

Bangladesh

Rana Plaza Compensation Scheme

Technical report on the scheme design
and operationalization, and lessons learnt

Public Finance, Actuarial and Statistics Services Branch (SOC/PFACTS),
Social Protection Department (SOCPRO)
Country Office for Bangladesh (CO-DHAKA)

International Labour Office

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Abstract

This technical report presents the main design and operationalization of the compensation scheme which delivers compensation to the victims, and their dependants, of the collapse of the Rana Plaza building in Bangladesh in April 2013.

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Acknowledgements

This report summarizes the design and operation of the Rana Plaza compensation scheme in Bangladesh, and lessons learnt through the exercise to be used for future planning and implementation of a new employment injury insurance scheme in Bangladesh.

Various members of the ILO experts' team have conducted four missions to Savar, Bangladesh, a first one during the design phase of the scheme in October 2013 and the remaining three during the operationalization phase in April, May and July 2014. This report is based both on the findings on these missions and on continuous discussions with the Rana Plaza Coordination Committee (RPCC) held through teleconferencing between Dhaka, Geneva, Canada and some other European countries.

The main stakeholders and staff working for the design and operation of the scheme include:

- Members of the Rana Plaza Coordination Committee (RPCC): Ministry of Labour and Employment, Government of Bangladesh; Bangladesh Garment Manufacturers' and Exporters' Association (BGMEA); Bangladesh Employers Federation (BEF); IndustriALL Bangladesh Council (IBC); National Coordination Committee for Workers' Education (NCCWE); Bangladesh Institute of Labour Studies (BILS); IndustriALL Global Union; the brands Bonmarché, El Corte Ingles, Loblaw and Primark; and the Clean Clothes Campaign (CCC);
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Executive summary

On 24 April 2013, 1,134 people were killed and hundreds were injured when the Rana Plaza building in Savar, Bangladesh collapsed. A coordinated, systematic approach was required to provide income and health protection to the victims of the accident and their dependants.

Since the date of the accident, stakeholders have made efforts to provide compensation to the victims and their dependants. The ILO has facilitated the process as a neutral chair of the Rana Plaza Coordination Committee (RPCC) and provided advice to the Committee on the design and operation of the scheme in line with the ILO Employment Injury Benefits Convention, 1964 (No. 121) on employment injury benefits for the compensation of injured workers and of dependants of deceased workers, and with international good practice.

The main objective of this technical report is to document the design and operation of the scheme so that experiences and lessons learnt may be beneficial for the establishment of a new employment injury insurance scheme in Bangladesh.

According to the ILO Conventions and international good practice, periodical payments for income protection should be paid to victims and their dependants during their lifetime or dependency period, and the cost of in-kind health care caused by the accident should be fully covered. However, taking into account the fact that there will be no permanent administration mechanism to disburse such periodical payments, it was decided that compensation should be paid as lump sums equal to the actuarial present value of the periodical payments.

The ILO has tabled to the RPCC various options with different benefit levels and preliminary cost estimates corresponding to these options. At the time these estimates were made, data on the permanent disability percentage were scarce and have thus left the preliminary estimates with a significant margin of error.

After the RPCC made a decision on the design of the scheme, the ILO developed a software in Visual Basic Application (VBA) for the calculation of compensation for each victim or their dependants taking into account the characteristics of each victim (or dependants).

In the implementation of the claims administration, a certain number of policies were developed for such issues as: (1) benefit apportionment rules among dependants of deceased and missing workers; (2) deduction of amounts received from other sources (e.g. PM Fund); (3) applications of floors and/or ceilings to compensation; (4) treatment of cases with temporary disability but without expectation of permanent disability; and (5) percentage of compensation to be paid in the first batch of payments, taking into account the available funds. The ILO has submitted recommendations to the RPCC and participated in the discussions in order to support the development of policies. The administration of future medical care and allied services after the closure of the Rana Plaza Claims Administration (RPCA) was not finalized at the time of writing this report.

In spite of a general consensus on the principles of fair and sufficient compensation, as seen in Convention No. 121, it is not easy to reach a consensus on their application in the specific societal and cultural environments of Bangladesh.

Lessons learnt from the process and experiences of Rana Plaza compensations are summarized below.

Lessons learnt

1. Employment injury insurance (EII) is a complex mechanism, and communication of the EII scheme principles and design to all stakeholders, especially those stakeholders who make decisions, is essential throughout the process.
2. The principle of periodical payments of compensation should be clearly understood in setting up a new EII scheme. This will lead to a more logical allocation rule of compensation to dependants for each periodical benefit to be paid, rather than lump sums.
3. The issue of maximum and minimum compensation amounts was not explicitly addressed in the scenarios submitted to the RPCC for the selection of a package. In principle, there was no need for such provisions. Dissatisfaction was expressed by members of the RPCC when the amounts of awards began to be circulated for approval. The conversion of periodical payments into lump sums may have exacerbated the perception of unfairness. The ILO experts maintain that in the context of Convention No. 121 it would be unfair to put a limit on the lump sum. For the universal system, it will be important to determine the maximum insurable earnings through a consensus among the parties.
4. The request for a minimum level of compensation seems to stem from a need to fill the gap of a lack of rehabilitation and social services to help the injured workers re-enter the workforce, but it does not solve the long-term problem of these workers. In the new EII system, rehabilitation and allied services to support injured workers in their return to work will have to be included.
5. The experience gained by the RPCA in the process of the assessment of loss of earnings capacity provides a valuable basis for the determination of policies and practices when setting up the new EII. The ILO is ready to analyse the practices and make recommendations for the future.
6. The RPCA did not have to manage the transition between temporary incapacity and long-term benefits, as its mandate was to assess the permanent loss of earnings capacity irrespective of the status of the injured worker at the time of assessment. However, it was exposed to cases not yet medically consolidated, some of them having a prognosis of no permanent loss of earnings capacity. The policies regarding such situations should be elaborated at the same time as the benefits design is adopted. Policies and practices for the management of temporary incapacity within a perennial system remain to be developed and implemented in Bangladesh.
7. It would be necessary to define more precisely those medical services that would be covered and to develop a mechanism to ensure the proper delivery of such benefits and their funding.
8. In software/VBA programming, changes in parameters can become burdensome and extend the programming time. Scheme parameters and specifications must be discussed and clearly defined at the outset. In future, it is essential that specifications of the operational database system be made in advance taking into account the need for managerial information.
9. All issues related to the design of a scheme should be decided by the governance authority, based on recommendations from experts, before the operationalization of the scheme.

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10. The Bangladesh legislature may wish to consider extending and modernizing the Labour Act to provide basic rules for the medical evaluation of workers who have sustained an employment injury resulting in permanent physical or mental impairment. Such a document should be designed to facilitate the understanding and use of a scale of Bodily Injuries Regulation, covering more than the present legislation for amputations and loss of sight and hearing.
 11. In the absence of local compensation legislation, and to avoid the choice of inappropriate or inadequate assessment tools by local teams, the ILO could develop an evaluation scale. This scale could provide basic rules for the medical evaluation of workers who have sustained an employment injury resulting in permanent physical or mental impairment. It could include: a code for each of the sequelae (useful for research and statistics), explanations when pertinent, a different way of presenting percentages, an alphabetical index and a numerical codes index, a sample of the official medical evaluation form and a guide to its use. Whether such a scale is developed or the ILO prefers to support a local organization's choice of tools, the coaching team must arrive early enough for the national institutions to prepare themselves for conducting proper assessments.

Abbreviations and acronyms

BDT	Bangladesh taka
BEF	Bangladesh Employers Federation
BGMEA	Bangladesh Garment Manufacturers' and Exporters' Association
BILS	Bangladesh Institute of Labour Studies
BLAST	Bangladesh Legal Aid and Services Trust
BNWLA	Bangladesh National Women's Law Association
BRAC	an international development non-governmental organization
CRP	Centre for the Rehabilitation of the Paralysed
CRT	claims review team
DLP	disability level percentage
EC	Executive Commissioner
EII	employment injury insurance
FIM	Functional Independence Measure
GAF	Global Assessment of Functioning Scale
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IBC	IndustriALL Bangladesh Council
ILO	International Labour Office/Organization
MEDA	monthly earnings at date of accident
NCCWE	National Coordination Committee for Workers' Education
NGO	non-governmental organization
NWB	New Wave Bottom
NSDC	National Skills Development Council
PM Fund	Prime Minister Relief and Welfare Fund
RMG	ready-made garments
RP	Rana Plaza
RPCA	Rana Plaza Claims Administration
RPCC	Rana Plaza Coordination Committee; in Annex IV: Rana Plaza Coordination Cell
RPR	replacement rate
VBA	Visual Basic Application

1. Context

On 24 April 2013, 1,134 people were killed and hundreds were injured when the Rana Plaza building in Savar, Bangladesh collapsed. The unprecedented scale of the disaster meant that a coordinated, systematic approach was required to ensure that the victims, their families and dependants would not have to endure ill-health and financial hardship resulting from the death of a family member or life-changing injuries.

In September 2013, representatives of the Government, the garment industry both locally and internationally, trade unions and non-governmental organizations (NGOs) came together to form the Rana Plaza Coordination Committee (RPCC). With the ILO acting as a neutral chair, their purpose was to develop a comprehensive and independent process that would deliver support to the victims, their families and dependants in a predictable manner consistent with international labour standards. This process was agreed in late 2013, and established through an agreement known as The «Arrangement».

The Arrangement has established a claims process, implemented by a range of local organizations and international experts, to assist victims, their families and their dependants to submit claims, to assess the level of payments to be provided to each beneficiary, to undertake medical assessments and provide follow-up support where needed. These payments are funded through the Rana Plaza Donors Trust Fund, which has been opened to contributions from any organization, company or individual wishing to support the delivery of financial and medical support to the Rana Plaza families (see <http://www.ranaplaza-arrangement.org>).

A number of injured workers and dependants of deceased workers have received financial assistance from the Bangladesh Government through the Prime Minister Relief and Welfare Fund (PM Fund). A total amount of approximately US\$2.5 million has been paid in financial assistance by the PM Fund.

Many NGOs have also provided support, both in kind and in financial assistance to the victims.

Immediately after the accident, the Centre for the Rehabilitation of the Paralysed (CRP) treated the injured victims; over a year after the accident the CRP was still providing rehabilitation services at no cost to these victims, including any prosthetic and orthopaedic devices required.

1.1. Existing compensation under the Bangladesh Labour Act

The Bangladesh Labour Act provides for lump sum compensation amounts in cases of death or permanent disability resulting from labour accidents. However, the following issues lead to the conclusion that the Labour Act was not applicable to a large-scale catastrophe such as the Rana Plaza collapse:

- The compensation amounts provided for under the Labour Act are payable directly by the employer. As a result of the Rana Plaza collapse, most, if not all, of the victims' employers are out of business, without the necessary financial resources to pay the compensation amounts.
- The compensation amounts provided for under the Labour Act are relatively small and do not meet the standards of the ILO's Employment Injury Benefits Convention, 1964 (No. 121). For example, the compensation amount payable in case of death is equal to 100,000 taka (BDT). According to Convention No. 121, a widow with two

children should receive a periodical benefit equal to 50 per cent of the deceased worker's wage at the time of accident. For a deceased worker with a minimum wage of BDT 3,000 at the time of accident, a capital amount of at least BDT 600,000 would be required to provide this periodical benefit to a spouse aged 25 with two children aged 5 and 3.

- In the Labour Act, the injuries deemed to result in permanent total or partial disability are limited to loss of limbs, hands, feet, toes or fingers from the accident or from an amputation resulting from the accident, loss of hearing, loss of sight and very severe facial disfiguration. Only a limited number of the Rana Plaza's victims fall into one of those types of injuries. For example, the following types of injuries are not covered by the Labour Act:
 - spinal cord injuries
 - paralysed limbs
 - kidney malfunction
 - head trauma
 - back pain
 - psychological consequences and damage

2. The Arrangement

The «Understanding for a Practical Arrangement on Payments to the Victims of the Rana Plaza Accident and their Families and Dependants for their Losses» has been signed by representatives of all major stakeholders and forms the basis for establishing a credible, transparent and independent system for delivering support to the victims of Rana Plaza, their families and dependants. Sections 2.1 and 2.2 present the core text of the Arrangement¹.

2.1. Purpose

The parties,

1. Noting the commitment to workers' compensation in the National Action Plan, and affirming the goal to achieve it:
 - (a) Aim to provide payments to the victims of the Rana Plaza accident and their families and dependants (RP victims) in a transparent and equitable manner according to their losses, as well as access to medical care for victims in need; and
 - (b) Agree to cooperate to achieve this mutual aim under the guidelines below in verifying the validity and value of each loss presented, and providing for individual awards to be offset by payments already made;
2. Adopt the following Practical Guidelines for a special arrangement for payment of losses applicable exclusively to workers and their families affected by the Rana Plaza accident;
3. Agree to establish a multi-stakeholder Coordination Committee to:
 - (a) oversee the implementation of the Practical Guidelines;
 - (b) set total levels of funding for payment to the RP victims, based on the requirement of ILO standards;
 - (c) set a total level of administrative costs for the necessary expert support, and for setting up and servicing a Trust Fund;
 - (d) adopt procedures for review and decisions on claims as are necessary and appropriate;
 - (e) set up temporary expert support, if needed, for the purpose of assisting in the evaluation and determination of compensable losses;
 - (f) establish appropriate mechanisms for payments to the victims;

¹ For the full text see <http://www.ranaplaza-arrangement.org/mou/full-text/full>.

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- (g) authorize the payment of awards submitted to it, including from an independent Donors' Trust Fund voluntarily set up for that purpose;
 - (h) approve a budget for the above resources, review reports and audits of its operation, and authorize amounts to be paid, including from the Trust Fund;
 - (i) establish internal procedures for its functioning and decision-making.
4. The membership of the Coordination Committee is as follows: representative of the Ministry of Labour and Employment; Bangladesh Garment Manufacturers' and Exporters' Association (BGMEA); Bangladesh Employers Federation (BEF); National Coordination Committee for Workers' Education (NCCWE); IndustriALL Bangladesh Council (IBC); Bangladesh Institute of Labour Studies (BILS); IndustriALL Global Union; and nominated brands (Bonmarché, El Corte Ingles, Loblaw, Primark) and the Clean Clothes Campaign.
 5. The ILO, as a non-party, is invited to serve as the Coordination Committee's neutral and independent chair, and may provide technical information when requested to do so by the Committee.

2.2. Practical guidelines

The Parties undertake to:

1. **Losses to be covered:** Adopt a «single approach» to identifying the type of losses covered and how they are calculated and provided for that is (i) consistent with standards of the International Labour Organization (ILO), and (ii) authorized by the Coordination Committee for the immediate purpose of assisting affected Rana Plaza workers and their families (RP victims);
2. **Assistance to RP victims:** Ensure necessary and appropriate assistance to affected workers and their families to effectively submit claims for their losses. This is done by means including:
 - (a) providing a service for counselling, assistance and representation if needed to submit claims and provide informed consent to the exclusive and final nature of the process;
 - (b) providing an accessible process for interviewing the registered and, where necessary, medical assessments;
 - (c) seeking to identify and assist those not yet registered, pending which the time for submitting information about their losses is tolled;
3. **Information management:** Design and maintain a central database which will:
 - (a) contain information on RP victims, incorporate the claim form to be submitted by each claimant, record various steps of the claims processing and payments to the victims for their losses;
 - (b) receive from the parties and other sources the documented information available to them that is necessary and relevant to calculation of losses and of payments already made to RP victims in order to off-set such payments upon final review of individual claims;

-
4. **To resource the processing and payment of RP victims' losses, the Parties:**
Provide expertise to assist the Coordination Committee for an effective and fair coverage of losses of all RP victims covered by these Guidelines, by providing, if needed, for the use of international expertise for short-term including as supplementary commissioners if needed and as expert technical staff for collection of information, interviewing, assessment of injuries, and determinations;
 5. **In relation to the payments under this Practical Arrangement, the parties:**
Recognize that the payments made by the Coordination Committee are final and exclusive to RP victims for the losses assessed under the single approach;
 6. **Review of progress and termination:**
 - (a) If the Coordination Committee considers that insufficient progress is made in implementing the Practical Guidelines, it will review the reasons and any additional measures needed to implement such activities expeditiously. If it considers that the reasons provided or additional measures are insufficient to secure the aim of the Guidelines, the Coordination Committee may take action, as it deems appropriate, to seek changes in the way the Practical Guidelines are implemented which shall be decided in writing, or to discontinue this arrangement after consultation and best efforts to find alternative solutions;
 - (b) The Coordination Committee has the authority to determine and certify, following a submission of all relevant reports and statements from all concerned, that this Arrangement has satisfied its purpose and been successfully implemented. Such determination, to be made in writing and signed by the parties, will end this Arrangement.

3. Governance ¹

The Rana Plaza Coordination Committee (RPCC) brings together all the major stakeholders involved in payments to Rana Plaza workers and their families and dependants. The Committee oversees the implementation of the Arrangement to pay the victims and their families and dependants. It has established a single approach to calculate benefits to injured workers and surviving dependants in an equitable and transparent manner according to their losses and consistent with the standards of the International Labour Organization (ILO) and Bangladesh laws. The Committee will monitor delivery of payments to the victims to ensure meaningful use and safeguard against fraud.

3.1. Aims and objectives of the Coordination Committee

Members of the Coordination Committee have agreed to cooperate together in order to:

1. Oversee the administration of the Coordinated scheme to provide payments to the victims of the Rana Plaza accident and their families and dependants in a transparent and equitable manner according to their losses, as well as access to medical care for victims in need;
2. Implement the practical guidelines in the Arrangement including to set up the single approach, provide assistance to the victims through counselling and other appropriate support, manage information about the victims and payments to them, appoint commissioners and technical staff to verify the validity and value of each claim, and authorize individual awards.

3.2. Main activities

The main activities of the Committee were those described in section 2.1.3.

The Coordination Committee was also tasked with monitoring and reviewing the system and proposing amendments and changes wherever it considered it necessary to do so. The Committee also had the authority to instruct the Trustee to close the Fund and to terminate the claims process when it considered that the aims and objectives of the Arrangement were met.

3.3. Decision process

To accomplish its activities and tasks, the Committee has held meetings on a regular basis as well as extraordinary meetings as necessary. Between the establishment of the Committee in September 2013 and the completion of this report in December 2014, the Committee held 18 meetings. Information sessions were also held. Some decisions were made via email correspondence.

¹ See <http://www.ranaplaza-arrangement.org/mou/governance>.

Meetings were convened by the ILO neutral chair and were held via videoconference, with most of the stakeholders' representatives attending the ILO offices in Dhaka and Geneva and with other stakeholders/experts joining by teleconference.

4. Design phase and preliminary cost estimates

This section briefly describes the development of the benefit design and the preliminary cost estimates of the benefits package, excluding administrative costs. Cost estimates were considered preliminary mainly because they relied on a limited sample of data developed by Primark, compared to the estimated total number of deceased (1,200) and permanently injured workers (1,600). No reliable larger set of data was available before the data needed for the award of benefits were obtained from claimants.

The ILO actuarial model for demographic and financial projections of employment injury schemes is designed to carry out the overall cost estimate and not designed to calculate an individual benefit amount for each beneficiary. Therefore, it was expected that a more refined model for the calculation of each individual benefit would produce slightly different results.

4.1. Decision on scheme design

The decision regarding the design of benefits was made at the third RPCC meeting on 2 December 2013. The brief description of decisions extracted from the Compendium of RPCC decisions states the following:

- 4) [the RPCC] Adopted preliminary estimate for target benefit level:
 - (a) RPCC agrees in principle that aim should be the most generous level of award possible within the limits of funds available;
 - (b) Agreed that benefit level should open at Scenario F being the lowest cost estimate consistent with ILO standards, with the aim to raise funds to the level set out in Scenario B or even higher (Scenario A) if possible.
 - (c) RPCC agrees the level set at Scenario B will be the estimate used for public communications. (Minutes at 3.1–3.5)

Table 4.1 shows a summary of preliminary cost estimates that were presented at this meeting. It was understood that according to Convention No. 121 the cash benefits should be paid periodically as long as beneficiaries are eligible. For survivors, death and attainment of a prescribed age are the main reasons for termination of benefits. All cost scenarios include an amount for medical and allied care. The cost estimate for this benefit is the same for all scenarios as it is independent of the level of cash benefits.

Two sets of estimates were presented for cash benefits based on the salary to be used for their determination. This will be further discussed in the next section. Although not stated in the decisions presented above, it was agreed that the calculation of benefits would use the 2013 wage structure. No ceiling on earnings was considered in these cost estimates.

Table 4.1. Summary of preliminary cost estimates

Scenario	Replacement rate	Total cost ³ (US\$ millions ⁴)		
	Dependents	Invalidity ²	Wages at accident	Wages 2013 (structure)
A	0.70-0.80-0.90 ¹	0.80	36.0	58.1
B	0.50-0.55-0.60	0.60	26.2	41.8
C	0.50-0.50-0.50	0.60	24.6	39.1
D	0.40-0.50-0.60	0.60	24.8	39.4
E	0.45-0.50-0.55	0.60	24.7	39.3
F	0.40-0.45-0.50	0.60	23.3	36.9

Notes: ¹ Replacement rate for dependants' benefits: 70% for one dependant of the deceased worker, 80% for 2 dependants and 90% for 3 dependants and over. Same applies to other scenarios. ² The degree of disability is applied to the replacement rate to determine the benefit. ³ Including US\$2.8 million estimated for medical cost and allied care. ⁴ Based on an exchange rate of BDT 85 per US\$.

At its fourth meeting on 19 December 2013 the RPCC approved a Joint Message to be issued publicly, setting out the target for mobilizing funds in the order of US\$40 million (recently revised to US\$30 million). At its seventh meeting on 3 February 2014, the RPCC empowered a subcommittee on public communication to develop content to be posted on the official website of the Rana Plaza Arrangement and to inform the RPCC on all developments and posting(s) to the website. Thereafter, this subcommittee circulated to the RPCC and posted on the official website a text indicating that individual benefit calculations are in line with specific parameters, which include those for surviving dependants (corresponding to Scenario B). Concrete examples are provided and published on the website for specific typical cases (corresponding to Scenario B).

A detailed description of benefits is available in section 5 below.

4.1.1. Road to the decision on scheme design

The scheme design and the framework for a preliminary cost estimate were developed in the second half of October 2013 during a mission by Gilles Binet, actuary and ILO consultant. Further to the mission, an information session was held with the RPCC during which a specific scenario later referred to as Scenario A (Wages at accident) was discussed on the basis of the following documents:

- *Annex to RP benefit design proposal_Preliminary cost estimate_Oct13.pdf*
- *PresentationBangladeshV2.pptx*
- *RP_Benefits design proposal_29.10.13.pdf*

The replacement rates of Scenario A are well above the minimum standards of Convention No. 121. This was probably a response to certain concerns regarding the adequacy of benefits. Some benefit proposals and their unaudited cost estimates had been circulated and this had created expectations. This context led the ILO to start discussions on a scenario which is generous according to international practice in social security, especially for dependants of the deceased. This has influenced the decision to propose a replacement rate increasing with the number of dependants in such a manner that the replacement rate for dependants' benefits could be higher than that for 100 per cent disabled victims. Because of lack of information regarding the profile of survivors, it was not considered possible to link the level of dependants' benefits to specific combinations of dependants. This topic will be discussed further in section 4.3 below on apportionment.

The estimated total cost of Scenario A (Wages at accident) was acceptable, but the stakeholders were also interested to know the cost resulting from replacement rates closer to the minimum standard of Convention No. 121. Five additional scenarios were developed.

As discussions regarding the increase of salaries in the ready-made garments (RMG) industry were well advanced, the question of recognition of this inflationary feature on benefits came to the fore. Though the model implicitly considered long-term regular revaluation of benefits through a real discount rate of 2 per cent, it was recognized that this approach did not cover the exceptional increase of salaries that would become effective before the theoretical starting date of benefits payments in January 2014. Thus, the second set of cost estimates based on the 2013 wage structure was prepared.

In terms of actuarial expertise, the next step was to work on the development of a Visual Basic Application (VBA) tool that would be fit to make precise calculations of the present value of periodical payments of any combination of dependants. André Picard and Alexandre Landry undertook the task as ILO experts.

4.2. Preliminary cost estimates

The results obtained by using the VBA tool developed for the calculation of individual benefits were compared to the preliminary cost estimates. Table 4.2 shows the results of this exercise, which was conducted for Scenario F (2013 wage structure).

Table 4.2. Comparison of cost estimates (BDT thousands)

	Invalidity	Dependants	Medical and allied care ¹	Total
Preliminary cost estimate (A)	1 014 067	1 879 224	241 002	3 134 293
Use of VBA tool (B)	1 068 694	1 920 961	241 002	3 230 657
Ratio (A)/(B)	95%	98%	100%	97%

Note: ¹ The cost of medical and allied care is not determined by the VBA tool.

Table 4.2 shows the following:

1. The difference in the total cost is marginal.
2. The approximation used in the preliminary estimate for dependants' benefits was reasonable.

The difference observed for invalidity benefits is due to a small difference in the technique used for the determination of ages at the valuation date.

The total amount of money needed for the full compensation remains subject to uncertainty, given that both estimates relied on a sample of victims and dependants for whom the average profile may diverge from the average profile of the total population of victims.

The average degree of disability has a direct impact on costs and its assumption is subject to significant uncertainty. The average degree used in the estimates discussed above is 34 per cent. It was determined on the basis of a list of 852 injured people classified by type of injury and the assessment of the degree of disability by the application of a Spanish schedule (see below, section 6.7.3).

The cost of medical and allied care was estimated very roughly by using limited international experience on the ratio of the cost of such benefits to the cost of long-term cash benefits. The assumption was 30 per cent of disability payments under Scenario A (Wages at accident). The main components of long-term medical and allied care in employment injury are generally drugs, prostheses and personal aid at home, but the cost of medical services (hospitalization and health practitioners) can be substantial in the first few years after injury. When the cost estimate was made, little or no information was available on the type of services that would be needed by the victims and could be provided by the Fund as compared to the public health-care system in Bangladesh and other sources. Given the lack of information, reliance on international experience was taken as a practical and prudent approach in the circumstances, despite its limitations.

Demographic and economic assumptions were developed by applying the usual process in the valuations undertaken by the ILO, and they are considered appropriate. No deviation between the estimated cost and the actual cost of compensation of RP victims is expected from deviations between the outcomes and the assumptions, as the present value of expected periodical payments for both is determined by using the same assumptions. It would be different if compensation were delivered on a long-term periodical basis; regular actuarial valuations would be necessary in the future to update the projections and determine the sufficiency of funds available.

At the time of writing this report the awards were calculated for survivors of 815 deceased and 1,984 injured workers. The estimate of the total cost of compensation was revised at close to US\$30 million, including the cost estimate of victims compensated by Primark. Sources of differences between the estimated and the observed costs will be determined after completion of the operation. So far, it is known that the average disability percentage, which is substantially lower than expected, is one of the major reasons for differences.

4.2.1. Maximum earnings for compensation purposes

As the distribution of earnings in the sample did not show a large number of victims with high earnings (the proportion of workers with 2 times average earnings was 5 per cent), it was not necessary at the time of making the cost estimates to take a decision about the matter. This added a minor implicit margin in the cost estimate but it was not expected that any decision on the matter would have a significant impact on the total cost.

The question was raised after calculation of benefits for the first batch of payments at the 13th meeting of the RPCC. The ILO experts provided advice (see file: *Rationale for a ceiling ILO team of experts.docx*) on the matter but no decision was made, as some members found the recommended ceiling too high. At its 18th meeting on 3 December 2014, the RPCC endorsed setting a ceiling on a monthly wage base, to be used for the calculation of the award, at BDT 35,000 (under the 2010 minimum wage structure).

4.3. Definition of dependants and order of allocation of benefits among them

For the cost estimates, the sample of deceased victims included the following categories of dependants: spouse, parents and children. It did not include certain categories that national laws and practice also recognize as dependants, such as brothers, sisters and grandparents. Given that the number of dependants of a majority of deceased was three or more, the absence of information on the missing categories that could eventually be recognized as dependants did not raise major concerns during the design phase of the

scheme. However, the definition of dependants was a major policy issue that needed to be addressed as soon as possible in order to inform the claimants of their rights. The issue of allocation of benefits among dependants was also important for the claims processing. Although this latter matter would not have to be addressed in a permanent scheme, it is interesting to analyse how it has been handled, as the process may be instructive for implementation of a permanent system.

These questions were raised and resolved during the operationalization phase and are described in section 6 regarding the operationalization of the scheme.

5. Scheme design

5.1. Compensation for loss of income

For a period of 9 months after the date of the accident, injured workers and dependants of deceased and missing workers received monthly payments of BDT 5,000. These payments were made in three instalments¹. With one exception described below, the scheme therefore does not provide for temporary disability benefits as these have been paid until 24 January 2014. The scheme compensates injured workers with permanent disability and dependants of deceased and missing workers for loss of income for the period starting 24 January 2014.

Under the scheme, injured workers and dependants of deceased workers receive amounts of compensation based on the last monthly earnings of the worker at the date of the accident, adjusted to the 2013 Minimum Wage Structure for RMG workers, adopted by the Bangladesh Government on 5 December 2013. The amount of compensation is equal to the present value of periodical payments to which the injured worker or the dependants of the deceased worker would be entitled under a benefits scheme designed by a team of ILO experts in line with ILO Convention No. 121 and adopted by the RPCC.

5.1.1. Monthly payments

5.1.1.1. Permanently injured workers

A permanently injured worker is entitled to lifetime monthly payments, starting from 24 January 2014, equal to:

$$DLP \times 60\% \times MEDA$$

where:

DLP = disability level percentage; and

MEDA = monthly earnings at date of accident, adjusted to the 2013 Minimum Wage Structure for RMG workers. Annex I shows a comparison of the 2010 Minimum Wage Structure for RMG workers with the 2013 Minimum Wage Structure.

At the death of the permanently injured worker, if the death is directly related to the injury, the dependants at the time of death are entitled to benefits payable to the dependants of a deceased worker (see section 5.1.1.3).

¹ A press release by Primark on 17 March 2014 stated the following: «we have paid short-term financial assistance equivalent to nine months wages to all 3,600 Rana Plaza workers, most of whom were making clothes for our competitors» (<http://www.primark.com/en/our-ethics/news/press-releases/lrc-17-March2014>).

5.1.1.2. Injured workers with medical condition not yet stabilized at the time of the medical assessment

When the scheme was first designed, it was assumed that the medical condition of all injured workers would be stabilized nine months after the accident and that the compensation to be paid by the scheme would only be for permanent partial or total disability. At the beginning of the claims process, it was pointed out to the ILO experts team by the Executive Commissioner (EC) that some victims with no permanent physical disability were still unable to work due to temporary psychological functional limitations. The EC and the ILO experts then agreed to add for those victims up to a maximum of 12 months of MEDA. In cases where this benefit would be granted to an injured worker with a permanent disability, the benefit was reduced by the equivalent number of months of the monthly payments described in section 5.1.1.1 above.

5.1.1.3. Dependants of deceased or missing workers

The dependants of a deceased or missing worker are entitled to a monthly annuity, starting from 24 January 2014 and equal to:

$$RPR \times MEDA$$

The replacement rate (RPR) varies based on the number of dependants at the time the monthly annuity is paid, as follows:

- 3 or more RPR = 60%
- 2 RPR = 55%
- 1 RPR = 50%

5.1.1.4. Ceiling on monthly earnings

For the calculation of monthly payments, the MEDA is limited to BDT 35,000 (2010 salary structure).

5.1.1.5. Indexation of monthly payments

All monthly payments are indexed annually in line with the cost-of-living increases.

5.1.2. Eligible dependants and end of dependency status

5.1.2.1. Eligible dependants

Box 5.1 lists all eligible dependants. This list has been established based on Bangladesh law (see below, section 5.1.3.1) as well as ILO standards.

Box 5.1 Eligible dependants	
■ Widow	■ Unmarried sister
■ Remarried widow	■ Widowed sister
■ Widower	■ Widowed daughter-in-law
■ Son below age 25	■ Minor child of a deceased son
■ Daughter below age 25	■ Minor child of a deceased daughter
■ Mother	■ Paternal grandfather, if parents were not alive at the time of death
■ Father	■ Paternal grandmother, if parents were not alive at the time of death
■ Unmarried daughter	■ Maternal grandfather, if parents were not alive at the time of death
■ Widowed daughter	■ Maternal grandmother, if parents were not alive at the time of death
■ Minor brother	■ Illegitimate son
■ Minor sister	■ Illegitimate unmarried daughter

5.1.2.2. End of dependency status

The following contingencies are considered for termination of dependency status of dependants: death, attainment of a given age and marriage (see box 5.2).

Box 5.2 End of dependency status	
Death	All dependants
Attainment of a specified age	Age 25 for son and daughter Age 18 for brother and sister, illegitimate son and minor child of a deceased daughter
Marriage	Daughter below age 25 (benefit terminates at age 25), unmarried daughter, widowed daughter, minor sister (benefit terminates at age 18), unmarried sister, widowed sister, widowed daughter-in-law, illegitimate unmarried daughter

5.1.3. Payment of benefits

Instead of paying monthly periodical payments to the victims and dependants, the scheme provides lump sums equal to the present values of those periodical payments. A Visual Basic Application (VBA) tool has been developed to calculate the present values. The VBA tool user manual describes in detail the methodology and actuarial assumptions used in these calculations. The main macro-economic assumptions are a nominal interest rate of 8.1 per cent and an inflation rate of 6.0 per cent.

According to Rule 1 adopted by the RPCC at its meeting on 12 May 2014, financial assistance received from the PM Fund is deducted from these present values.

Moreover, at its first extraordinary meeting held on 18 March 2014, the RPCC decided that an advance payment of BDT 50,000 would be paid by 24 April 2014 to all workers and employees present in the Rana Plaza at 24 April 2013. According to Rule 1, this advance payment is also deducted from the present values of monthly payments.

In addition, according to Rule 1, if the sum of financial assistance from the PM Fund and the BDT 50,000 advance payment is larger than the present value of monthly annuities, the excess is not reimbursed to the Trust Fund.

The present value of benefits minus the financial assistance from the PM Fund minus the advance payment of BDT 50,000 (with a minimum of zero) is called the amount of award.

Since the amount donated to the Trust Fund, or considered as such under Rule 2, deals with the offsetting of donations and was also adopted by the RPCC at its meeting of 12 May 2014, was less than the total required fund, only a portion of the award has been paid to the victims and dependants.

According to a decision made by the RPCC at its meeting of 14 August 2014, that portion is calculated as follows:

- a fixed percentage is calculated by the ILO experts team based on the total amount contributed to the Trust Fund (or considered as such), the total amount required to pay full benefits, and the future cost of medical and allied care;
- the amount of disbursement for each victim is calculated as the fixed percentage times the present value of monthly payments minus the financial assistance from the PM Fund minus the advance payment of BDT 50,000.

5.1.3.1. Apportionment of the award among the dependants of a deceased or missing worker

The amount of award (after deduction of financial assistance from the PM Fund and the advance payment of BDT 50,000) is apportioned among the dependants of deceased or missing workers based on the following rules:

A. Dependants: The categories of dependants are the following:

1. Children up to 25 years old (irrespective of their marital status)
2. Widow/widower (unremarried)
3. Parents
4. Other dependants including:

Unmarried daughter, widowed daughter, minor brother, minor sister, unmarried sister, widowed sister, widowed daughter-in-law, minor child of a deceased son, minor child of deceased daughter, paternal/maternal grandfather if the deceased's parents were not alive at the time of his/her death, paternal/maternal grandmother if the deceased's parents were not alive at the time of his/her death, illegitimate son and illegitimate unmarried daughter and remarried widow.

B. Distribution within each category: The compensation will be distributed equally among the dependants within each category (in case of two or more widows, children, etc., the amount shall be distributed equally).

C. Distribution as between categories: The compensation will be distributed between categories of dependants in the fixed percentages presented in Annex II. The percentages apply to the award.

D. Apportionment rules: The following rules have been applied to determine the fixed percentage presented in Annex II:

- (i) Children have priority over other dependants.
- (ii) After children, the widow shall have priority.
- (iii) Thereafter the widower shall have priority.
- (iv) The parents have priority after the widower.
- (v) Other dependants have priority after the parents.
- (vi) Unusual and exceptional cases which are not covered in these rules are marked as «special cases» and are referred to the commissioners for their specific decision.

Financial assistance from the PM Fund and the advance payment of BDT 50,000 have not followed these apportionment rules.

5.1.4. Ceiling and minimum compensation

At the 15th meeting of the Coordination Committee on 23 September 2014, the Chair noted that it had received two proposals from the Ministry of Labour and Employment and BILS respectively, on ceiling and related issues. They include, amongst others, the proposal (in a reversal of earlier decisions of the RPCC) to put a ceiling of BDT 2.5 million on the amount of compensation for deceased workers and for those who lost their limbs and are permanently disabled, to increase the actual existing minimum payment floor of BDT 50,000 according to a gradual scale, and to compensate for pain and suffering.

Pain and suffering compensation is not included in Convention No. 121 and no further consideration of this request was made.

At the time of writing this report, final decisions on the ceiling and minimum payment have not been made. In order not to prejudice the discussion on these matters, it was decided at the 15th RPCC meeting that payments of cases with an awarded amount above BDT 2.5 million, as well as the issuance of Notices of Awards in cases with a zero amount after deduction, will be put on hold until a final conclusion has been reached. At the 18th meeting of the Committee on 3 December 2014, the RPCC authorized disbursements of awards with an awarded amount above BDT 2.5 million and decided that until further notice payments (prior to any deduction) will be capped at BDT 2.5 million.

The ILO team of experts consider that a ceiling on the amount of award, namely the lump sum amount, is not recommended as it could lead to (1) discriminatory treatment towards those injured workers with a higher degree of disability and deceased workers with a higher number of dependants; and (2) benefits that are not in accordance with Convention No.121.

The proposal regarding the minimum benefits is shown in table 5.1. It should be noted that at the time of writing this report, it was not determined whether these amounts would be in addition to the existing minimum of BDT 50,000.

Table 5.1. Proposal for minimum benefits

Category	Amount (BDT)
Deceased	1 000 000
Injured (% degree of disability)	
0	55 000
1-3	100 000
4-6	200 000
7-9	300 000
10-30	400 000
31-100	500 000

The ILO team of experts transmitted the following remarks to the RPCC:

1. It is understandable that some continuation of salary payments is needed for the period of physical and psychological rehabilitation and seeking suitable jobs.
2. Introducing the minima in order to attain the objective of prolonged salary payments, including temporary disability benefits, is a pragmatic approach. This is not against the principle of ILO Convention No. 121 and international good practices.
3. Due to the insufficiency of resources, including insufficiency for full compensation to be paid in line with the current agreement, benefit priorities and additional resource mobilizations should be further discussed among the Committee members.

5.1.5. New Wave Bottom workers

One of the nominated brands on the RPCC, Primark, which was sourcing a factory named New Wave Bottom (NWB), decided to compensate NWB injured workers and dependants of NWB deceased and missing workers on a different basis from the one described above. Primark also indicated to the first extraordinary meeting of the RPCC, held on 18 March 2014, that it would take 100 per cent responsibility for directly compensating NWB victims. It was also decided that compensation of the NWB workers by Primark would be considered as compensation under the umbrella of the Arrangement. Finally, it was decided that compensation amounts under the Primark approach would be compared to the compensation amounts under the above described scheme and that when the compensation amount under the Primark approach is lower, an upward adjustment may be made, while when the compensation amount is higher, the excess is considered as financial aid.

Eligible dependants and apportionment among dependants under the Primark approach are also different from the scheme described above.

5.2. Medical expenses and allied care

The scheme provides for the payment of necessary expenses to attain pre-injury health conditions or maximum recovery. These expenses include: hospital, doctors, drugs, physiotherapy, prosthetic devices, orthopaedic devices and allied care. The scheme does not pay cash benefits in advance to the injured workers but reimburses the expenses incurred by an injured victim upon presentation of a proof of expenses. At the time of writing this report, no payment had been made for medical expenses and allied care. It is expected that injured workers will receive services free of charge that will be financed through organizations to be determined.

6. Operationalization of the scheme

At its fourth meeting held on 19 December 2013, the RPCC agreed to the operationalization of the scheme and to a business plan that included the following 20 items:

1. Development of a claims submission tool.
2. Identify and conclude arrangement with contracting agent for RPCC decision.
3. Develop/adapt medical assessment tool.
4. Develop/adapt vulnerability assessment tool (for priority processing or offer of post-award counselling/social services).
5. Conclude arrangements with medical team.
6. Conclude arrangement with vulnerability assessors.
7. Identify disbursement mechanism to transfer funds into victims' bank accounts for RPCC decision.
8. Recruit claims review team.
9. Appoint claims commissioners (two Bangladeshi, one international expert).
10. Conclude arrangement for access to national stakeholder data sources.
11. Conclude arrangement for access to data collected by Primark in Bangladesh – registration forms and additional NWB data;
12. Conclude arrangement for pre-claims counselling for informed consent of victims and its documentation.
13. Pre-launch training for claims review team.
14. Pre-launch briefing and orientation session for vulnerability assessors and pre-claims counsellors.
15. Pre-launch briefing and orientation session for medical assessors.
16. Identify arrangements for post-award support services and financial counselling.
17. Develop/obtain actuarial calculation software.
18. Develop/obtain database platform for victims' personal data and payment data.
19. Review and reconciling of existing data to enter and prepare for intake interviews with evidentiary verification.
20. Establishment of international donor fund.

6.1. Appointment of an Executive Commissioner (EC)

Since September 2013, the services of Dr. Mojtaba Kazazi, former Executive Head, UN Compensation Commission, had been retained to assist the RPCC on questions regarding mass claims processing.

At its sixth meeting held on 20 January 2014, the Committee appointed Dr. Kazazi as International Commissioner as well as Executive Commissioner (EC) to oversee the regular work of the claims review team.

6.2. Contracting agent

Upon recommendation by the EC, the German NGO Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) has been retained as the contracting agent for financial and administrative management of the scheme.

6.3. Claims submission

Considering that most of the Rana Plaza workers live in or close to Savar, the Rana Plaza Claims Administration (RPCA) office was established in Savar, in a building located in an army compound. The claims processing began on 24 March 2014.

6.3.1 Claims form

A claims form has been developed by the EC (see Annex III). The form must be completed by all injured workers and dependants of deceased or missing workers.

6.3.2. Claims processing

To file a claim, injured workers or dependants of deceased or missing workers met first with a member of the pre-claims teams to provide all the necessary documents. These were: birth certificate of the injured worker or birth certificates of the dependants, last pay slip of the worker or other proof of salary, proof of financial assistance already received and medical assessment report. The injured workers and dependants also met with a member of the paralegal team to receive information about the scheme, answer questions and receive help in filing the claim.

For each injured, deceased or missing worker, a claim number was assigned. In the system, a claimant refers to a worker, whether injured, deceased or missing, not to a dependant of a worker.

Once the necessary documents were collected for a claim, a member of the claims review team reviewed them to make sure that all the necessary data had been collected, to verify the data and when necessary carry out additional research to find missing data.

Once the claims review team had completed the review, the IT members of the team entered the information into the electronic claims submission tool.

When information was missing, for example the medical assessment report, the other information was still entered into the electronic claims submission tool and the claim completed later. More detailed information on claims processing is available in Annex IV.

6.3.3. Electronic claims submission tool

A comprehensive database platform has been developed by Technohaven, a Dhaka-based company, for the claims processing. Technohaven also provided the equipment and three employees as IT members of the claims review team.

This tool includes several different modules: one for data collection, one for the calculation of the compensation amount, one for the production of reports and one for the payment.

The calculation module, called a VBA tool and developed by the ILO experts team, calculates the award and the apportionment according to the scheme described in section 5.1.

6.4. Appointment of Bangladeshi commissioners

At its ninth meeting, held on 10 March 2014, the RPCC appointed two Bangladeshi commissioners, Advocate Sultana Kamal and Justice Kheirul Hagh. The commissioners (including the EC) are responsible for the approval of awards (see Annex V). Their duties are to:

- set up the rules and procedures to be followed by the CRT for claims review. These rules are consistent with the Multi Stakeholders Arrangement (MoU) and the decisions of the RPCC;
- produce a report of awards and certification of awards for each payment instalment; and
- assess and approve exceptional cases.

6.5. Definition of dependants and apportionment of benefits among them

Although the following important policy issues should have been decided during the design phase of the scheme, it was not until the operationalization phase that these issues were raised.

6.5.1. Decision-making process

At the fifth meeting of the RPCC on 9 January 2014, the following decisions regarding the definition of dependants and the allocation of benefits among them were taken:

- 7) re: policy issues remaining to be decided for finalization of parameters of actuarial benefits design - RPCC decided
 - (a) to request BILS and Bangladesh National Women's Law Association (BNWLA) to prepare an analysis of the relevant law and practice regarding two remaining issues:
 - (i) definition of dependants, and
 - (ii) the allocation and order of distribution among dependants (i.e. direct benefit entitlement); (Minutes 5.1 paras. 1-2)
 - (b) authorized MK to follow up w/BILS and BNWLA for this purpose; (Minutes 5.1, para. 2)

-
- (c) agreed that, pending any outcome of the clarifications process, it was important to maintain public credibility of the scheme by adhering to the benefits level targeted as announced at \$40 million. (Minutes 5.1, para. 2)

Other decisions were taken one month later at the seventh RPCC meeting on 3 February 2014:

- 5)
- (a) re: definition of dependants - RPCC accepted MK's recommendation to adopt the prevailing definition of dependants provided in the Labour Act.
- (b) re: apportionment - BILS will complete its study on the law and practice of apportionment of survivor benefits among dependants and provide it to the international standards experts for their comments on the issues raised by 9 February, per MK report recommendation (Minutes 3.2, MK Supp. Report point 2) (see Comments)

The comments mentioned in 5) b) are the following:

re 5) b): Dr. Kazazi's Supplemental Report recommendation reads: «On the issue of proportion of shares of each dependant, given the ongoing BILS coordinated study, and the complexity of this matter, I recommend that the determination on this matter be referred to the Commissioners, while BILS be requested to finalise and submit its study to the Commissioners to consider together with relevant international standards to arrive at the proper determination.»

NOTE the RPCC determined at this meeting that following circulation for comment pursuant to natl. law and practice (BILS report), international standards (International Expert Guidelines), and in consultation with the Executive Commissioner (Dr. Kazazi report), apportionment rules would be determined by the Commissioners for their use in determining claims.

Responsibility for the determination of apportionment has been delegated to the commissioners upon advice of the Executive Commissioner, at the same time as his recommendation regarding the definition of dependants was adopted.

6.5.2. International experts' guidelines

The international experts proposed rules in March 2013 that are consistent with the concept of periodical payments to victims (see file: *Dependants and apportionment guidelines.pdf*). Illustrations were also provided. In that context, the apportionment of the lump sum benefit equivalent to periodical payments must be made in three steps:

1. Allocation of periodical payments among dependants.
2. Determination of the present value of payments for each dependant assuming no reversion of his/her share.
3. Determination of the share of each dependant by calculating the ratio of the value obtained in step 2 over the sum of values for all dependants.

The allocation of periodical payments among dependants in step 1 had been established in order to comply with Convention No. 121 which states that a widow with two children shall receive periodical payments at least equal to 50 per cent of the worker's earnings prior to the accident.

Step 2 involves an actuarial calculation. A summary of guidelines proposed by international experts is presented in box 6.1.

Box 6.1		
Summary of guidelines proposed by international experts for apportionment among dependants		
▶ 3 categories of dependants	■ Spouse (widow or widower)	
	■ Children (minor child or unmarried daughter)	
	■ Others	
▶ If there is only one category of dependants, 100% of the periodical payments is paid to that category		
▶ If there is more than one dependant in a category, the portion of the periodical payments allocated to this category is divided equally among the dependants in the category		
▶ If there is more than one category the following rules apply for the apportionment of periodical payments (percentages):		
■ Spouse + children	Spouse:	66.67
	Children:	33.33
■ Spouse + other dependants	Spouse:	66.67
	Others:	33.33
■ Children + other dependants	Children:	66.67
	Others:	33.33
■ Spouse + children + other dependants	Spouse:	66.67
	Children:	16.67
	Others:	16.66

6.5.3. Commissioners' decision

On 13 April 2014, the commissioners submitted their «Final» decisions regarding apportionment. The ILO team of experts noted that the apportionment did not respect two important principles: conversion of the present values of periodical payments into lump sums, and gender equality (widow and widower treated differently). Other issues were raised regarding inconsistency between two scenarios of combinations of dependants and the lack of scenarios for certain combinations of dependants.

At the meeting of 17 April 2014, the RPCC requested a further technical review between the ILO team of experts and the commissioners (drawing upon the commissioners' views in the report and the experts' advice) on the adoption of international expert guidelines for the apportionment of payments among dependants. In their mission report (Dhaka, 13–28 April 2014), ILO experts Gilles Binet and Doan Trang Phan concluded:

Despite conceptual divergences, both techniques produce equivalent results for scenarios involving a widow(er) and children. Given this and because of time limitations, the ILO experts recommended that the CC endorses the Commissioners subject to certain modifications and clarifications.

The Commissioners made the changes and clarified the apportionment percentages for all scenarios.

The revised percentages applicable to lump sums were submitted by the commissioners on 1 May 2014. They are presented in Annex II.

6.6. Advance payment of BDT 50,000

As the first anniversary of the accident approached, pressure for the payment of compensation increased. Moreover, Primark announced that it would pay on 28 March 2014 a first instalment to 581 NWB beneficiaries. However, as the claims processing by the RPCA office for the victims other than those of NWB had just started on 24 March 2014, it was most unlikely that payment of compensation could be processed by 24 April 2014.

At its first extraordinary meeting, held on 18 March 2014, the RPCC therefore decided to pay an advance payment of BDT 50,000 to all eligible beneficiaries before 24 April 2014. It was decided that the list of eligible beneficiaries would be established using available lists, including Primark's list under a method to be determined by national stakeholders in consultation with the EC. It turned out that all workers present at the Rana Plaza on 24 April 2013 were considered eligible beneficiaries, whether they were injured or not. For the purposes of this payment, a beneficiary was either a worker or only one dependant of a deceased or missing worker. The BDT 50,000 payment was not apportioned among all the dependants of a deceased or missing worker.

To make sure payments would be made in a timely manner, it was decided to make the payment using a cellular phone transfer system called bKash. With this system, the only information needed on a beneficiary to make the advance payment was the cell phone number of the beneficiary. On the other hand, it has not been possible to put into the electronic claims submission tool the information on the beneficiary of this payment. Primark used the same bKash system for the payment they made to NWB workers on 28 March 2014, and on 10 April 2014 transferred the bKash list of beneficiaries they had, excluding the NWB workers.

The completion of the list of beneficiaries has been complicated. Even in June 2014, a number of people were claiming they had not received the advance payment. On verification, it was found that some of these people had in fact received it, while some others had not.

6.7. Medical teams, medical assessment tools and future medical costs¹

Following the approval of the RPCC, contractual arrangements were made with the Centre for Rehabilitation of the Paralysed (CRP) in Savar for conducting medical assessments on all the injured workers.

Founded in 1979 in response to the desperate need for services for spinally injured patients, the CRP has developed into an internationally respected organization. It focuses on a holistic approach to rehabilitation, recognizing that all aspects of the rehabilitation process are vital to its success:

- physical rehabilitation: through medical and therapeutic interventions and the provision of appropriate mobility aids;
- psychological rehabilitation: through counselling and the sharing of experiences;
- economic rehabilitation: through vocational retraining and assistance in securing microcredit loans;
- planned discharge: for a successful reintegration into the community, ensuring that the home environment is as safe and accessible as possible and that local residents are educated about disability, its causes and consequences.

¹ From the mission report by Dr. Jacques Pelletier, member of the ILO expert team, of his visit to Savar, 10–18 July 2014.

The CRP's headquarters is in Savar, an important point of services for the victims, with an additional three functioning sub-centres throughout Bangladesh. The Health Facility was involved from the very beginning in the care of the victims of Rana Plaza, many of them initially transported there for acute management after the collapse.

6.7.1. The ILO mission in Savar, July 2014

From 10 to 18 July 2014, an ILO team of experts including a medical doctor specialized in the assessment of employment injuries, Dr. Jacques Pelletier, fielded a mission in Savar. This mission was initially planned for the beginning of June. The first two products of the mandate given to the medical doctor by the ILO were the following:

Product 1:

1. Advise the RPCC on the medical and disability assessment that will be used for payments calculation purposes and on any other medical and disability assessment issues pertaining to the operationalization of the RP Arrangement scheme.
2. Examine and finalize the specifications of the medical and disability assessment criteria and operational methodologies under the Rana Plaza Compensation Arrangement (RPCA) scheme by making the necessary adjustments on the basis of decisions taken by the Rana Plaza Coordination Committee (RPCC), on the basis of the advice provided under (1); and supervise the medical and disability assessment decisions in line with the ILO Conventions, RPCC decisions and international good practices.

Product 2:

1. Assist the claims processing team on the medical and disability assessment based on the disability criteria and methods developed under Product 1;
2. In collaboration with the other ILO team members, prepare guidelines on the medical and disability assessments and train the disability assessment team on the application of these guidelines.

The assessment task was well into the process when the ILO mission arrived in July. Over 1,800 victims had their evaluation completed, mainly the lightly injured. For them, the part of the mandate to «advise the RPCC on the medical and disability assessment that will be used for payments calculation purposes and on any other medical and disability assessment issues pertaining to the application of the RP Arrangement scheme» was quite late and no longer an option.

Examination and review of the specifications of the medical and disability assessment criteria and operational methodologies were performed, looking at nearly 250 CRP files and discussing with CRP assessing teams. Adjustments were proposed on the basis of decisions taken by the Rana Plaza Coordination Committee (RPCC), in line with the ILO Conventions and international best practices.

6.7.2. Medical teams

For medical assessments, the work of the three Multi-Disciplinary Teams of the CRP, comprising different members familiar with rehabilitation situations (Physician, Occupational Therapist, Physiotherapist, Psychologist, Nurse and Speech Therapist if needed) started as scheduled on 15 May 2014, following orientation sessions. As of the middle of July, the medical teams had conducted medical assessments on 1,800 injured

workers, keeping the worst injured for the end as some of them were still in treatment. A file, reporting the evaluation and conclusion of the teams, was documented for each victim.

6.7.3. Medical assessment tools

The CRP reports provide a disability percentage assessment of both physical and psychological disability, which is essential for the calculation of total entitlement of each injured claimant under ILO Convention No. 121. To determine it, the members of the CRP teams independently assessed the victims, producing a joint report for each. The final documents are preserved in the Rana Plaza Claims Administration (RPCA) office.

The assessment conclusions and disability scores are based mainly on two well-known and standardized evaluation tools:

- FIM (Functional Independence Measure)
- GAF (Global Assessment of Functioning Scale) (psychological)

The CRP was one of the institutions involved in the drafting of the Bangladesh Scale promoted by Primark in collaboration with researchers and Dhaka medical institutions. This scale is based on the whole of the Spanish scales approved by Royal Decree 1971/1999 of 23 December, as well as the standard text published in the *Official Gazette* (No. 22, Monday, 26 January 2000) and the Guide to the Assessment of handicap situations published by the Ministry of Labour and Social Affairs, Social Affairs Secretariat, Spanish Institute of Migration and Social Services (IMSERSO) in 2000. It is a high-quality document, but following consultations the CRP decided not to use this scale. The Bangladesh Scale is a very sophisticated tool, to be used by specialized and well-trained personnel; this was not well suited to mass evaluation as requested in the Rana Plaza situation.

Many scales exist to rate disability. A well-known one is published by the American Medical Association². Many States also protect their workers by some kind of employment injury scheme with specific scales awarding permanent damages to corporal integrity. It is beyond the scope of this report to review these. Considering the large number of assessments to perform, the ILO team of experts understands the approach of the CRP to use a less complex scale than the Bangladesh Scale.

FIM and GAF are internationally recognized tools to score a person's functional state. They were not designed specifically to identify anatomical or structural defects, the permanence of a lesion or the value of such a lesion. They just establish if and to what extent the functional level of an individual is preserved. In light injuries, they adequately address incapacity for work and loss of earning capacity. In this way, CRP assessments were in line with the requirements of ILO Convention No. 121 (art. 6c: partial loss thereof in excess of a prescribed degree).

FIM and GAF are two absolute functional scales regardless of specific diagnosis, pathological or anatomical sequelae. In CRP assessments, they are never directly linked to an objective structural defect or diagnosis and do not add compensation for those losses. They are snapshots with no a priori permanent meanings, even if CRP conclusions lead

² R. D. Rondinelli: Guides to the Evaluation of Permanent Impairment, Chicago, AMA, 6th ed. 2014.

one to believe they are. They are only a measure at the time of the assessment. Moreover, they were designed mainly as a follow-up comparative instrument to see the effect of treatments/therapy.

The ILO experts found that men and women were treated with respect and with no discrimination related to gender. However, based on the cases reviewed, the ILO team of experts noted the two following weaknesses of the FIM and GAF scales, as used by the CRP:

1. Incapacity was sometimes given despite clear demonstration in the medical record that it was not related to the collapse of the Rana Plaza (ongoing pregnancy, recent motor vehicle accident);
2. Psychological consequences were always considered as temporary with a limited time frame. This is not supported by scientific knowledge.

In the assessments, it was not always easy to correlate medical and physiotherapy information to the FIM, due to short written medical descriptions and rarely precise diagnostic reports. The same is true for psychological impairment, where expert opinions and GAF scores are not documented by written descriptive history other than Bengali GHQ-2811.

At the CRP, when looking at FIM conclusions ILO experts were surprised to find some assessments showing cases with no discrimination when impairment was related to pre/post-collapse situations or intercurrent (mainly pregnancy) conditions.

This was always in favour of the victims, but not necessary fair in respect of the Arrangement and donor funding. Examples include agility in moving reduced by late-stage pregnancy, recent delivery or a new fracture from a motor vehicle accident six weeks prior to the assessment, giving an incapacity percentage. This information was recorded in the physician report but not modulated in the FIM completed by the physiotherapist. One solution could have been to report the evaluation or try to score only the condition and state related to collapse.

In psychological impairment, the GAF score was used for disability level when no history and specific diagnosis explain the given scores. The clinical documentation rests only on GHQ-28, a descriptive questionnaire of the recent symptoms. In this context, it is difficult to argue against the decision to modulate the score obtained by GAF with a factor «time of possible duration». In the absence of precise diagnosis, the chronicity or improvement retained in the evaluations constitute only clinical opinions, certainly produced by expertise, but impossible to correlate with, for example, DSM-IV or ICD-1013. However, to consider all the psychological diagnoses as temporary, and not only some of them, constitutes an administrative decision which does not depend on the medical science.

Like many other legislations around the world, Bangladesh addresses permanent disability resulting from employment injuries. Unfortunately, only amputations, deafness and loss of vision are mentioned in the Bangladesh Labour Act (2006). This schedule is quite generous for those impairments. We should understand that the legislator well understands the impact of severe injuries on earning capacities in this country where capacity to support workers in social and professional reintegration is low. In their assessments, the CRP also chose to indicate recommended scores according to the Bangladesh Labour Act Schedule (2006) alongside the FIM scores in cases of amputation. This was always in favour of the victims. For amputees, this approach respects the spirit of the law and the lawmaker's intention. The Labour Act is always generously higher than the

FIM for amputees' disability scores, mostly because it includes compensation for structural defect with the loss of faculties.

The Bangladesh Labour Act Schedule (2006) is a State Law. It should be considered before any other decision or arrangement. The Schedule mentioned in this Act proposes a scale as an integration of physical damages and functional impairments, giving a high percentage in the disability score, presented as a proxy for loss of earning capacity in the intention of legislator.

As an extension of this, the ILO team of experts has recommended that the CRP and the EC use the Bangladesh Labour Act «analogically» in assessing the severely injured where a limb could be considered as useless as an amputation (spinal cord injury, major deformation, nerve destruction, severe ankylosis). This will better reflect the will of the Bangladesh legislator than FIM in a situation where the earning capacity is seriously compromised. For severely injured victims, this approach is fully in line with Convention No. 121 and seems to respect the spirit of the Bangladesh legislation.

This recommendation was well received by the CRP authorities and the EC. At the time of the ILO mission in July 2014, the CRP was just beginning to assess amputees and severely injured victims and there were no files to revise or to modify in the application of this new approach. To apply these new rules to score invalidity, according to the Bangladesh Labour Act that the CRP knows well, will be easy. The ILO expert was able to see some 21 files managed in this way ensuring full benefits for Rana Plaza victims.

For light injuries, the CRP used the FIM scale considering only functional losses. This is in accord with the requirements of Convention No. 121. Lowered function or capacity is at the source of the disability and loss of earnings. But the FIM provides nothing for «structural/anatomical» losses, if any (mainly joint stiffness and/or low back pain) in the files reviewed.

It is possible that Primark's Bangladesh Scale offers higher disability scores compared to FIM in minor conditions and light injuries, because it specifically considers each corporal segment, and both loss of function and structure. FIM and GAF do not consider anatomical defects per se, only the altered resultant functionality. It is not possible to verify this assertion with sample cases, CRP assessments not reporting enough data to run through the Bangladesh Scale assessment. However, it is not certain that the Bangladesh scale correlates better with loss of earning capacity than FIM.

6.7.4. Future medical costs

Over the course of the ILO mission in July 2014, several discussions were held as to the amount needed for future medical costs and allied care. The conclusions of these discussions are the following:

- There is not much information or data available to make a fair estimation.
- The Executive Director of the CRP told us that he estimates that approximately 400 injured workers will require future medical care.
- The EC mentioned that an amount of US\$1 million would probably be sufficient. This would represent US\$2,500 per worker expected to require future medical care.
- The most expensive medical care has most likely already taken place.
- The daily cost for bed and board at the CRP is US\$18.

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- The cost of surgery is between US\$180 and 450.
 - The RPCC should make an arrangement with an organization such as GIZ to receive this money and be the final guarantor of future medical care.

6.8. Disbursement mechanism to transfer funds into victims' bank accounts

At its eighth meeting, held on 18 February 2014, the RPCC approved the establishment of an operating account at the Dutch-Bangla Bank and decided to use the Dutch-Bangla Bank as the disbursement agent.

Each time a disbursement was made to the victims, the RPCC had to approve a transfer of the necessary funds from the Rana Plaza Trust Fund to the operating account at the Dutch-Bangla Bank. It also had to approve the amounts to be paid. The complete approval procedure is detailed in the Award Endorsement and Disbursement Authorization Procedure adopted by the Committee (see Annex V).

As indicated in section 6.6, for the advance payment of BDT 50,000 a cell phone transfer system (bKash) was used to transfer funds from the operating account to the victims' bank accounts.

For the other payments, bank accounts were opened at the Dutch-Bangla Bank for all victims (i.e. injured workers and all the dependants of a deceased or missing worker). When an instalment was approved by the RPCC, a transfer was made from the RP Trust Fund to the operating account and transfers were then made from the operating account to the victims' bank account based on a list provided to the Dutch-Bangla Bank by the RPCA.

At the time a disbursement was made, a Notice of Award was sent to each claimant (i.e. an injured worker or dependant of a deceased or missing worker who has signed the claim form). The Notice of Award indicates that the claimant may present a request for reconsideration on grounds of clerical, computational or factual error, within 30 days of receiving the Notice of Award.

At the 12th meeting of the RPCC held on 16 July 2014, and clarified at its 13th meeting held on 14 August 2014, the Committee decided that

payments will be transferred to the individual bank accounts opened for the beneficiaries with stipulation that up to 5,000 BDT will be available for immediate withdrawal and the remainder to be kept in fixed deposit for a period of three months so as to allow for vulnerability assessment and provision of after-award services, unless the beneficiary declines those services when presented.

As for minor beneficiaries, the RPCC decided that

the interest accrued can be withdrawn by the legal custodians and used for the benefit of concerned minors but principal amounts of funds transferred to the accounts of each minor cannot be withdrawn before the minor reaches 18 years old except where the interest is insufficient to meet the needs of the minor concerned.

At its 14th meeting held on 28 August 2014, the RPCA team informed the RPCC that they had been told by the Dutch-Bangla Bank that it was questionable whether this is permissible under Bangladeshi law. It might not be possible to prevent beneficiaries withdrawing their money during the three-month time period, unless the money was transferred to a three-month fixed-term account opened separately and signed for by the

beneficiary. The RPCC then decided that the RPCA and a sub-committee of national RPCC members would jointly meet with Dutch-Bangla Bank officials to clarify and address the above issue.

With respect to the payments to beneficiaries, the RPCC decided that, unless the beneficiary declined the after-award services when presented, it would proceed with one of the following options:

1. Implementation of the above decision made at its 12th meeting, as clarified at its 13th meeting, if a solution could be found with the Bank.
2. If no such solution could be found, implementation of the following arrangement, which was suggested by the Bank:
 - (a) immediate transfer of BDT 5,000 to each of the individual bank accounts;
 - (b) the total amount of remainder payments to be kept in an interest-bearing escrow account for three months;
 - (c) transfer of the remaining payments, including interest, from the escrow account to the individual bank accounts of the beneficiaries (or to newly opened fixed deposit accounts if agreed with beneficiaries as part of the after-award services) after the above three-month time period.

The RPCC decided that the RPCA and the above sub-committee of national RPCC members would further discuss the issues of delivery of the Notice of Award, the provision of information to the beneficiaries on after-award services, and a possibly necessary revision of the text of section 3 of the Notice of Award in the context of the above options, and would report back to the Chair as soon as possible.

When the RPCA and the sub-committee of national RPCC members reported back on their meeting with Dutch-Bangla Bank officials and their discussions on the issues of payment transfer, they noted that no solution had been found that would allow for three-month fixed deposits using the existing bank accounts of the beneficiaries. The RPCC then reversed its decision made at the 14th meeting (to keep the payments, except for an amount of BDT 5,000, for three months in either the existing accounts or in an escrow account) and decided instead that all payments due would be paid as soon as possible to the beneficiaries through transfer to their existing accounts, without further restrictions. The text of the Notice of Award would be adjusted by the RPCA accordingly.

6.9. Access to data

As indicated in section 4, the only set of data available at the end of October 2013 to estimate the cost of the scheme was the data collected by Primark on workers of New Wave Bottom. This was not a very large dataset, but it was the largest one available at that time. Information on the disability level of injured workers in that set of data could only be approximated based on the types of injuries, given that the scale to be used for medical assessment was not yet decided.

A number of lists of workers/victims existed, each one with different information. For example, BGMEA had a list of all those working for the factories present in the Rana Plaza. Primark had a list of workers for the payment of salaries (i.e. BDT 5,000 per month) for a period of nine months after the collapse. The Government had a list of victims who had received financial assistance from the PM Fund.

For certain reasons, including privacy, it was not always easy for the RPCA to get access to these lists. And once the RPCA had access, there were sometimes discrepancies between the lists. For example, at the 14th meeting of the RPCC, the EC noted that the various lists of missing persons (from Government, BGMEA, Red Crescent and the RPCA's own list) did not match.

6.10. Pre-launch training, briefing and orientation sessions

In the Business Plan for the operationalization of the scheme, the three following items appeared:

13. Pre-launch training for claims review team.
14. Pre-launch briefing and orientation session for vulnerability assessors and pre-claims counsellors.
15. Pre-launch briefing and orientation session for medical assessors.

The ILO team of experts has not been involved in any of those training, briefing or orientation sessions.

The EC report to the RPCC dated 17 February 2014 states that:

On 16 February 2014, a preliminary orientation session was organized for the BLAST paralegals team, their supervisors, and IT and legal staff of the claims review team. Representatives of GIZ, CRP, Technohaven, and BILS also attended the session. I organized the orientation session with help from GIZ and BILS. GIZ hosted the event. The event was appreciated and created momentum for the start-up of the claims processing.

And the EC report dated 10 May 2014 reads:

CRP will have an orientation session by the Executive Commissioner, RPCA on 14 May and expect to start the medical assessment from 15 May 2014 onwards.

6.11. Arrangements for post-award support services and financial counselling

At its fifth meeting held on 9 January 2014, the RPCC

delegated the arrangement of vulnerability assessment and post-award support services (including financial counselling) to BILS and Action Aid, in conjunction with which:

1. RPCC authorized BILS and Action Aid to adapt Primark vulnerability questionnaire and team arrangements to the needs of the Coordinated scheme in discussion with Primark;
2. RPCC authorized BILS and Action Aid to provide liaison services amongst a core group of reliable and active service providers for particular victims, taking RPCC members' views into account, and with updates to RPCC.

The ILO team of experts has not been mandated to provide support to the RPCA on this aspect of the operationalization of the scheme.

6.12. Actuarial software

In the Business Plan adopted at the fourth meeting of the RPCC, held on 19 December 2013, there were two options regarding the actuarial software necessary for the calculation of the benefits payable to the victims:

1. Option 1 was the same software as the one used by Primark. However, since that software was not calculating benefits on the same basis as the one adopted by the RPCC, a new version of Primark's software had to be developed based on necessary details and instructions to be provided by ILO actuarial experts. A peer review of the new software would have also been necessary. The cost of this software was EUR 50,000, plus EUR 5,000 for peer review. The time to delivery was four weeks after 6 January 2014 or the time legal needs could be met. Under that option, the ILO would not own the software, only the right to use it for the RPCA.
2. Option 2 was to have an application tool developed by ILO actuarial experts André Picard and Alexandre Landry (the VBA tool), and have that tool integrated into a new database platform/information system also to be developed. The cost of the VBA tool was US\$20,000 and the time to delivery was 6 January. Under that option, the ILO was the owner of the VBA tool that could thereafter be adapted and used in any other employment injury insurance (EII) scheme.

On 6 January 2014, the RPCC reached a consensus through correspondence via email for Option 2, to be integrated to a comprehensive database platform to be developed by the Dhaka-based software company Technohaven.

6.13. Database platform for victims' personal and payment data

In the Business Plan adopted at the fourth meeting of the RPCC, there were two options for the database platform:

1. Use Primark's database platform with Primark's new version of their software as per option 1 in section 6.12 above; or
2. Hire a database developer to develop a tailor-made database platform for the RPCA that would integrate the actuarial software.

On 31 December 2013, Dr. Kazazi, who thereafter became the EC, presented to the RPCC a proposal by Technohaven for the development of a tailor-made database platform. As indicated in section 6.12, that proposal was accepted by the RPCC on 6 January 2014.

6.14. Review and reconciling of existing data to enter and prepare for intake interviews with evidentiary verification

Within the RPCA there was a claims review team (CRT) in charge of reviewing and reconciling existing data to enter into the database platform, to be used for the calculation of benefits. When some information was missing or there were discrepancies between the various sources of data, the CRT was proceeding to further verifications and interviews.

During the ILO mission in July 2014, the ILO actuarial experts were able to appreciate the work of the CRT in the verification of the data before entering it into the database. In their verifications of calculated benefits for some victims, the ILO experts found that although the data on the paper files were correct, some data entered into the

database were incorrect. After confirmation by the EC that there was no peer review of the data entered into the database, the ILO experts made the recommendation to have a peer review of the data that has the most significant impact on the level of benefits, i.e. date of birth, salary and percentage of disability.

7. Lessons learnt

This section addresses lessons learnt throughout the implementation of the Arrangement, from its governance to its operationalization. Objectives of this section include improving the decision process, speeding up compensation to the victims of future work-related catastrophes, and applying lessons learnt to the establishment of a permanent employment injury insurance (EII) scheme in Bangladesh.

7.1. Governance

7.1.1. *Communication to stakeholders*

Although it is a good idea to have a multi-stakeholder committee to oversee the implementation of the guidelines and adopt procedures, making sure that each and every member has the same understanding of what is being adopted by the committee is a challenge.

At the 14th meeting of the RPCC, held on 28 August 2014, a representative was reluctant to sign the resolution to approve the first instalment for the first batch of victims because the scheme did not provide compensation for pain and suffering and at the same time was requesting a ceiling on the compensation amount.

The ILO experts explained that, in a context of the limitation of funds, paying a minimum amount above the BDT 95,000 already paid to the victims (i.e. BDT 45,000 in salary paid by Primark plus the advance payment of BDT 50,000) would result in further reduction of compensation amounts to those victims who were most in need, due to additional compensation to victims slightly injured or without injury. The experts also explained that putting a ceiling on the compensation amount would discriminate against victims with a higher percentage of disability, victims with more dependants and dependants who are expected to live longer. It was also explained that it is more appropriate to put a ceiling on the wage used for the calculation of the compensation amount than to put a ceiling on the compensation amount.

Better communication at an earlier stage would have contributed to smoother, faster and more appropriate decisions to be made. Good communication to stakeholders is essential throughout the process.

7.1.2. *Knowledge of employment injury insurance schemes*

EII schemes encompass many complex issues, including actuarial ones, especially when it involves the calculation of present values. It is difficult for beneficiaries to understand why compensation amounts are substantially different in each case, and it is important for stakeholders to explain it.

The issue of apportionment of benefits among dependants shows that there is not enough understanding of the fact that lump sum amounts represent the present values of periodical payments to be provided to beneficiaries.

Delays in payment of the first instalment were caused as it took time for a decision on deduction of the financial assistance from the PM Fund and the BMD 50,000 advance payment, before or after the application of the fixed percentage (see section 5.1.3). Much time could have been saved if there had been a clear understanding that this was central to the equity of benefits among beneficiaries.

Knowledge and understanding of employment injury insurance is essential for swift policy decisions and implementation of the scheme.

7.1.3. Clearly defined responsibilities

It was not clear who had responsibility for some issues, for example, whether the apportionment of benefits among dependants of the victims fell under the responsibility of the commissioners or the RPCC. It is important to set clearly defined responsibilities for each stakeholder or institution.

7.2. Scheme design and preliminary cost estimates

The performance of an employment injury insurance system in the accomplishment of its three fundamental missions – prevention, compensation and financing – depends upon the successful interrelationship of its stakeholders: workers, employers, the public health system, health and allied care service providers, prevention experts, workplace inspectors, the education system and the governmental supervisory authorities.

Lessons to be learnt from the RPCA can apply to other equivalent initiatives and can also be useful in the implementation of a permanent scheme in Bangladesh and countries in similar situations. However, it must be recognized that important aspects of the administration of an EII scheme have not been experimented in Bangladesh, given that the scheme was put in place a few months after the occurrence of the catastrophe:

1. Prevention activities were excluded.
2. Little or no experience has been acquired in the management of injuries of short duration which, because of their volume, may have a significant incidence on the cost of an EII. The very important period immediately following the occurrence of the injury may be determinant in the chronicizing of the injured worker's morbid condition if not managed appropriately. The determination of long-term loss of earning capacity may have been more challenging for the RPCA, as claims managers could not be involved in the early phases of treatment and subsequent phases of recovery until the stabilization of the medical condition and the assessment of long-term consequences.
3. Another specific feature of the RPCA is the profile of victims: the ratio of the number of deceased to the permanently injured is well above the usual experience. Information necessary for the administration of claims was difficult to obtain, as data related to the work conditions (salary or job description) of the deceased needed for the calculation of benefits was often unavailable.

The development and implementation of the structure necessary for the compensation of the RP victims had to be carried out in a short period of time. Although an ILO multi-disciplinary team of experts with diverse background and experience was involved in the process, the team could not rely on any fully comparable experience. The major issues involving actuarial expertise are discussed below.

7.2.1. Benefits formulae for dependants

The proposed replacement rate of dependants' benefits was made variable according to the number of eligible survivors, but no specification regarding the allocation of periodical payments was made when the design of the system was decided. This has opened the door to distortions in the allocation of benefits among dependants, as the decision-makers were unfamiliar with the concept of periodical payments and ignored the expected duration of benefits payments to each beneficiary when they made their decision (see also section 7.1.2 above).

It is legitimate that the social and cultural context of the population covered by an EII is taken into consideration in the definition of dependants and their share of benefits. However, Convention No. 121 has its own requirements in terms of replacement rates for specific dependants that may conflict with local practices. In order to avoid this type of difficulty, it is advisable that both the replacement rate and the apportionment rules be established in the same process. In the case of a perennial EII system that would compensate survivors of deceased workers through periodical payments, the allocation rules deal solely with the determination of each dependant's share of such payments. In the case of a temporary scheme that requires a determination of each dependant's lump sum equivalent to the periodical payments, other rules must prescribe the process of such determination. These rules are essentially technical, requiring actuarial tools for their application. This exercise should be conducted in accordance with generally accepted actuarial principles, as arbitrariness would generate unfairness (see also section 7.1.2 above).

7.2.2. Maximum and minimum compensation amounts

The issue of maximum and minimum compensation amounts was not explicitly addressed in the scenarios submitted to the RPCC for the selection of a package. In principle, there was no need for such provisions. The absence of statistical data on the earnings of salaried workers in Bangladesh, combined with a reduced sample of data on RP victims, made it difficult to assess the need to introduce a ceiling on reference wages for the determination of periodical payments. It was well known that several injured workers would receive small amounts of compensation because of their low degree of disability and that there would be wide disparity in the amount of compensation to dependants of deceased workers because of the differences in profiles, such as the wage of the deceased workers and the age and sex of the dependants. In addition, the absence of compensation for pain and suffering in the employment injury compensation was not well understood.

Dissatisfaction was expressed by some of the RPCC members when the amounts of awards began to be circulated for approval. The conversion of periodical payments into lump sums may have exacerbated the perception of unfairness.

For the deceased workers, the range of compensation amounts was considered too large and a certain group of stakeholders proposed to narrow it with a minimum and a maximum amount. The immediate consequence for the administration of claims has been to hold the payments related to awards above the suggested maximum of 25 lakhs. After explanation by the ILO experts, it has been understood that the ceiling should apply to the reference wage rather than the present value of periodical payments; a maximum wage of BDT 35,000 has been used for the determination of awards, but this is far from sufficient to make the awards below 25 lakhs. The issue is still pending at the time of writing this report. The number of claims related to deceased above 25 lakhs is approximately 60, 7 per cent of the total number, and the number related to injured is 8, 0.4 per cent of the total number. The ILO experts maintain that in the context of Convention No. 121 it would be unfair to put a limit on the amount of lump sums.

For the universal system, it will be important to determine the maximum insurable earnings through a consensus among the parties. As it is expected that the awards will be disbursed through periodical payments and there will be no need to convert the expected amounts into a lump sum, the issue of a cap on the total amounts awarded may not need to be addressed again.

The question of the minimum amounts is probably exacerbated by the advance payment of BDT 50,000, because this was more than the full award for several injured victims. Injured workers with an award of less than BDT 50,000 would receive a Notice of Award explaining the calculation of their awards but would not receive any additional payments, which is expected to generate dissatisfaction. It was brought to the attention of the RPCC that

a large proportion of RP injured workers would not be able to find jobs because they are considered to have become unproductive due to their involvement in the disaster. Those workers may need more rehabilitation and social services in order to re-enter the workforce, but the infrastructure to efficiently manage the delivery of such services on a coordinated basis is non-existent under the Arrangement. Thus, introducing minima may be considered a pragmatic approach to prolong salary payments but does not solve the long-term problem of these workers. In the universal EII system, the issue of rehabilitation and allied services to support injured workers in their return to work will have to be carefully addressed. This is in the interest of both the sustainability of the EII and the wider society. The payment of cash benefits cannot be extended indefinitely to workers having a residual capacity to work. Employers and workers will have to collaborate to promote the reintegration of workers into the workforce. According to the proposal under study, more than 90 per cent of injured workers would have their benefits topped up to the proposed minima. Such a phenomenon would not be acceptable in an ongoing scheme, as it would be the result of either inadequate basic provisions or of loose administration.

The demand for a minimum amount of compensation for a deceased stems from the socio-economic context of Bangladesh, including the absence of other social protection systems. In the universal system, periodical payments will not be converted into lump sums. The disparity of the value awards due to the diversity of dependants' demographic profiles will not be highlighted. Nonetheless, the stakeholders will have to agree on a package of benefits that procures sufficient and fair protection at a reasonable cost. At the death of a breadwinner, certain expenses are incurred such as burial costs, which are usually covered by an EII scheme. Besides, dependants of deceased workers may need psychological and counselling services to adapt to the loss of the breadwinner, and such services should be considered under a new scheme.

7.2.3. Assessment of loss of earning capacity

The assessment of loss of earning capacity for injured workers left with permanent functional limitations must be made in collaboration with medical practitioners. It is necessary to develop tools to estimate the loss of earning capacity on the basis of the health condition of the injured workers. Rules and policies should describe clearly how age, education, experience and vocational rehabilitation facilities are taken into account in the determination of the loss of earning capacity. In a typical population of injured workers, the proportion of injured workers for whom the loss of earning capacity is total (leaving little room for uncertainty) is generally low. The challenge is to provide fair assessments of those left with residual capacities or, in other words, with partial disability.

The RPCA contracted with a well-recognized institution for the assessment of loss of earning capacity. They developed their own tools but faced certain specific challenges, as they had to consider certain factors such as the Schedule of Disability Percentages in the Labour Act and the tool used by Primark. Another challenge faced by the RPCA was the identification of cases whose medical condition had not yet stabilized. For several of these, the decision was no predictable permanent loss of earning capacity, but fairness suggested that such workers should be awarded additional compensation for temporary loss of earning capacity. Such decisions were taken by the commissioners.

The experience gained by the RPCA in the process of the assessment of loss of earning capacity provides a valuable basis for the determination of policies and practices when setting up a new EII scheme. The ILO should put in place a working group that will analyse the practices and make recommendations for the future.

The RPCA did not have to manage the transition between temporary incapacity and long-term benefits, as its mandate was to assess the permanent loss of earnings capacity

irrespective of the status of the injured worker at the time of assessment. However, it was exposed to cases not yet medically consolidated, some of them having a prognosis of no permanent loss of earning capacity. The treatment of those cases was not addressed in the design of benefits, and a solution was developed by the EC when the situation arose in the operationalization phase. The policies regarding such situations should be elaborated at the same time as the benefits design is adopted in situations similar to RPCA. Policies and practices for the management of temporary incapacity within a perennial system remain to be developed and implemented in Bangladesh.

7.2.4. Medical and allied care

There exist multiple models of delivery of medical and allied care to injured workers; they vary according to the characteristics of the health care system in each country. The RP arrangement aimed at providing victims with access to medical and allied care. The preliminary cost estimates included a projection of necessary expenses to attain a pre-injury health condition or maximum recovery (hospital, doctors, drugs, physiotherapy, prosthetic appliances, attendance to permanently disabled needing help for daily activities). The nature of services to injured workers varies with the time elapsed since the occurrence of the injury. The cost estimate took into consideration the benefits expected to be paid after the date of the first payments, which was set several months after 24 April 2013.

It would be necessary to define more precisely the services that would be covered and to develop a mechanism to ensure the proper delivery of those benefits and their funding. It will also be necessary to make an arrangement with the Government or another organization for the transfer of funds and the management of the benefits after the closing of the RPCA Trust Fund.

7.3. Operationalization of the scheme

7.3.1. Appointment of commissioners

As indicated in sections 7.1.2 and 7.1.3, commissioners appointed to a new EII scheme need good knowledge of EII schemes and their responsibilities should be clearly defined.

7.3.2. Information technology

The two main success factors of any IT project are a clearly defined project and good project management.

In the RPCA context, due to the pressure to make payments before the anniversary of the accident, the programming of the database platform, the electronic claims submission form and the VBA tool began before all the parameters were set. For example, when the programming of these software/tools started in late December 2013/early January 2014, the following parameters were not yet specified:

- calculation date of the present values
- definition of dependants
- apportionment among dependants
- amounts to be deducted

-
- temporary payments for those with no permanent disability or for those whose medical condition was not yet stabilized

This has led to complexities and delays in programming. In January 2014, a draft version of the VBA tool was sent to Technohaven in order for them to be able to work on the integration of the VBA tool into their system, which is the database platform and the electronic claim submission form.

Later, in April 2014, the above-mentioned parameters were specified again and a new version of the VBA tool was sent to Technohaven. Giving the significant changes to the VBA tool since the version sent in January 2014, data inputs and outputs did not all appear in the same cells in the VBA tool «Data/Results» screen. This has created problems in Technohaven's system which required a modification of the VBA tool to make sure that all data inputs and outputs appear in the same cells as in the first version sent in January 2014.

In software/VBA programming, changes in parameters can become burdensome and extend the programming time. For both Technohaven and the expert assigned the task, namely Alexandre Landry, parameter changes have caused substantial additional work. This could have been avoided if all the parameters and specifications had been clearly defined at the outset.

The conception of the operational data seems to have failed to take into consideration the need for management information. The cost of benefits to dependants of deceased and missing workers is related to the characteristics of the dependants. However, this data was not made available due to the complexity of the programme change to obtain the information with respect to relation to the deceased, sex and date of birth of each dependant. In future, it is essential that specifications of the operational database system be made in advance taking into account the need for managerial information.

7.3.3. Definition of dependants and apportionment of benefits among dependants

As indicated in section 6.5, these policy issues were not decided by the RPCC upon recommendations from the ILO experts during the design phase of the scheme, but during the operationalization phase upon recommendations of the commissioners. This has led to delays in payments to the victims.

These policy issues, and all other issues related to the design of a scheme, should be decided by the governance authority, based on recommendations from experts, before the operationalization of the scheme.

7.3.4. Advance payment of BDT 50,000

This payment was made in order to reduce dissatisfaction among victims at the approach of the first anniversary of the Rana Plaza collapse, due to the fact that no compensation amount had been paid up to that time. It has reduced dissatisfaction, but at the same time has created other problems.

In the initial design of the scheme adopted by the RPCC, benefits were payable to injured workers with a partial or total disability and to the dependants of deceased or missing workers.

However, as indicated in section 6.6, at its first extraordinary meeting held on 18 March 2014, the RPCC decided that the list of eligible beneficiaries would be established using available lists, including Primark's list under a method to be determined by national

stakeholders in consultation with the EC. It turned out that all workers present at the Rana Plaza on 24 April 2013 were considered eligible beneficiaries, whether they were injured or not. The payment of cash benefits to workers who have no injuries from an accident at work is considered as an unemployment benefit, not an employment injury benefit. The time spent by the RPCA staff to work on this advance payment has delayed the first instalment of the award.

Given the method used for the payment (transfer via a phone system, bKash), information on the beneficiaries of the advance payment was not entered into the database. The advance payment has not been apportioned among dependants of deceased or missing workers, but paid only to the main claimant. Since information on the beneficiary of the advance payment was not available and the software/tools were not programmed to do so, it has not been possible to deduct the advance payment from the portion of compensation allocated to the beneficiary who actually received the advance payment. In other words, the apportionment of the award (i.e. after deduction of the advance payment) was made assuming that the advance payment was apportioned using the same rules, although this was not the case. The same apportionment problem arose with the financial assistance paid by the PM Fund.

7.3.5. Medical team and assessment tools

The Bangladesh legislature may wish to consider extending and modernizing the Labour Act to provide basic rules for the medical evaluation of workers who have sustained an employment injury resulting in permanent physical or mental impairment. Such a document should be designed to facilitate the understanding and use of a scale of Bodily Injuries Regulation, covering more than the present legislation for amputations and loss of sight and hearing. The document should also have a complete body approach (Musculoskeletal System, Maxillary-Facial System, Central and Peripheral Nervous System, Hearing and Visual System, Urinary System, Female Genital and Male Genital System, Endocrine System, Larynx and Trachea, Digestive System and Spleen, Cardiovascular System, Skin and Sensitization, Psychic System, Respiratory System, Disfigurement, Suffering and Loss of Enjoyment of Life). In international good practice, scales from many countries or legislatures now integrate in their compensation schedule the coverage of both the following losses: earning capacity and anatomo-physiological deficit. This goes beyond the requirements of Convention No. 121. Such a new Labour Act, or a new EII scheme, would allow a significant advance in the system of social protection. Workers deserve consideration, empathy and help to return to a full productive life.

Bangladesh had the foresight to include a Labour Act in its legislation; such foresight deserves respect. It is a principle that when local specifications are available they should take precedence provided that they are in accordance with Convention No. 121. This clearly applies to the situation in Bangladesh. Thus, the use of a local institution with evaluation capabilities, such as the CRP, was appropriate and effective. It was a demonstration of deference to onsite expertise and an avoidance of cultural bias.

In the absence of local compensation legislation and to avoid the choice of inappropriate or inadequate assessment tools by local teams, the ILO could develop a «universal» evaluation scale, exportable when necessary. This scale could provide basic rules for the medical evaluation of workers who have sustained an employment injury resulting in permanent physical or mental impairment. It could include: a code for each of the sequelae (useful for research and statistics), explanations when pertinent, a different way of presenting percentages, an alphabetical index and a numerical codes index, a sample of the official medical evaluation form and a guide to its use.

Whether such a scale is developed or the ILO prefers to support a local organization's choice of tools, the coaching team must arrive early enough for the national institutions to prepare themselves for conducting proper assessments.

Annex I: Wage structures

Classification of workers - Employees & wage structure Proposed by Minimum Wage Board 2013 (Comparing with the wage structure of 2010)											
Worker's classification according to grade	Wage structure 2010				Wage structure 2013						
	Monthly basic salary	House Rent 40%	Medical allowance	Monthly total salary	Monthly basic salary	House rent 40%	Medical allowance	Transport allowance	Food allowance	Monthly total salary	
1	2	3	4	5	2	3	4	5	6	7	
Grade 1	6 500	2 600	200	9 300	8 500	3 400	250	200	650	13 000	
1. Pattern Master 2. Chief Quality Controller 3. Chief Cutting Master /Cutting Chief 4. Chief Mechanic											
Grade 2	5 000	2 000	200	7 200	7 000	2 800	250	200	650	10 900	
1. Mechanic/ Electrician 2. Cutting Master											
Grade 3	2 870	1 148	200	4 218	4 075	1 630	250	200	650	6 805	
Senior Operator & others 1. Sample Machinist 2. Mechanic 3. Senior Sewing Machine Operator 4. Senior Winding Machine Operator 5. Senior Knitting Machine Operator 6. Senior Linking Machine Operator 7. Senior Cutter 8. Senior Quality Inspector 9. Senior Marker/Senior Drawing Man/Senior Drawing Woman 10. Senior Line Leader 11. Senior Overlock Machine Operator 12. Senior Button Machine Operator 13. Senior Kanchai Machine Operator											

Grade 6	2 230	892	200	3 322		3 270	1 308	250	200	650	5 678
General Operator											
<ol style="list-style-type: none"> 1. General Sewing Machine Operator 2. General Winding Machine Operator 3. General Knitting Machine Operator 4. General Linking Machine Operator 5. General Mending Machine Operator 6. General Fusing Machine Operator 7. General Colour Turning Machine Operator 8. General Overlock Machine Operator 9. General Button Machine Operator 10. General Kanchai Machine Operator 											
Grade 7	2 000	800	200	3 000		3 000	1 200	250	200	650	5 300
Helper											
<ol style="list-style-type: none"> 1. Assistant Sewing Machine Operator 2. Assistant Winding Machine Operator 3. Assistant Knitting Machine Operator 4. Assistant Linking Machine Operator 5. Assistant Mending Machine Operator 6. Assistant Cutter 7. Assistant Marker/Assistant Drawing Man/ Assistant Drawing Woman 8. Pocket Creasing Machine Operator/Creasing Man/Creasing Woman. 9. Line Iron Man/Line Iron Woman. 10. Assistant Dry Washing Man/Assistant Dry Washing Woman 11. Overlock Machine Assistant 12. Button Machine Assistant 13. Kanchai Machine Assistant 14. Finishing Assistant 											
Apprentice				2 500							4 180

Grade 1	4 500	1 800	200	6 500		6 500	2 600	250	200	650	10 200
1. Store keeper											
Grade 2	3 500	1 400	200	5 100		5 000	2 000	250	200	650	8 100
1. Assistant Accountant 2. Store Assistant 3. Cashier 4. Import Assistant/Export Assistant 5. Computer Operator											
Grade 3	3 000	1 200	200	4 400		4 500	1 800	250	200	650	7 400
1. Typist 2. Clerk/Office Assistant 3. Telephone Operator 4. Time Keeper 5. Caretaker 6. Security Guard 7. Driver 8. Cash Assistant											
Grade 4	2 200	880	200	3 280		3 250	1 300	250	200	650	5 650
1. Peon 2. Guard/Checker 3. Cook 4. Sweeper											
Apprentice	2 200	880	200	3 280		2 300	920	250	200	650	4 320

Annex II: Apportionment percentages

Cases in which a deceased or missing worker has left the following dependants

1	Widow	Children	
	40%	60%	
2	Remarried widow	Children	
	20%	80%	
3	Widower	Children	
	20%	80%	
4	Widow	Parents	
	70%	30%	
5	Remarried Widow	Parents	
	20%	80%	
6	Widower	Parents	
	50%	50%	
7	Widow	Other dependants	
	70%	30%	
8	Remarried Widow	Other dependants	
	50%	50%	
9	Widower	Other dependants	
	50%	50%	
10	Children	Parents	
	80%	20%	
11	Children	Other dependants	
	80%	20%	
12	Parents	Other dependants	
	60%	40%	
13	Widow	Children	Parents
	30%	50%	20%
14	Remarried Widow	Children	Parents
	20%	60%	20%
15	Widower	Children	Parents
	30%	50%	20%
16	Widow	Children	Other dependants
	30%	50%	20%
17	Remarried widow	Children	Other dependants
	20%	60%	20%

18	Widower	Children	Other dependants	
	30%	50%	20%	
19	Widow	Parent	Other dependants	
	50%	30%	20%	
20	Remarried widow	Parents	Other dependants	
	35%	30%	35%	
21	Widower	Parent	Other dependants	
	50%	30%	20%	
22	Children	Parents	Other dependants	
	60%	20%	20%	
23	Widow	Children	Parents	Other dependants
	30%	50%	10%	10%
24	Remarried widow	Children	Parents	Other dependants
	20%	60%	10%	10%
25	Widower	Children	Parents	Other dependants
	20%	60%	10%	10%

Annex III: Claim Form

RANA PLAZA CLAIMS ADMINISTRATION

Claim Form for Personal Injury, Death, or Disappearance as a Result of Rana Plaza 24 April 2013 Collapse

INSTRUCTIONS FOR CLAIMANTS:

- (1) The Rana Plaza Claims Administration is an exclusive scheme set up and authorized by the multi-stakeholder Rana Plaza Coordination Committee. The purpose of the scheme is to provide fair and quick compensation to the victims of Rana Plaza collapse and their families in a transparent manner.
- (2) This form is therefore applicable only to those who suffered personal injury (i.e. any injury not fully recovered at the time of submitting the claim), or whose spouse, child, parents or other close relative died or disappeared, as a result of Rana Plaza collapse on 24th April 2013 in Savar- Bangladesh.
- (3) You will receive assistance to submit your claim on this form. Your claim will be reviewed in order to determine the amounts to be allocated to your claim. Compensation will only be awarded if your claim is approved by the Commissioners. A local bank will be in charge of distributing payments to claimants and/or investing funds for the benefit and on behalf of claimants in accordance with the Coordination Committee approval and instructions based on post-award assessment needs of the victims.
- (4) Attach documentation confirming your identity, such as photocopy of your national identity card, birth certificate or certificate from UP Chairman. If this is a family claim, attach same documentation confirming the identity of all family members.
- (5) Attach documentation, such as photocopy of a work contract, salary slip, or worker ID to show the employment relationship and the last salary of the injured deceased, or missing person.
- (6) Attach documentation, such as photocopy of a marriage document, birth certificate, heir certificate or dependent certificate issued by UP Chairman, to show family relationship of claimant(s) to the deceased or missing person.
- (7) Attach documentation that you may have concerning the nature and seriousness of your personal injury. You will undergo a medical assessment to establish the degree of disability and cases requiring urgent medical treatment.
- (8) Attach documentation, such as photocopy of a death or burial certificate, or certificate issued by UP Chairman, to show the place and date of death, and the national identity card of the deceased or other documents to show her date of birth.
- (9) Attach the national identity card of the missing relative or other documents to show her date of birth, any documentation that you may have on the circumstances of the disappearance, and a witness testimony signed under oath by minimum 4 persons who knew and worked with the missing person.

Official Use Only:

GENERAL/PERSONAL INFORMATION OF THE CLAIMANT:

Claimant's full name:

.....

Attach Photo

(Stamp size)

Age:

Sex:

Date of Birth:

Place of Birth:

- Male
 Female

Marital Status:

- Married
 Single
 Divorced
 Widow

National ID No/Birth Certificate No/Other:

.....

Father's name:

Employment ID
No (if applicable):

Mother's name:

Educational
qualification:

Name of husband/wife.....

Current Address & phone number:

.....

Permanent Address:

.....

Alternative contact name & phone number:

.....

Documents provided: photo national ID other

Other info:

Claimant

Official Use Only:

EMPLOYMENT DETAILS OF INJURED, DECEASED OR MISSING PERSON:

Full Name:

New Wave Bottoms
 Phantom Apparels Ltd.
 Phantom Tech Ltd.
 New Wave Style Ltd.
 Ether Textile Ltd.

Rescuers
 Directly employed
 Other

Name of owner/director/managing director/chairman

.....

Job Description:

Designation:

Line/Section:

Description of the work:

.....

Date and duration of the contract or service.....

Total monthly salary received.....

Date of last salary received:

Documents provided: work contract ID of the deceased or missing person
 salary slip other:

Other info:

Employment

Official Use Only:

DETAILS OF DEPENDENTS OF DECEASED OR MISSING RELATIVE:

Number of dependents:

Male..... Female..... Total.....

Name and address of the dependents:

sl	Name	relation	ID	Birth date	occupation	whether disabled
1						
2						
3						
4						
5						

In case of a disabled child, provide details and documentation of disability:

.....

.....

Documents provided: photos national IDs

other

Dependents

Official Use Only:

DETAILS OF ASSISTANCE RECEIVED:

Provide details (source, date and amount) of financial assistance you have received:

1. Prime Minister Fund:
2. BGMEA:
3. Primark (through bKash):
4. Other sources:

Describe any medical treatment/job rehabilitation/other assistance received or scheduled to be received:

.....

.....

Describe details and reasons for any immediate assistance you or your family may need?

.....

.....

Other info:

Documents provided (if any):

Attach a separate statement describing non-financial assistance received and your current situation and needs.

Assistance

Official Use Only:

CLAIM FOR PERSONAL INJURY:

Full name of the Injured:

Details of your personal injury and the medical treatments received:

(Official Use Only)

1. Status and results of the medical assessment:
2. Whether urgent medical treatment or operation is required?

Documents provided:

Medical assessment complete:

Other info:

Attach a separate statement describing cause and circumstances of injury, if necessary

Injury

Official Use Only:	
CLAIM FOR DEATH OF A RELATIVE:	
Deceased's Full name:	
Date of birth:	Date of death:
Place of death:	
Circumstances of death:	
Relationship of deceased with claimant: <input type="radio"/> Spouse <input type="radio"/> Child <input type="radio"/> Parent <input type="radio"/> Other (specify)	
Documents provided: <input type="radio"/> death certificate <input type="radio"/> burial certificate <input type="radio"/> Deceased ID <input type="radio"/> other:	
Attach a separate statement describing cause and circumstances of death, if	
Death	

Official Use Only:	
CLAIM FOR A MISSING RELATIVE:	
Missing Person Full name:	
Date of birth:	Date of Missing:
Place of Missing:	
Circumstances of disappearance:	
Relationship of the missing person with claimant: <input type="radio"/> Spouse <input type="radio"/> Child <input type="radio"/> Parent <input type="radio"/> Other (specify)	
Documents provided: <input type="radio"/> ID <input type="radio"/> Witness statement <input type="radio"/> Other documents:	
Attach a separate statement fully describing the circumstances of disappearance.	
Missing	

Official Use Only:

AFFIRMATION AND SIGNATURE:

I, the undersigned, an injured worker, or a relative of a deceased or missing person, from Rana Plaza hereby affirm and solemnly declare as follows:

1. I understand that by submitting this claim to Rana Plaza Claims Administration, I consent to the review of my claim here; and that the award that will be issued and the payment(s) that may be made to me and members of my family in this regard will constitute a final decision on our claim and a full settlement of our rights to claim for compensation concerning the heads of losses claimed here.
2. I understand that the personal information provided by me and others herein, and in the accompanying interviews and documentation, will need to be used for the purpose of processing and payment of claims, and I hereby consent and authorize that this information be disclosed and used as necessary for that purpose.
3. I understand that the eventual payment that may be authorized by the Rana Plaza Coordination Committee, will be made from the Rana Plaza International Trust Fund and other sources to the extent that funds may be available. I also understand that any surplus in the Trust Fund, after the full payment of the awards, will be distributed among all the successful claimants.
4. The information and description provided in the claim forms are true to my knowledge.

.....
(Signature (s) of applicant (s) or thumb (s) mark)

I, _____, certify that the signature or thumb print above has been made in my presence and by the person who has been identified as above.

.....
(Signature (s) or thumb (s) print of certifying person)

Signature

Annex IV: Claims administration

Registration

The Rana Plaza Claims Administration (RPCA) initially considered the list compiled by the Rana Plaza Coordination Cell (RPCC). Many Rana Plaza victims residing in the areas surrounding Savar regularly visited the cell; by hearing about it through word of mouth, other victims came and registered with the RPCC.

The Secretariat of the National Skills Development Council (NSDC) allocated two RPCC officials to provide support to the RPCA four days a week. The RPCC was responsible for scheduling 50 claimants per day based on their list. RPCC officials and volunteers under their supervision called the claimants to inform them of their registration date 3–5 days in advance. Just before the registration day, a follow-up call was made by this team informing claimants regarding:

- Address and location of the RPCA office
- Reporting date and time
- Documents required for claims submission and opening a bank account

Once the RPCC list had been completed, phone calls were made based on the lists held by BGMEA, Primark and the Government to ensure that no victims were left out. The RPCC was then responsible for scheduling claimants for medical assessment at the Centre for the Rehabilitation of the Paralysed (CRP).

Claims intake in RPCA started on 24 March 2014. Claimants came to the RPCA office, collected a token from claims registration room. RPCC officials cross-checked that the claimant's name matched their schedule and made an initial screening of the required documents. Claimants from distant places and injured claimants were given priority in submitting claims, starting with family members of the deceased. Once the latter claims were covered, by the second week of May 2014, the RPCA started claims intake from injured victims.

Challenges

- It was difficult to make some claimants understand what the required documents were, as the majority of them had minimum education.
- The cell phone numbers of claimants provided to the RPCC were not operational when the RPCC called them for registration. Many victims use several cell phones and had switched off the SIM number provided to the RPCC.
- Some victims did not have enough money to cover transportation and accommodation costs and were therefore unwilling to attend the claims intake process.
- Due to the rainy season and the harvesting season occurring during the claims intake, some victims rescheduled their appointments.
- Some victims came with inadequate documents and had to return to their villages to collecting them from the appropriate authority.

Claims intake

Bangladesh Legal Aids and Services Trust (BLAST) was selected by the Rana Plaza Coordination Committee for the claims intake process on the basis of a proposal and terms of reference from BLAST. BLAST employed a team of seven paralegals, one senior paralegal and two supervisors taking turns so as to provide one supervisor at all times. The supervisors and the senior paralegal were employees of BLAST, the other paralegals being recruited by BLAST for this purpose. Two paralegals with a background of working for the Rana Plaza claimants were recommended by the Bangladesh Institute of Labour Studies (BILS). An orientation session was provided by the Executive Commissioner on the purpose of the IT team; the IT team then trained the BLAST team on how to input data into the database from the claims intake form.

During the four months from 24 March to 23 July 2014, approximately 50 claims per day (as per the RPCC) were processed. Eight claimants could be addressed at one time by the BLAST team. Each paralegal had to cross-check all the original documents brought by claimants as per the list approved by the Coordination Committee, and maintain a file containing copies of these original documents together with a photograph of the claimant. The paralegal also entered the data into the server and provided the claimant with a copy of the summary, reserving a copy of that summary signed by the claimant in the claimant's file.

The paralegals provided each claimant with a forwarding letter enabling them to open a bank account with the Dutch-Bangla Bank booth in the RPCA office, and each injured victim with a forwarding letter for medical assessment by the CRP.

The paralegals followed up claimants who submitted claims but lacked some documents.

The paralegal supervisors conducted mediation cases when required.

Challenges

- Claimants from villages were unwilling to come to RPCA on the scheduled date due to various reasons: the last weeks of May and June were the peak harvesting season; it took several days to collect the required documents; arranging for all dependants to come on the same day was difficult, etc.
- New Wave Bottom workers. Under the Arrangement, claims by New Wave Bottom workers were received by Primark under a separate mechanism. There were, however, a few New Wave Bottom workers whose claims had for various reasons not been addressed by Primark. The RPCA listed these claimants' information and shared their contact details with Primark.
- Transport and accommodation allowance. At its meeting on 12 May 2014, the Coordination Committee proposed to pay a travel and accommodation allowance of BDT 2,500 per claimant. With an average of 50 claims being processed each day, BDT 125,000 would be required in cash every day; it was not possible for the RPCA to handle such an amount and ensure zero corruption. Before the claims review, it was impossible to ensure that all claimants were eligible. By the time of the Coordination Committee meeting on 12 May, the majority of claims from family members of the deceased had already been submitted. From 8 May 2014 the CRP provided injured workers with food and accommodation, which made the proposal for the accommodation allowance less relevant.

Opening a bank account for claimants

Both the Dutch-Bangla Bank and BRAC bank submitted proposals to open and manage bank accounts for the claimants, and the Dutch-Bangla Bank was chosen by the Coordination Committee. The Bank provided this service free of charge, with claimants' accounts being set up as savings accounts with no charges except the Government's excise duty

Three or four Bank officials came each day to the RPCA office to open bank accounts for the claimants. Two volunteers supported the banking team in assisting claimants to fill up the relevant forms. Claimants were provided with an ATM card with a pin code on the day their claim was successfully submitted, and were briefed by bank officials on the importance of not sharing the pin code with anyone. Each of the dependants, including the minors, was provided with an individual account.

Challenges

- In the early days when the RPCA was dealing with the family members of 50 deceased workers per day, bank officials had to open 80–120 accounts per day, a very lengthy process.
- As some claimants were illiterate, the forms had to be filled in by the bank officials, and explaining the terms and conditions was time-consuming.
- During the claims intake, some claimants arrived who had already lost their ATM cards or whose cards had been forcibly from them (these were usually widows whose in-laws had taken their cards).
- Most claimants were unfamiliar with how to operate the ATM card.

Medical assessment

The Centre for Rehabilitation for the Paralysed (CRP) was selected by the Coordination Committee to carry out the medical assessments of the Rana Plaza injured workers. The term «injured worker» here refers to recovered, temporarily and permanently injured workers of Rana Plaza. Any claimant (even apparently fully recovered and non-injured) who was present at Rana Plaza on 24 April was offered the option of this medical assessment after claims submission. The assessment reflected claimants' current physical and psychological condition. Following an orientation session held by the EC and the RPCA on 14 May 2014, the CRP began medical assessments from 15 May 2014.

The CRP formed three multi-disciplinary teams (MDT) each comprising four members (a physician, a therapist, a nurse and a psychologist) to conduct the assessment following the Global Assessment of Functioning (GAF) scale, Functional Independence Measure and General Health Questionnaire (GHQ-28). In addition, the ILO expert team reviewed the medical assessment process (see section 6.7 above). The CRP consulted specialized doctors for an opinion as and when required for any particular claimant, and provided a percentage of functional disability and psychological disability.

The CRP began assessments with 20 claimants per day initially, but from the second week it conducted a minimum of 30 assessments per day, increasing to 70 per day at a later stage. Assessment forms were not saved in the server, but the hard copy medical files are preserved in CRP lockers for future reference of patients.

The claims intake in the RPCA office began started at 9:30 a.m.; by 11:00 a.m. the first group of eight claimants had submitted claims and applied for a bank account. The claims intake process took 40 minutes to an hour, depending on the number of dependants of each claimant. They received the ATM card 40 minutes after applying. This first group was then taken to CRP for the medical assessment, using CRP transport, with an average of 20 minutes travel time. If no further pathological tests were required, the first group of claimants could be free by 1:00 p.m.

As stipulated in its contract, the CRP provided the claimants with the option of food and accommodation on its premises. There was a backlog of approximately 350 claimants who had already submitted their claims before 15 May and had yet to complete their medical assessment. This group was covered by CRP by working overtime on working days and over the weekends.

Challenges

- Once the claims of family members of the deceased workers had been processed, the processing of the claims of injured and non-injured victims was initiated to maximize the capacity of the RPCA office. The medical assessment could not start at the same time; this created the above-mentioned backlog.
- Many claimants had not preserved their medical records for the period just after the incident.
- The CRP team faced difficulties for those cases which did not exactly match the functional scale they were using. For amputee cases, the Bangladesh Labour Act was used to assign percentages.
- Many claimants claimed to have higher levels of illness or disability than the medical assessment conducted by the physicians.
- The CRP team did not have a thorough orientation on the Bangladesh Scale developed by Primark to conduct medical assessment of New Wave Bottom workers. However, where required, they used this document for reference.

Claims review, verification and calculation

The claims review team (CRT) was composed of three barristers-at-law. For each claimant file, the CRT carried out the following actions:

- The hard copy file was cross-checked with the information in the database for each claimant.
- The salary stated by the claimant was cross-checked with the salary sheet provided by BGMEA to ensure that salary amounts matched.
- The minimum wage structure approved by the Government was cross-checked with the salary statement.
- For the deceased and missing, no salary statement or factory name was provided by BGMEA. For these groups, the CRT followed the average salary for that stated designation. The deceased list and missing list provided by the District Commissioner's (DC) office were considered as the basis for the RPCA verification of deceased claimants. For the missing workers, the lists from the Red Cross and the Army were also considered as supporting documents. The procedure followed by the DC office to verify the missing was developed and accepted by the commissioners.

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- Succession certificates and birth certificates were reviewed to ensure that dependants were eligible for an award as per the Coordination Committee's approved list of dependants.
 - The medical assessment report prepared by the CRP was reviewed and cross-checked to ensure that it reflected the disability percentage as per the Bangladesh Labour Act where applicable.
 - After completion of the review, steps were taken to proceed with the calculation of the award as per the VBA tool developed by the ILO experts in accordance with ILO Convention No. 121.
 - CRT members supported the EC in preparing reports for the Coordination Committee.

Challenges

- During the review, the CRT team identified cases where documents were missing. These cases were forwarded to an investigation team for further review and collection of the missing documents.
- Due to changes in the policy of award allocation after the review process started, the CRT team had to recalculate many awards to reflect the changes.
- After the initial payments of BDT 50,000 on 23 April 2014, the remaining BDT 50,000 payments required review by the CRT, which delayed the regular review process.

Accountant

The RPCA had two accountants.

- One accountant was responsible for all administrative expenses, handling petty cash and inventory management.
- The other accountant was responsible for payment to the claimants. For each payment instalment, the percentage to be disbursed was manually entered into the database. The accountant was responsible for issuing a disbursement report for each claimant, as well as issuing a Notice of Award. An expenditure report was prepared by this accountant according to the budget approved by the Coordination Committee.

Investigation team

Ain O Shalish Kendra (ASK) provided four volunteers to support the claims review process. Two volunteers were responsible for reviewing the pending 50,000 initial payment claims.

The investigation team initially focused on collecting the missing documents in the files of the deceased and injured. Later, they focused on the cases of missing victims. There were about 49 cases where the RPCA received claims but these claims were not found in the government-approved list (the DC office list). The investigation team assessed these files and collected documents from other organizations and from the claimants to come to a conclusion of these cases. These claim files were cross-checked against the claim files rejected by the DC office after investigation.

Under the supervision of the District Rehabilitation and Relief Officer (DRRO), a Dhaka list of missing victims was prepared. The RPCA prepared a note on the procedure followed by the DC office in order to investigate each of the «missing» claims.

Many of the claims in the RPCA were claims for the missing. However, as DNA tests results for the missing came in instalments, the portion of these claims whose DNA test results were positive could be treated as deceased cases. Many cases were found through positive DNA test results as of September 2014.

Summary of human resources

Executive Commissioner (international): 1

National Commissioner: 2

Claims reviewers: 3

Claims intake officials: 9 (8 paralegals, 2 supervisors by turn; March–July) 2 (August–December)

IT team: 3

Accountants: 2

Assistant to Executive Commissioner: 1

Project coordinator: 1

Coordination cell members: 2

Dutch-Bangla Bank officials: 3

Volunteers: 9

Cleaner: 1

Security guard: 1

Driver: 2

Annex V: Award Endorsement and Disbursement Authorization Procedure

The following is the text of the Rana Plaza Coordination Committee document *Award Endorsement and Disbursement Procedure*.

A. Endorsement of recommended awards

- (i) The CC shall endorse the Commissioners' recommended awards when presented with:
 - The Commissioners' signed decisions, a list of the awards made, and the amount awarded for each claimant.
 - The Commissioners' signed certification that recommended awards are based on claims submitted to them under the process for pre-counselling and assistance and with the informed consent of the claimant, and that they have reviewed and verified that the calculations are based on the Arrangement and decisions, rules and procedures of the CC and have approved the specific amounts allocated and apportioned in each case (Practical Guidelines 2–5).
 - Sufficient information in writing to the CC to explain how the awards are arrived at. The information to be provided in writing will include:
 - the total financial amount of awards, and the total amount of previously received financial assistance having been deducted or to be deducted (by type of deduction); as well as
 - a list of specific awards which excludes the name of the victim/claimant and includes the following elements: (1) with regard to each injured worker, sex, date of birth, wage at the time of accident, disability percentage of the injured worker and, if the disability is not permanent, the number of months of benefit payments, and previously received financial assistance having been deducted or to be deducted (type and amount of deduction); (2) with regard to each dead or missing worker, sex, date of birth, wage at the time of accident and the number of dependants of each dead or missing worker.

Where necessary, the CC may request further information from the Commissioners through the Executive Commissioner, including with respect to relation to the deceased, sex, date of birth of each dependent of the dead or missing worker, and previously received financial assistance having been deducted or to be deducted (type and amount of deduction).

 - ILO expert technical confirmation on matters within ILO's competence and, in particular, that the implementation of CC decisions on losses to be covered and access to medical care are consistent with ILO standards and decisions of the CC (Practical Guideline 1, 2).

- (ii) The CC's endorsement of the Commissioners' recommended awards and authorization of their disbursement will be without prejudice to the right of claimants to present a request for reconsideration of awards within 30 days from receipt of the Notice of Award (Practical Guideline 5). If a request for reconsideration on grounds of clerical, computational or factual error is made by a claimant within the 30-day

delay that results in a decision of the Commissioners to adjust a specific award, the Commissioners will notify the CC through the Chair of the particular award(s) concerned and present the adjusted award to the CC as soon as possible for its endorsement and authorization of disbursement (Practical Guideline 5).

B. Authorization of disbursement of awards

- (i) The CC shall fix the percentage to apply to the awards endorsed upon recommendation of the Executive Commissioner in collaboration with ILO. The disbursed amounts shall be equal to the entitlements (i.e., prior to any deduction) multiplied by the fixed percentage minus any amounts to be deducted. The CC may review the disbursement percentage for upward adjustment if additional funds are available, and authorize higher prorated disbursements. The CC may decide to use future additional funds to cover future medical cost which could be higher than the estimated amount.
- (ii) Once the CC has endorsed all awards and a final amount of overall funds needed is determined, any reserve left in the Trust Fund shall be paid equitably across all claimants whose awards are not fully paid in accordance with instructions from the CC. If all awards are fully paid, the funds will be paid equitably to all claimants in a manner to be decided by the CC.

C. Resolution of instruction of the Trustee, and Official Record

- (i) The CC shall adopt and issue a Resolution under this procedure: 1) endorsing the specific awards in each set of awards at their full value; 2) authorizing the disbursement of those awards in a fixed percentage by the Executive Commissioner.
- (ii) The Resolution shall be co-signed by the employer, union and Government representatives on the CC and, as may be authorized by the CC, other members.
- (iii) The Chair of the CC will transmit the Resolution to the Trustee for transfer from the Trust Fund to Dutch Bangla Bank in a total amount calculated based on the percentage determined by the CC. The Chair will also transmit the Resolution to the Executive Commissioner for effecting the payments in accordance with the CC resolution and to report to the CC on the payments made.
- (iv) A Notice of Award shall be prepared in each individual case and provided to the claimant. The Notices of Award are private and personal data and can only be produced by court order or by other operation of law. The Commissioners' decisions and reports on awards, list of awards, Notice of Award provided to each claimant, and the corresponding CC Resolutions, are records of the awards and shall be maintained as such by RPCA. Prior to closure of RPCA, the CC will agree on and make necessary arrangement with a national entity to receive and safeguard those records on behalf of the CC.