

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Jammu/Srinagar

Subject: Claim petition titled Abdul Hamid Kasana vs. DGP and another- sanction for drawal of award amount.

Reference:- Legal/CP-07/S/2013/28933-35 dated 24.05.2022.

GOVERNMENT ORDER NO : HOME-²⁷⁴ of 2022
D A T E D : 08 . 08 . 2022

Whereas, on 17.07.2013, a Police Vehicle (407) bearing Reg. No. JK01P-8872 carrying a detinue namely, Shakeel Ahmad Kasana to a Court in Baramulla came under militant attack near Batamaloo, Srinagar, resulting in grievous injuries to the detinue and other persons in the vehicle. The detinue was shifted to the Govt. SMHS Hospital, Srinagar wherefrom he was referred to the SKIMS, Srinagar for further treatment. The detinue, however, succumbed to his injuries on the same date i.e, 17.07.2013; and

2. Whereas, the dependents/legal heirs of the deceased detinue filed a claim petition in the Hon'ble Motor Accidents Claims Tribunal (MACT), Srinagar titled *Abdul Hameed Kasana vs. State of J&K and others*, arraying the Commissioner/Secretary to the Government, Home Department and the DGP, J&K, as the respondents. The petitioners prayed for compensation to the tune of Rs. 95 lacs from the respondents under various heads; and

3. Whereas, the Hon'ble Tribunal by virtue of an interim order dated 26.11.2014, granted an interim compensation to the tune of Rs.50,000/- in favour of the petitioners on the principle of "No Fault Liability", which was sanctioned vide Government Order No. Home-64 of 2016 dated 05.02.2016; and

4. Whereas, the matter was contested by the respondents by way of filing of objections, resisting therein the claim of the petitioner for grant of compensation on various grounds. The Hon'ble Tribunal framed issues and on appreciation of the evidence/hearing the parties, vide its judgment/award dated 16.07.2020 awarded an amount of Rs. 8,66,000/- minus interim compensation, if any paid alongwith interest @7.5% on the award amount from the date of institution of the claim petition till its final realization; and



5. Whereas, upon examination of the judgment *ibid*, in consultation with the Department of Law, Justice and PA and the Police Headquarters, J&K (PHQ), it was decided to file an appeal in the Hon'ble High Court against the judgement/award dated 16.07.2020, which was filed by the PHQ. Further, statutory amount to the tune of Rs, 25,000/- was sanctioned for filing of the said appeal, vide Govt. order No. 197- Home of 2021 dated 31.08.2021; and
6. Whereas, the Hon'ble High Court upon consideration of the matter, vide its order dated 21.10.2021 observed that there is a delay of 327 days in filing of appeal and accordingly dismissed the condonation of delay application (COD) filed by the appellants, as a consequence of which, the appeal was also dismissed. However, the Hon'ble Court reduced the interest on the awarded amount from 7.5% to 6% PA; and
7. Whereas, upon further examination of the matter with reference to the order dated 21.10.2021 passed by the Hon'ble High Court, it was observed that the COD application was wrongly dismissed by the Hon'ble High Court in view of the order dated 23.09.2021 passed by Hon'ble the Supreme Court in Miscellaneous Application No. 665 of 2021 In SMW(C) No. 3 of 2020 IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION relating to extension in period of limitation; and
8. Whereas, the matter was taken up with the Department of Law, Justice and PA, which advised to file a review petition against the order dated 21.10.2021 passed by the Hon'ble High Court. Accordingly, a review Petition against the order dated 21.10.2021 was filed by the PHQ in the Hon'ble High Court at Srinagar on behalf of UT of J&K, which upon consideration by the Hon'ble High Court was disposed of vide order dated 27.04.2022, inter alia, observing that the Hon'ble Court do not find any error, apparent on the face of the record, in the order dated 21.10.2021, as would warrant its recall on review.
9. Now, therefore, Sanction is hereby accorded to the drawl of an amount of Rs. 12,15,083/- including interest @ 6% in claim petition titled *Abdul Hamid Kasana vs. State and others* by the Director General of Police, J&K Srinagar as 'Award Amount' under Major Head 2055-Police, Detailed Head '633' "Compensation" during financial year 2022-23 enabling him to deposit the amount before the Hon'ble MACT, Srinagar.
10. The expenditure shall be booked after observing all the codal provisions and vouchsafing the availability of funds under the detailed Head- 633 - Compensation below Major Head 2055-Police.



The expenditure shall be booked under following classification :-

Demand No..	02
Head of Department.	0201-Director General of Police
Major Head.	2055-Police
Sub-Major Head.	00-NA
Minor Head	001-Direction and Administration
Group Head	0099 General
Sub Head	0789-Director General of Police
Detailed Head	633-Compensation

By order of the Government of Jammu and Kashmir.

Sd/-

(R.K Goyal), IAS

Financial Commissioner/
Additional Chief Secretary

No:- HOME-ACC07/7/2020-FIN-HOME (CC-5517)

Dated: 08.08.2022

Copy to the:-

1. Financial Commissioner/(Additional Chief Secretary), Finance Department J&K.
2. Director General of Police, J&K, Srinagar.
3. Principal Accountant General , J&K, Srinagar.
4. Treasury officer, Civil Secretariat Treasury.
5. Financial Advisor/CAO, PHQ for information and necessary action.
6. I/c Website Home Department.
7. Government Orders file.(w.2.s.c.).

(Manoj Gupta)

Financial Advisor/CAO,
Home Department, J&K.