

## **Complaint – Nudie Jeans, Mini Rodini, Manroof, Continental Clothing – India**

### **Status: Resolved**

*FWF is responsible for setting up a complaints procedure in production countries where FWF is active. The complaints procedure allows third parties to make complaints about the working conditions or the way the Code of Labour Practices is implemented in factories which supply FWF members.*

*The responsibility of FWF includes investigating the complaint, verifying whether the agreed corrective action plan is implemented and public reporting. This complaint report gives an overview of a complaint filed to FWF, the investigation and agreed corrective action plan as well as how the outcome is verified. For more information on the complaints procedure see the FWF website. FWF also publishes an overview of complaints received in its annual reports.*

### **1. Members involved**

Nudie Jeans, Mini Rodini, Manroof, Continental Clothing

### **2. Accused party**

A factory located in India supplying Nudie Jeans, Mini Rodini, Manroof, Continental Clothing.

### **3. Date of receiving complaint**

The complaint was received by FWF through its local complaints handler in India on 8<sup>th</sup> January 2016.

### **4. Filing party**

One employees of the factory, details of the identity are known to FWF. The worker agreed to disclose his identity to factory management.

### **5. The complaint**

According to the complainant, he joined the factory in June 2013 as a production worker. In August 2013, he and another worker were asked by an engineer of the factory to do repair work on a pipe at the end of the working day. The chair that was used to reach the pipe was old and collapsed while the workers were standing on it. Due to this accident, one worker fractured his hand, the other (the complainant) his spine.



The workers were found after approximately 20 minutes and brought to the hospital.

After the accident, management paid all medical expenses for both workers. In exchange, the workers, according to the complainant, were asked by lawyers working for the factory to sign documents in Tamil language and asked not to register a complaint with the police. The complainant is not aware of the exact content of the signed papers as he is a migrant worker and does not speak Tamil. The complainant claims that management promised him insurance/compensation payment in addition to the medical bills. The worker is not covered under ESI scheme (social security).

In December 2013, FWF became aware of the accident, but could not find a non-compliance at the time as all medical bills had been covered and the worker had been kept in the factory for different work (housekeeping).

In January 2016, the worker called FWF explaining that his condition has worsened and that by now he is only able to work around 12 days a month (in housekeeping) due to his spine injury. He is employed as a daily wagger receiving INR 225 per day. He could not show any medical documents or diagnosis of his current state of health as all documents regarding this are kept by factory management. The worker himself only has an appointment letter and an identification card.

The second worker involved in the accident has left the factory in the meantime.

Due to his health problems, he would like to resign and has asked management multiple times for the promised insurance/compensation payment, which was denied.

## 6. Admissibility

FWF decided that the case is admissible on 13<sup>th</sup> January 2015.

The factory is an active supplier of Nudie Jeans, Mini Rodini, Manroof, Continental Clothing; members of FWF.

The case is relevant to the following labour standards of FWF's Code of Labour Practices:

- Safe and health working conditions
- Legally binding employment relationships

## 7. Investigation

FWF informed Nudie Jeans about the complaint on 14<sup>th</sup> January 2016. The other FWF member brands were informed later on, when FWF clarified whether they were currently sourcing from the factory. Nudie Jeans remained the main contact point with FWF and the factory during the complaint handling process.

Through the contact with Nudie Jeans, FWF established that the factory mainly confirmed the worker's version of events concerning the accident.

The factory had paid all medical bills so far and continued to employ the worker while his treatment was ongoing. 25% of his salary from August 2013 to August 2014 was paid as compensation. As the area, where the factory is registered was not covered under the



ESI scheme, the factory had taken up an insurance policy for workers, which also covered work accidents.

A hospital certificate from August 2015 confirmed that the worker was permanently disabled at a rate of 8%. The hospital also confirmed that he was fit to resume work from August 2015 onwards, but should avoid heavy manual work for another six months.

The factory had applied for compensation payment at the insurance company in November 2015. Beyond the medical bills and the 25% of salary for a year, no compensation had been paid to the worker yet by factory management as the factory wanted to wait until the treatment had been finalised. Factory management was unaware that the worker wanted to leave the factory. FWF then found out that the worker did not approach factory management about his wish to resign and collect the due compensation, but only his contractor, who was unwilling to follow up. The complainant did not explain why he did not approach factory management directly.

FWF could not determine whether the worker was asked not to register a complaint with the police at the time of the accident in 2013 in exchange for payment of medical bills by the factory.

By consulting a legal expert as well as an experienced FWF document inspector, FWF established on March 7<sup>th</sup> 2016 that the factory, since the area was not covered under ESI, would fall under the Indian Employee's Compensation Act.

This Act specifies that injured workers must receive a half-monthly payment as soon as it falls due, which means right after or shortly after the accident. Once the degree of disablement has been determined (which has been done with the disablement certificate in August 2015), the worker needs to receive a lump-sum payment (from which the half-monthly payments will be deducted). The Act provides for payment of interest on the compensation amount as well as a penal hike of fifty percent if there is no justification for the delay, if it is not paid within one month from the date it falls due.

This compensation must be paid directly by factory management to the worker. Factory management may claim that amount from the insurance company later on, but according to the Act the worker must not wait until the insurance releases the payment.

FWF calculated the compensation amount, including an interest rate according to the Act as the worker only received 25% of his salary instead of the legally required 50% and the payment of the lump-sum compensation was delayed. Deducting past payments that were already received, the worker was still entitled to a compensation of Rs. 68 423.

In addition, FWF concluded that the Act includes the responsibility of factory management to inform the Commissioner or another government authority about the accident. Factory management had informed local police authorities.



## 8. Remediation

- The complainant must receive the outstanding compensation amount of Rs. 68 423 without further delay.
- The factory must ensure that workers in similar cases are compensated according to the Employee's Compensation Act.
- The Commissioner should be informed about work accidents at the site in the future.
- Workers must receive copies of legally binding documents and agreements, in a language that they are able to understand.
- Workers should always be free to register complaints with the police or other parties, regardless of whether the factory compensates medical treatment or other payments.

## 9. Verification

FWF verified that factory management released the outstanding compensation amount on March 21th 2016.

The remaining remediation points will be verified in future FWF audits.

## 10. Evaluation by the complaint

The complainant confirmed that he received the compensation amount and thanked FWF for its support in the matter.