc. While considering the United States, the structure of the country is more adaptable for integration into the legislative framework of Bangladesh.

The United States has a well-defined framework for worker compensation, structured through the Federal Employees' Compensation Act (FECA), which covers federal employees suffering job-related

injuries or fatalities. This Act mandates that the U.S. provide financial compensation unless the injury results from misconduct, self-harm, or intoxication. Coverage includes income protection, medical care, and rehabilitation for injured employees depending on the nature and extent of disability—whether total or partial. For total disabilities, affected employees receive 66.67% of their monthly salary, and this amount increases for dependents in cases of fatality. Partial disability compensation also follows this 66.67% formula, covering the difference between pre-and post-disability earnings. The Act provides for additional monthly compensation for attendants if an injury renders a worker unable to perform basic functions. Benefits continue posthumously in specific cases, with unpaid compensations passing to dependents. Death benefits are allocated as a percentage of the deceased's monthly income: 50% to a surviving spouse without children and 75% when there are multiple dependents, distributed proportionally. The FECA also includes maximum and minimum compensation limits based on federal pay scales and specifies that the Employees' Compensation Fund funds vocational rehabilitation services. These structured provisions offer comprehensive support for injured workers, promoting equitable compensation for dependents and survivors while setting clear payment limits and schedules.

India

As one of the world's largest democracies, India has various rights and safeguards written in its Constitution for its inhabitants. The Indian Constitution, notably Article 41, recognizes labor rights. Article 41 compels the State to provide the right to labor, education, and public assistance in specific circumstances like unemployment, old age, disease, and disability. Though not legally binding, these principles aid the State in developing labor-related policies and regulations. Article 41 is recognized as a state obligation, although it is not expressly enforced; rather, it may be accomplished via Articles 14 and 21 of the Constitution. Recognizing the significance of safeguarding workers' rights and well-

being, India has put in place a thorough structure to assure proper compensation for individuals harmed by such accidents.

India's Employee Compensation Act (ECA) of 1923 provides a structured framework for compensating injured workers or their dependents, addressing disability, medical costs, death, and funeral expenses. For disabilities, both permanent and temporary, compensation amounts depend on the employee's salary and impairment level. Permanent total disability benefits include a minimum payout of INR 1.4 lakh and a maximum of INR 5.48 lakh. Partial disabilities yield benefits based on the injury's impact on earning capacity. Temporary disabilities receive 50% of monthly wages. For fatalities, dependents receive compensation at 50% of monthly earnings or INR 1.2 lakh, whichever is higher. The Act also specifies employer liability for occupational diseases, with detailed schedules outlining diseases eligible for compensation. Notably, exceptions exist: Employers are not liable if an injury results from safety guideline violations, intoxication, or if the worker disabled themselves by tampering with safety equipment. The Employees' State Insurance (ESI) Act of 1948 offers additional benefits to insured employees, with specific provisions for disablement and dependents' benefits, providing compensation according to rates and periods set by the Government. The ESI extends coverage, enhancing protections beyond the ECA, especially for dependents and temporary disabilities.

Table 1. Similarities, Differences, and Gaps among the Countries Compared in Terms of Practices in Compensatory Justice for Injured and Deceased Victims in the Workplace.

Criteria	UK	USA	India	Bangladesh
Legal Framework	Employment Income Manual, NHS (Injury Benefits) Regulations, Social Security Contributions and Benefits Act, Health & Safety at Work Act, etc.	Federal Employees' Compensation Act (FECA), Occupational Safety and Health Act, and other sector-based laws.	Employee Compensation Act (ECA) 1923, Employees' State Insurance (ESI) Act 1948	Bangladesh Labour Act (2006).
Extent of Coverage	Comprehensive system with specific benefits for fatalities and injuries, encompassing Temporary Injury Allowance and Permanent Injury Benefits.	Structured assistance encompasses 90% of workers, excluding the self-employed and specific categories of workers.	Included minimum and maximum compensation limits.	The maximum limit has been set, but there is no explicit compensation system according to the type of injury.
Support to Dependents	Provisions to provide allowances for family and extended dependents in the event of death.	Death benefits comprise 50–75% of the dead worker's earnings, allocated among dependents in accordance with their needs.	Dependents are entitled to 50% of monthly salaries or INR 1.2 lakh, whichever amount is greater.	Absence of a systematic framework for dependents, improperly organized and insufficiently addressed, lacking proportionate or needs-based allocation procedures.
Rehabilitation Support	Temporary Injury Allowance (TIA) and Permanent Injury Benefit (PIB) emphasize rehabilitation and reintegration into the workforce.	Vocational rehabilitation services are financed by the Employees' Compensation Fund.	Supplementary advantages, such as rehabilitation for insured workers, exist, although effective processes are absent.	Inadequate emphasis on rehabilitation assistance for wounded workers; absent measures for long-term disability recovery.

Assessment of the Best Practices to be Incorporated into National Legislation: Prospects for Bangladesh

Despite the sizable cost of workers' compensation, only a small portion of the overall costs of occupational injury and illness are borne by employers, as these costs are often shifted to workers, their families, and communities (Department of Labor, 2016). The current instances and properly writing and interpreting compensation statutes depend on having a well-balanced grasp of the fundamentals of workmen's compensation. Almost all significant mistakes in the emergence of compensation law, whether in the courts or in legislation, can be linked to the importation of tort theories or, less frequently, the belief that the right to compensation is similar to the right to insurance policy proceeds. The tort-connection fallacy has, understandably, been the most popular among judges and solicitors with common law training. The impact on regular pay choices may be demonstrated by a few broadly representative instances. One was the attempt to interpret arising out of the occupation as caused by the employment in the early years of compensation development, together with principles of foreseeability and intervening cause (Larson, 1951).

Even though there have been several amendments to the labor law, only one amendment has been made in the amount of the compensation mechanism for injured workers, yet it is not sufficient and sustainable in this context compared with others. In this context, the practices of the three countries are relevant to identify whether the practices of the UK, USA, and India, as shown in the previous chapter, are better incorporated to ensure the compensatory Justice of the workers. For the UK and the USA, there has been a more stable situation in case of compensating their workers in need. They are providing a comprehensive bundle of procedures and mechanisms through which a worker injured can be compensated by meeting the requirements. At the same time, the practices of India have been quite similar to Bangladesh, as expected since India is the neighboring country, and somehow Bangladesh in, all these years is influenced by the Indian Acts. But India is already ahead of Bangladesh by setting a standard in the amount of compensation by identifying

minimum and maximum rates, whereas Bangladesh, after 12 years of labor law establishment, in 2018, states about the increment of amount with around 1 lakh TAKA, added. Compared with all three countries, flexibility is missing even when amending and foreseeing possible challenges. The purpose is to ensure Justice through the amount of compensation that can at least meet the needs of the worker injured or his family. It is not just an amount that should be given, and the problem is solved. Rather, one mechanism should be sustainable with the present situation through meeting the expectations and circumstances of a state where no aggrieved is left out and should wait for the future law to be amended. That is not what Justice stands for.

Table 2. Best Practices of the Country and their Adaptability in Bangladesh.

Country	Best Practices	Adaptability in Bangladesh
UK	Layered provisions, such as the NHS Injury Benefits Regulations, are used to provide structured compensation for dependents.	The amendment of Section 151 to incorporate comprehensive mechanisms for dependents, ensuring that they receive adequate support based on their familial requirements.
USA	Clear compensation guidelines are contingent upon the severity of the injury and the availability of vocational rehabilitation services.	A new provision must be implemented to provide an explicit formula and vocational rehabilitation programs for addressing partial and complete disability and, therefore, a specialized committee for supervision.
India	Established minimal and maximum rates for occupational injuries and fatalities.	Establishing compensation ranges uses inflation-adjusted benchmarks for minimum and maximum values, allowing for flexibility to optimize.

Findings show that the legislative compensatory mechanism that Bangladesh follows is not sustainable in any way. To introduce new rules, laws, or mechanisms, the most crucial thing to consider for the legislators is to identify the present problems to propose effective solutions and to foresee the possible future problems and propose solutions to address those as well so that the mechanism remains strong and sustain in the long run and thus Justice serves. The legislative stand of Bangladesh under the

Labour Act 2006 is somewhat weak under a practical scenario. The reason behind this stand is – that the compensation amount in the Labour Act 2006 has been changed after 12 years, adding 1 Lakh Taka around in 2018's amendment act, when there has always been a rise in the economy, and after 2018, COVID-19 hit the country, and now the economic crisis that everyone is facing. The amendment is not sustained for 5 years, and new challenges come into play where no quick remedy can be given since the root of the law is loose. Justice is not ensured by only increment or through an amendment 12 years later; rather, how the law and its mechanism are meeting the needs over the years and in the future is the key, which is greatly missing in the case of Bangladesh.

Secondly, the Act does not account for economic crisis and inflation rates in determining compensation. The legislative structure for compensation in no way meets today's expectations, where the inflation rate is destroying the economy. The backdated approach, which was legally incorporated, even with amendments, is still stuck in 2006 when the dollar rate was 50-60 TAKA per USD, and even in 2018, it was 82-83 TAKA per USD. Now, the rate is around 110-126 TAKA. It was not regarded to comply with the inflation rate in the future when the pricing would be higher, the living standards would be higher, and the difficulties in coping with the same amount 10 years later. In 2006, when the mechanism had been set, it didn't foresee the hardship of the future, and the same goes for the 2018 amendment. It did not take lessons from the past crisis and did not include any scope to comply with the present situation. However, the UK's Legislation has stepped forward despite mentioning no such word in the legal provisions; the UK laws give compensation based on the earnings and the service (scale of benefit) that complies with the present, and so does the legislative structure of USA, whereas the amount is calculated based of the wages and through percentage. The economic and inflation crisis is inclusive because in the First World Countries, the payment is made hourly, and the wage can be higher as time goes by. That's how when they did not fix the compensation rate, it depends on the wages that may be higher next year, and compensation is calculated as such.

Then, it failed to clarify minimum-maximum standards for compensation. Where India has diverted from the previous approach of a fixed amount of compensation and has set a minimum rate in the Employment State Insurance Act 1948 of 1 lakh 20 thousand with a maximum of 4 lakh 56 thousand for the death of workers and 1 lakh 40 thousand to 5 lakh 48 thousand for permanent disabilities, Bangladesh has fixed the rate two lakhs and 2.5 lakhs with no discretion to maximize and even to the court to decide. It is submitted that the tendency of Bangladesh to increase the amount is more than a decade later, and the length of time destroys the scope for Justice where the new amendment is of no value, and ultimately, when it is introduced, a new problem arises. So, the past and the future aggrieved workers are clearly left out of Justice.

The Insurance Policies of foreign countries are very common in their legislative structure and even in compensatory matters for all kinds of damage in civil matters. However, in Bangladesh, workers' insurance policies are not widely introduced. Recently, the Employment Insurance Scheme was introduced for RMG workers only. This scheme has been introduced after almost 16 years of the implementation of labor law in Bangladesh and is for the RMG sector only, so it is predicted that for the other workers in every section, how much time it will take to introduce the insurance scheme, no answer is found to this. Additionally, from time to time, the judges make specific observations and make relevant judgments in the cases, which help to set the criteria for future amendments and laws. And these case principles act as conditional precedents. However, the laws and policy mechanisms do not show the enforcement of these precedents, which might help in building a strong legislative framework. The NAP introduced by the Government, supported by ILO and other development agencies, does not recognize the sections of compensation as an issue in the annex where all the labor issues of labor law have been stated (Ministry of Labour and Employment, 2021). Similarly, the plan does not include commitments regarding this field, and no commitments have been made. Surprisingly, it is supported by ILO, which sets the standards and monitors the same. However, the policies that the Government is taking by excluding this area

indicate the negligence and unwillingness of the Government to address the issue.

Conclusion and Recommendations

It is very rare to find the news or report on compensating properly with the deserved. Risk in the workplace is not decreasing in Bangladesh as there are no risk reduction activities visible to ensure safety for the workers of formal and informal sectors in working places. That is a consistent problem even though the Labour Law has illustrated provisions relating to this issue. The continuous deaths of workers in the incidents incorporate how the law failed in implementing risk management activities. Still, after these incidents, the workers are getting minimal compensation.

Consequently, the absence of adequate social security measures, which perpetuate the constant vulnerability of workers to hardships, can no longer be justified. The garment industry has significantly contributed to attracting foreign investment to the nation, and it is reasonable for its workers to anticipate that a portion of these earnings would be allocated towards implementing measures that mitigate their vulnerability and provide livelihood security. The potential inclusion of measures inside the Act may encounter significant hurdles along the way. The current compensation system in Bangladesh fails to meet the essential needs of injured workers and their dependents, lacking adjustments for inflation, future income loss, and living expenses.

A sustainable legislative approach is essential, with compensation amounts that reflect economic realities and adapt over time to avoid frequent amendments. Additionally, the Labour Act should include provisions to adjust compensation rates based on inflation and cost-of-living factors, unlike current static measures that risk becoming outdated. Setting a minimum standard of compensation in the law, with judicial or advisory committee discretion for adjustments, would ensure a fair baseline while allowing flexibility for case-specific circumstances. The prompt extension of the Employment Insurance Scheme beyond the

garment sector to all industries is also crucial. Incorporating case law principles, such as those established in *Bangladesh Beverage Industries Ltd v Bangladesh Legal Aid and Services Trust* Akhter 62 DLR (2010) 483 would provide clear guidelines for fair compensation, taking into account factors like future earnings and dependents' needs. Finally, a National Action Plan focused on compensation, developed in collaboration with the ILO, would enhance monitoring, feedback, and the progressive improvement of compensation policies in the country. The provisions pertaining to compensation mechanisms within the labor legislation need to be revised in a manner that allows for the determination of monetary amounts based on the prevailing economic conditions. The provision of Justice cannot solely rely on the Act of incorporation. Instead, the key indicator of Justice being upheld lies in whether individuals receive Justice through established legal procedures. Compensatory Justice for workers can only be guaranteed if they can lead improved lives with the compensation provided to them for their losses, regardless of the feasibility of full compensation. However, legislators need to make a concerted effort to anticipate the circumstances based solely on the present needs of a particular committee for this field.

Acknowledgment

I express my deepest gratitude to Wakila Hussain Ma'am, Lecturer of Department of Law, BUP, who has been my mentor in conducting this research for her immense support and guidance. I express my heartfelt gratitude to my family for their continuous encouragement and to my friends who were always by my side at my lowest.

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