

THE EMPLOYMENT RELATIONS ACT 2008

**Regulations made by the Minister under section 93
of the Employment Relations Act 2008**

1. These regulations may be cited as the Road Haulage Industry (Remuneration) Regulations 2009.

2. In these regulations –

“continuous employment” means the employment of a worker under an agreement or under more than one agreement, where the interval between an agreement and the next does not exceed 28 days;

“driver” means a worker who –

- (a) drives a motor vehicle such as a lorry, a van or a trailer for the transport of equipment, goods or other materials and personnel; and
- (b) is the holder of a driving licence for the motor vehicle he is required to drive;

“driver grade I” means a driver who drives a motor vehicle of over 10 tonnes;

“driver grade II” means a driver who drives a motor vehicle of more than 5 tonnes but not more than 10 tonnes;

“driver grade III” means a driver who drives a motor vehicle of not more than 5 tonnes;

“earnings” –

- (a) means basic wages; and
- (b) includes –
 - (i) payment for work done in excess of a normal day's work or on a public holiday;
 - (ii) wages paid under paragraphs 2, 7, 8, 9, 10, 11 and 12(1)(a), (2) and (5) of the Second Schedule; and
 - (iii) any productivity payment;

“factory” –

- (a) has the same meaning as in the Occupational Safety and Health Act; and
- (b) includes any premises where –

- (i) saline water is processed for extraction of salt;
- (ii) a lime kiln is operated;
- (iii) aloe fibre leaves or thread are processed or treated;
- (iv) any article is adapted for sale;

“productivity payment” –

- (a) means all sums of money, including commissions, paid to any category of worker in respect of any work performed by him, over and above or in addition to the basic wages agreed between him and his employer, and related to productivity;
- (b) does not include payment of attendance bonus equivalent to a maximum of 10 per cent of the worker’s basic wages and any other payments such as meal allowance, transport allowance and allowances obtained on an ad hoc basis;

“road haulage industry” –

- (a) means the industry relating to the transport by van, lorry or trailer of equipment, building materials, personnel, goods and other materials;
- (b) includes the use of such transport by private owners or commercial and other firms and factories, in connection with their trade or business;
- (c) does not include –
 - (i) an export enterprise;
 - (ii) a distributive trade;
 - (iii) a light metal industry;
 - (iv) the sugar industry;
 - (v) the construction industry;
 - (vi) the baking industry;
 - (vii) the cinema industry;
 - (viii) the catering industry;
 - (ix) the nursing homes; and
 - (x) the tea industry;

“tanker driver” means a worker who drives a lorry tanker which is especially designed for transporting bulk petroleum products or gas, or both;

"tanker driver's assistant" means a worker who assists a tanker driver for the purpose of performing one or more of the following duties –

- (a) loading and unloading of petroleum products or gas, or both, onto or from the lorry tanker;
- (b) carrying out minor tasks related to the maintenance and good running of the lorry tanker;
- (c) assisting the tanker driver in manoeuvring the lorry tanker;

“vehicle assistant” means a worker who is wholly or mainly engaged in assisting the driver of a motor vehicle and who performs one or more of the following duties –

- (a) loading and unloading materials carried in the motor vehicle;
- (b) ensuring the safety of any cargo carried by the motor vehicle;
- (c) carrying out minor tasks related to the maintenance and good running of the motor vehicle, including changing a flat tyre and attending to the pressure of tyres;
- (d) assisting the driver in manoeuvring the motor vehicle;

“worker” means a person who has entered into or works under a contract of service with an employer in the road haulage industry, whether the contract is oral or in writing.

3. (1) Subject to regulation 6 and paragraph 2 of the Second Schedule, every worker shall be –

- (a) remunerated at the rates specified in the First Schedule; and
- (b) governed by the conditions of employment specified in the Second Schedule.

(2) The rates specified in the First Schedule are inclusive of the appropriate additional remuneration payable under the Additional Remuneration Act 2009.

(3) Where a scale of wage applies to a worker, he shall be entitled to –

- (a) the initial wages prescribed in the scale which applies to him; and

- (b) one increment in respect of every period of 12 consecutive months of service he reckons with his employer in the category in which he is employed.

4. Any agreement by a worker to relinquish his right to a paid holiday or to forego such leave shall be void.

5. A driver may, for the motor vehicle he is required to drive, be required by his employer to –

- (a) keep that motor vehicle clean and in good running order;
- (b) carry out daily routine maintenance and checks;
- (c) report any mechanical defects promptly to his employer;
- (d) make minor repairs and help the motor mechanics when his motor vehicle is under repair.

6. Nothing in these regulations shall –

- (a) prevent an employer from paying a worker remuneration at a rate higher than those specified in the First Schedule or from providing him with conditions of employment more favourable than those specified in the Second Schedule; or
- (b) authorise an employer to reduce a worker's remuneration or to alter his conditions of employment so as to make them less favourable.

7. The Road Haulage Industry (Remuneration Order) Regulations 1989 are revoked.

8. These regulations shall come into operation on 1 November 2009.

Made by the Minister on 20 October 2009.

FIRST SCHEDULE
[Regulation 3(1)(a)]

Category of worker	Year of service	Monthly basic wages Rs
Tanker driver	1 st Year	7,695
	2 nd Year	7,870
	3 rd Year	8,045
	4 th Year	8,220
	5 th year	8,420
	6 th year	8,620
	7 th year	8,820
	8 th year	9,020
Tanker driver's assistant	1 st Year	5,645
	2 nd Year	5,770
	3 rd Year	5,895
	4 th Year	6,020
	5 th year	6,145
	6 th year	6,270
	7 th year	6,420
	8 th year	6,570
Driver grade I	1 st Year	6,975
	2 nd Year	7,150
	3 rd Year	7,325
	4 th Year	7,500
	5 th year	7,675
	6 th year	7,850
	7 th year	8,025
	8 th year	8,200

Category of worker	Year of service	Monthly basic wages Rs
Driver grade II	1 st Year	6,705
	2 nd Year	6,855
	3 rd Year	7,005
	4 th Year	7,155
	5 th year	7,305
	6 th year	7,480
	7 th year	7,655
	8 th year	7,830
Driver grade III	1 st Year	6,470
	2 nd Year	6,620
	3 rd Year	6,770
	4 th Year	6,920
	5 th year	7,070
	6 th year	7,220
	7 th year	7,395
	8 th year	7,570
Vehicle assistant	1 st Year	6,035
	2 nd Year	6,160
	3 rd Year	6,285
	4 th Year	6,435
	5 th year	6,585
	6 th year	6,735
	7 th year	6,885
	8 th year	7,035

SECOND SCHEDULE

[Regulation 3(1)(b)]

1. Normal working hours

(1) A normal working week of a worker shall consist of 45 hours of work, excluding time allowed for meal breaks and tea breaks, and shall be made up of –

- (a) 8 hours of work a day during 5 days of the week, other than a public holiday; and
- (b) 5 hours on any day of the week, other than a public holiday.

(2) A worker shall not be required to resume work on any day before a lapse of 10 hours after he has ceased work.

(3) Every worker shall be entitled on every day he works to –

- (a) a meal break of one hour;
- (b) two tea breaks of 10 minutes each, the first to be taken not earlier than 2 hours before lunch and the second not later than 2 hours after lunch.

2. Piece work

(1) Subject to subparagraph (2), a worker may be required to perform piece work for his employer at such rates, to be agreed upon between them, which shall not be less than a sum exceeding the relevant rate specified in the First Schedule by 10 per cent.

(2) Where a worker is required to perform piece work on a public holiday or in excess of a normal day's work, he shall be paid at a rate which shall not be less than a sum exceeding that to which he would be entitled under paragraph 3 by 10 per cent.

3. Extra work

(1) A worker who –

- (a) works on a public holiday shall be paid –
 - (i) for the first 8 hours of work, at twice the basic rate per hour;
 - (ii) thereafter, at 3 times the basic rate per hour; or
- (b) performs more than a normal day's work on any other day shall be paid at one and a half times the basic rate per hour.

(2) A worker may be required to perform up to 10 hours extra work per week, exclusive of any work done on a public holiday.

4. Meal allowance

(1) Where a worker is required to perform extra work after a normal day's work –

- (a) up to at least 19.00 hours; or
- (b) for a period of at least 2 hours and extending to at least 18.00 hours,

he shall, in addition to any payment due under paragraph 3, be provided with an adequate free meal or a meal allowance of 50 rupees.

(2) The meal allowance shall be paid to the worker before the performance of the extra work.

5. Notional calculation of basic rate

For the purpose of determining payment due for extra work or for any other cause –

- (a) a month shall be deemed to consist of 26 days of work;
- (b) a day shall be deemed to consist of 8 hours.

6. Payment of wages

(1) Every worker shall be paid his wages during working hours and not later than the last working day of the pay period.

(2) Every employer shall, 2 days before payment of wages to a worker, issue to him a payslip stating, *inter alia* –

- (a) the worker's name, category, job title, grade, rates of pay and national identity card number;
- (b) the total number of days he was present at work;
- (c) the number of hours of extra work performed by him and the corresponding extra payment;
- (d) his total wages and each item of allowance including any productivity payment; and
- (e) every deduction made and the reason thereof.

7. Annual leave

(1) Where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall, in the following 12 months, be entitled to 14 days' annual leave on full pay.

(2) (a) Seven days of the annual leave may be taken consecutively at such time as the worker may, on application made to and approved by the employer, elect.

(b) The remaining 7 days shall be taken at such time as the worker and the employer may agree or, in default of agreement, at such time as the employer may determine.

(c) A worker who wishes to take more than one day's annual leave shall give his employer not less than 7 days' written notice.

(d) A worker who has been absent from work for one day may elect to have it reckoned as one day of his annual leave.

(3) (a) Subject to sub-subparagraph (b), a worker shall be paid a normal day's pay in respect of each day's annual leave still due to him at the end of a period of 12 consecutive months.

(b) A worker shall not be entitled to a normal day's pay as specified in sub-subparagraph (a) where he has been dismissed from his employment for misconduct.

8. Sick leave

(1) Subject to subparagraph (2), where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled, during the next period of 12 months while he remains in the continuous employment of the same employer, to –

(a) 21 days' sick leave on full pay; and

(b) a further period of 15 days' sick leave on half pay, provided that –

(i) he is admitted to a public or private hospital; or

(ii) a medical practitioner of a public or private hospital certifies that he needs time for the recuperation of his health after his discharge from the hospital.

(2) (a) Where a worker is absent on grounds of sickness, he shall, except where his employer is aware of the nature of the sickness, notify his employer of his sickness as soon as possible.

(b) Where a worker is sick for more than 4 consecutive days, he shall forward to his employer a medical certificate –

- (i) within 3 days following his discharge, where the worker was admitted to a public or private hospital; or
- (ii) on the day following the fourth day of absence, in any other case.

(3) An employer may, at his discretion and at his own expense, cause a worker who is absent on grounds of sickness to be medically examined by a medical practitioner of his choice.

9. Special leave

Where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled to –

- (a) 6 days' special leave on full pay on the occasion of the celebration of his first religious or civil marriage;
- (b) 3 days' special leave on full pay on the occasion of the religious or civil marriage of his son or daughter;
- (c) 3 days' special leave on full pay on the death of his spouse, child, father, mother, brother or sister.

10. Vacation leave

(1) A worker who remains in continuous employment with the same employer for a period of at least 10 years shall be entitled to a vacation leave of 2 months.

(2) Subject to subparagraph (1), at least one month of the vacation leave shall be with pay, and such pay shall, in case a worker intends to spend his vacation abroad, be effected in advance and at least 7 days before he proceeds abroad.

- (3) A vacation leave shall be deemed to constitute attendance at work.

11. Public holidays

(1) Where a worker, other than a monthly paid worker, remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled, in the following 12 months, to a normal day's pay in respect of every public holiday, other than a Sunday, that occurs while he is in the service of the employer and on which he is not required to work.

(2) Where a worker who would otherwise have been entitled to a normal day's pay under subparagraph (1) or a monthly paid worker is required to work on a

public holiday, other than a Sunday, he shall be paid at the end of the next pay period one normal day's pay in addition to any remuneration due under paragraph 3.

12. Maternity benefits

(1) A female worker who remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding her confinement shall, on production of a medical certificate, be entitled to –

- (a) 12 weeks' maternity leave on full pay, to be taken either –
 - (i) before confinement, provided that at least 6 weeks' maternity leave shall be taken immediately following the confinement; or
 - (ii) after confinement; and
- (b) an allowance of 2,000 rupees, payable within 7 days of her confinement.

(2) A female worker who remains in continuous employment with the same employer for a period of 12 consecutive months gives birth to a still-born child and the still-birth is duly certified by a medical practitioner, she shall be entitled, upon the recommendation of her medical practitioner, to opt either for –

- (a) 2 weeks' maternity leave on full pay; or
- (b) 12 weeks' maternity leave on full pay.

(3) Where a female worker opts for 12 weeks' maternity leave on full pay under subparagraph (2)(b), it shall be deemed that she has taken paid leave due for one confinement.

(4) A female worker who had at any time 3 confinements or reckons less than 12 months' continuous employment shall not be entitled to the benefits specified in subparagraph (1)(b), but shall be entitled to the maternity leave specified in subparagraphs (1)(a) or (2), as the case may be, without pay.

(5) Where a female worker suffers a miscarriage, which is duly certified by a medical practitioner, she shall be entitled to 2 weeks' maternity leave on full pay immediately after the miscarriage.

(6) Where a female worker enters into her seventh month of pregnancy, she shall be offered, as far as is reasonably practicable and at her request, all appropriate working facilities as recommended by a medical practitioner.

(7) A female worker who is nursing her unweaned child shall, for that purpose, be entitled to at least –

- (a) 2 breaks of half-hour; or
- (b) one break of one hour,

every day and at any time convenient to her.

- (8) The break specified in subparagraph (7) shall –
 - (a) be for a period of 6 months from the date of confinement or such longer period as may be recommended by a medical practitioner; and
 - (b) not be deducted from the number of hours of work of the female worker.

13. Protective equipment

- (1) Every employer shall provide –
 - (a) a plastic raincoat with a hood every 2 years to every worker who is required to work in an open vehicle not fitted with a fixed canopy or a properly secured canopy-like metal structure supporting a tarpaulin of adequate size; and
 - (b) 2 uniforms, a pair of shoes and a beret or cap every year to every worker.

(2) The employer shall provide the protective equipment referred to in subparagraph (1) as soon as the worker assumes duty.

(3) The protective equipment provided under subparagraph (1) shall remain the property of the employer.

14. Transport benefits and facilities

(1) An employer shall, where the distance between a worker's residence and his place of work exceeds 3 kilometres, provide the worker with free transport from the worker's residence to his place of work and from the worker's place of work to his residence, or pay him the equivalent of the return bus fare.

(2) An employer shall, irrespective of the distance between a worker's residence and his place of work, provide the worker with free transport from the worker's residence to his place of work and from the worker's place of work to his residence, where the worker is required by his employer to attend or cease work at any time when no public service bus is available.

(3) Subject to subparagraph (2), where the distance between a worker's residence and his place of work exceeds 3 kilometres and where the worker attends work by his own means of transport, he shall be entitled to an allowance equivalent to the corresponding return bus fare.

15. End of year bonus

(1) Where a worker remains in continuous employment with the same employer in a year, he shall, at the end of that year, be entitled to a bonus equivalent to one-twelfth of his earnings for that year.

(2) Every worker who –

- (a) takes employment during the course of the year;
- (b) is still in employment as at 31 December; and
- (c) has performed a number of normal days' work equivalent to not less than 80 per cent of the working days during his employment in that year,

shall be entitled at the end of that year to a bonus equivalent to one-twelfth of his earnings for that year.

(3) Seventy-five per cent of the expected bonus specified in subparagraphs (1) and (2) shall be paid not later than 5 clear working days before 25 December and the remaining balance not later than on the last working day of the same year.

(4) For the purpose of this paragraph, a day where a worker –

- (a) is absent with his employer's authorisation;
- (b) reports for work but is not offered work by his employer; or
- (c) is absent on grounds of –
 - (i) illness after notification to his employer under paragraph 8(2); or
 - (ii) injury,

shall count as a working day.

16. Attendance bonus

(1) Every worker who, during a period of one month, does not absent himself from work on any day on which he is required to work, shall be entitled at the end of that month to an attendance bonus of not less than 10 per cent of the basic wages he has earned for that month.

(2) For the purpose of subparagraph (1), absence on annual leave or leave following injury arising out of and in the course of employment shall not be reckoned as absence from work.

17. Gratuity on retirement before the age of 60 on medical grounds

(1) Subject to subparagraph (2), an employer shall pay a gratuity to a worker where the worker retires before the age of 60 on grounds of permanent incapacity to perform his work and where such incapacity is duly certified by a government medical practitioner, irrespective of any benefits the worker may be entitled to under the National Pensions Act.

(2) A worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of not less than 10 years.

(3) The gratuity referred to in subparagraph (1) shall be –

(a) calculated on the basis of 15 days' basic wages per year of service of the worker; and

(b) paid in a lump sum.

(4) In this paragraph –

(a) years of service shall be computed as from the first day of the period during which a worker has been in continuous employment with the same employer up to his last day of employment;

(b) "basic wages" means a worker's last drawn basic wages.

18. Gratuity at death

(1) Subject to subparagraph (2), where a worker dies, an employer shall pay a gratuity to the spouse of the deceased worker or, where there is no surviving spouse, in equal proportions to the dependants of the deceased worker, irrespective of any benefits the spouse or the dependants of the deceased worker may be entitled to under the National Pensions Act.

(2) A worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of not less than 10 years.

(3) The gratuity referred to in subparagraph (1) shall be –

(a) calculated on the basis of 15 days' basic wages per year of service of the deceased worker; and

(b) paid in a lump sum.

(4) In this paragraph –

(a) years of service shall be computed as from the first day of the period during which a deceased worker has been in continuous

employment with the same employer up to his last day of employment;

- (b) “basic wages” means a deceased worker’s last drawn basic wages;
- (c) “spouse” means the person with whom a deceased worker had contracted a civil or religious marriage and with whom he was living under a common roof at the time of his death; and
- (d) “dependant” means any person who was living in a deceased worker's household and was wholly or partly dependent on his earnings at the time of his death.

19. Death grant

(1) Subject to subparagraph (2), where a worker dies, his employer shall pay a gratuity of 3,500 rupees to the –

- (a) surviving spouse of the deceased worker for funeral purposes; or
- (b) person, where the deceased worker leaves no surviving spouse, who satisfies the employer that he has borne the funeral expenses.

(2) A worker referred to in subparagraph (1) shall have been in continuous employment with the same employer for a period of 12 consecutive months.

(3) In this paragraph, “spouse” means the person with whom a deceased worker had contracted a civil or religious marriage and with whom he was living under a common roof at the time of his death.

20. Court proceedings

(1) Where fines are imposed by a Court of law –

- (a) due to the state of the vehicle which a driver is required to drive, such fines shall be borne by the employer;
- (b) due to the conduct of a driver, such fines shall be borne by the driver.

(2) Remuneration shall be paid by the employer in respect of –

- (a) any period spent by a worker in going to, attending or returning from a court in relation to proceedings in which he has been acquitted of an offence;

- (b) any period spent by a worker in going to, attending or returning from a court in relation to proceedings arising out of the state of the vehicle he is required to drive, irrespective of the verdict.
