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Bangladesh Legal Aid and Services Trust (BLAST)

## PRESS RELEASE

### Labour law failing to ensure justice and compensation for workers killed and injured at the workplace: BLAST Study

On 30 June 2021, Bangladesh Legal Aid and Services Trust (BLAST) organised a virtual webinar to launch the report "[Tire Them Out: Challenges of litigating compensation claims under the Bangladesh Labour Act 2006](#)" published by BLAST and authored by Taqbir Huda, Research Specialist, BLAST.

While the existing compensation framework under labour law is widely criticised to be inefficient, there is little empirical data and analysis available to assess how it has functioned in practice. Therefore, this research report aims to fill this gap and unearth the common hurdles faced by injured workers and family members of deceased workers when they seek compensation in Labour Courts.

The report presents findings from 80 compensation cases under the Bangladesh Labour Act 2006 Labour Courts where BLAST (in collaboration with Safety and Rights Society, and, OSHE Bangladesh) has represented claimants or sued on their behalf. These 80 cases were disposed of by Labour Courts in Dhaka, Rajshahi, Khulna and Chittagong between 2008 and 2019. Combined with Key Informant Interviews (KIIs), discussions with legal professionals and an extensive review of local labour laws, the report highlights the drawbacks of the current system and makes a number of recommendations for legal and institutional reform to the government, workers' rights organisations and the legal fraternity. The findings and recommendations of this report can help inform ongoing advocacy on labour law reform and development of the proposed Employment Injury Insurance (EII) scheme in Bangladesh. The research for the report was conducted from 2018 to 2020, with support from Laudes Foundation.

#### Key Findings

Out of these 80 cases, the Labour Court ordered compensation in 35 cases, while it rejected the claim in 36 cases. In the remaining 9 cases the parties reached an out of court settlement before the Labour Court could pronounce a judgment.

- **Long litigation period:** The study found that Labour Courts took 630 days on average to award compensation compared to the 60 day time limit mentioned in labour law.
- **Non-compliance by employers:** Employers often do not comply with Labour Court orders to compensate for workers deaths and injuries, delaying the justice process even further.
  - **Delay in payment after order:** In cases where compensation was not pre-deposited by employers, on average they took up to 475 more days to pay compensation from the date of the Labour Court order, despite the Court usually ordering them to pay the compensation within 30-45 days.
  - **Non-payment of compensation:** In 16 out of 35 cases where the Labour Court ordered compensation, the employers are yet to pay compensation despite between 3 to 10 years having elapsed from the date of the judgment ordering compensation.

- **Long distance to Labour Courts:** The average distance between victim's home upazila and Labour Court was 201 KM, meaning they had to incur long and costly journeys to attend court hearings.

The long distance to Labour Courts taken together with the long litigation period and seemingly endless wait to receive compensation means that victims incur high transport costs and lose faith in getting justice.

## Key recommendations to the Government

### *Legal Reform*

- **Remove limits on compensation:** Amend the Fifth Schedule to the BLA, so the existing statutorily capped lump sum amounts, which are extremely inadequate and arbitrary, are treated as the minimum amount of compensation payable in the event of death or permanent disablement.
- **Ensure compensation reflects actual loss:** Introduce a provision in Chapter XII of the BLA that obliges Labour Courts to follow basic principles of damages assessment in tort law (e.g. factoring in the age and loss of earnings of the worker, number of dependents etc.) when adjudicating compensation cases under the BLA.
- **Introduce Employment Injury Insurance scheme:** Ratify ILO Conventions No. 102 and 121 and establish an Employment Injury Insurance scheme in place of the group insurance system, while preserving workers' rights to sue employers in cases of negligence.

### *Institutional Reform*

- **Introduce a strict monitoring mechanism** to ensure timely disposal of Labour Court cases in line with the statutory limit and stipulate disciplinary consequences if the limit is breached, so it is more likely to have a binding effect in practice.
- **Increase the number of Labour Courts** and introduce training programmes for Labour Court judges, focusing on the basic principles of employer liability for workplace injuries and deaths.
- **Issue a circular to all Labour Courts**, which specifically requires Labour Courts to order interest to accrue in cases of late payment of a compensation award to incentivise timely compliance.

**Taqbir Huda**, Research Specialist, BLAST and author of the report said: "This report has been an attempt to expose the failure of our labour laws in ensuring justice for workers deaths and injuries. Non-compliance on part of employers with Labour Court orders cannot and should not be the norm. As we pride ourselves in becoming a middle income country, we must also invest in ensuring employment injury insurance, which is a basic component of social security. The national employment injury insurance in line with ILO Convention No. 121 must replace the existing group insurance scheme under labour law, but victims must retain the right to sue employers for compensation in Labour Courts since it is their negligence which usually causes the injury or death of a worker."

**Dr. Wajedul Islam Khan**, General Secretary, Bangladesh Trade Union Centre and Joint Secretary General, Bangladesh Institute of Labour Studies (BILS) said: "Merely doubling the amount of compensation fixed in law (as was done in 2018 Amendment) can never be the solution. Calculating compensation based on the total loss of earnings, pain and suffering of the victims etc. is the only rightful way. The duty to compensate should also extend to those who benefit from the profit derived from the workers' labour, alongside the employer."

**AKM Nasim**, Advocate, Supreme Court of Bangladesh and Deputy Country Director, Solidarity Center Bangladesh said “The findings of the report, while harrowing, confirm something we have known for years. That the compensation framework is miserably failing workers. Labour law requires immediate reform. For instance, an alternative dispute resolution can be incorporated to speeden up the claims process. An employment injury insurance in line with international labour law must also be introduced. However any reform of the labour law must be a tripartite effort - where workers representation is ensured.”

**Sara Hossain**, Honorary Executive Director, BLAST said: “The findings of the report show that when victims of injustice such workplace deaths and injuries seek justice in Labour Courts they are subjected to another set of injustices, whereby continuing the court case becomes an extremely costly endeavour. This is precisely why an employment injury insurance scheme is the need of the hour, so victims have speedy recourse to compensation. Additionally, extending the operation of virtual courts throughout the justice system, such as to Labour Courts, instead of keeping it limited would go a long way in addressing the challenges and costs specific to a physical court system.”

**Sunzida Sultana**, acting executive director, Karmojibi Nari said “As the report has shown, the fixed amount of compensation is leading to injustice. Compensation can never be fixed. ILO and other organisations are attempting to introduce the Employment Injury Insurance system in Bangladesh, but the employers’ disinterest is obstructing the process. Additionally, ensuring freedom to form trade unions in all sectors can also be an important step to ensuring speedy recovery of compensation for workers from all occupations.”

**Dr. Kamal Hossain** “We need to remove the existing limit on compensation in our labour law so victims receive adequate relief. A national database needs to be established which tracks the number of workers killed and injured at the workplace across the country, and also tracks whether they have been given compensation or not. I hope these reform proposals presented in this research report will play an important role in informing the ongoing labour law reform process and those working to ensure labour rights.”

Representatives from other workers rights organisations, such as Kalpona Akter of Bangladesh Centre for Workers Solidarity, Naimul Ahsan Jewel, Member Secretary, National Coordination Committee for Workers Education (NCCWE), Nazma Akter, Awaj Foundation and academics from public and private universities also attended and shared their views at the webinar.

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