

Circular No – 016/2026

Date: 12.03.2026

To
All Members of The Association

SUPREME COURT HOLDS THAT OVERTIME WAGES UNDER SECTION 59 OF THE FACTORIES ACT SHOULD BE PAID ON GROSS WAGES

1. Hon'ble Supreme Court in his judgment dated 20.01.2026 in the case of **Union of India Vs. Heavy Vehicles Factory Employees Union (2026 LLR 249)** ruled that for calculating overtime under Section 59(2) of the Factories Act, 1948, the "ordinary rate of wages" must include all allowances paid to the employee except bonus and wages paid for overtime work.
2. The facts of the case in brief are that the owner ministry of Heavy Vehicles Factory had issued a notification about the payment of overtime wages under section 59 of the Factories Act and the notification specified what are the components of wages to be included or excluded for the purpose of calculation of ordinary rate of wages in order to determine the wages payable for overtime work done by an employee. The circular excluded the allowances such as House Rent Allowance (HRA), Transport Allowance (TA), Clothing & Washing Allowance (CWA), and Small Family Allowance (SFA).
3. The gist of the observations of the Hon'ble Supreme Court are given below:
 - An employee cannot be permitted to volunteer to work beyond the prescribed hours.



- An employer cannot plead that the workmen should be denied benefit of their extra work.
- An interpretation which restricts or curtails benefits available to workers under the Act must be avoided.
- As per provisions of section 59(2) of the Act, "ordinarily rate of wage" includes basic wages plus such allowances for which the worker for the time being is entitled to.
- When the statute provides for only two specific exclusions, i.e. bonus and wages for overtime work, in the absence of any formal rules governing the exclusion of other entitlements, the executive cannot through a mere office memorandum, read additional exclusions into the Act that the Legislature did not contemplate."

For KARNATAKA EMPLOYERS' ASSOCIATION
Sd/
[B C Prabhakar]
President