



**Government of Jammu and Kashmir
Home Department, Civil Secretariat, Jammu**

Sub:- Claim petition titled Sunita Devi and ors vs State and others.

Ref:- i) PHQ Letter No. Legal/CP-04/J/2016/21762-63 dated 20.03.2017.
ii) PHQ Letter No. Legal/CP-04/J/2016/66251-53 dated 03.10.2018.
iii) PHQ Letter No. Legal/ CP-04/J/2016/71649-50 dated 25.10.2018.

Government Order No. Home-33 of 2019.

D A T E D: 09 .01.2019.

1. Whereas, on 10.06.2016, an accident had occurred at Bikram Chowk, Jammu involving the vehicle (Police Van) bearing Registration No. JK02AD-8452. In the said mishap, Shri Vijay Kumar S/o Sewa Ram R/o Purkhoo Garhi, Jammu, was hit and injured seriously and subsequently succumbed to his injuries on the same date.
2. And whereas, a claim petition was preferred by the legal heirs of the deceased before the Hon'ble MACT Jammu titled Sunita Devi and others vs State and others.
3. And whereas, Hon'ble MACT Jammu vide its order dated 28.02.2017, granted interim compensation on the basis of 'No fault Liability' in favour of the petitioners in the following terms:
“ **The essential requisites for grant of interim compensation on the basis of 'No fault liability' stand fulfilled in the instant matter. As such, the prayer is accepted and respondent No.1 is directed to pay Rs.50000/- as interim compensation to the petitioners within two months from the date of this order, failing of which the petitioners shall be entitled to recover the same with interest @8% from the date of this order till its realization. Copy of this order be sent to respondent No.1 through its counsel for compliance. Application stands disposed off accordingly. The same shall form a part of the main petition.**”

4. And whereas, vide Govt. Order No. 419-Hoem of 2017 dated 18.04.2017, sanction was accorded to the drawal of an amount of Rs.50000/- in favour of Director General of Police, J&K to deposit the same before Hon'ble MACT, Jammu as interim compensation in the instant claim petition.

5. And, whereas, the Hon'ble MACT, Jammu disposed of the claim petition in favour of the petitioners vide order dated 04.05.2018 and granted a compensation of an amount of Rs.1132416/- (Rupees eleven lakh thirty two thousand four hundred and sixteen only) in favour of the petitioners. The operative part of the judgment reads as under;

“ Accordingly the petitioners are held entitled to compensation under various heads as detailed under:

(i) Loss of dependency	Rs.1102416/-
(ii) For funeral expenses	Rs.15000/-
(iii) For loss of estate	Rs.15000/-
Total	Rs.1132416

It is apt to mention here that offending vehicle is of police department and was not insured with any insurance company. Since the respondent No.02 was under the employment of respondent No. 01 shall be liable to pay the compensation.

The claim petition succeeds and is accordingly allowed. The petitioners are held entitled to compensation as detailed above as against respondents. The award shall carry interest @7.5% per annum from the date of filing of petition till its final payment. Interim compensation, if any, paid shall accordingly be deducted from above mentioned.

The amount shall be shared by the petitioners in equal shares. However, the share of the minor children shall be kept in fixed deposit in the bank till they attain the majority.

Interest proportionate to the award shall be paid to the petitioners.

Claim petition is accordingly disposed of and file be consigned to records after due completion.”

7. And, whereas, PHQ, vide communication dated 03.10.2018, furnished a calculation sheet wherein an amount of Rs.1247449/- (including interest) was indicated as due to the petitioners .

7. And, whereas, the matter was referred to the Department of Law, Justice & Parliamentary Affairs Vide U.O dated 30.11.2018, for opinion on the quantum of award passed by the Hon'ble MACT, Jammu in the instant matter.

8. And, whereas, the Department of Law, Justice & Parliamentary Affairs, returned the case vide U.O No. LD(Lit)2010/105-Home dated 07.01.2019 with the advice in the following terms:
- “ Returned: Perusal of judgment dated 04.05.2018 passed by the Hon’ble MACT, Jammu in claim petition titled Sunita Devi and others vs State and others, would reveal that all the issues framed by the Hon’ble Court have been decided in favour of the petitioner and against the respondents. The Hon’ble Court while deciding the issue of compensation has observed that there is no proof of income of the deceased. The deceased is taken to be a labourer. He was hit by the police van, which was being driven rashly and negligently by its driver respondent. Taking into consideration the then rule position and prevailing circumstances his income was taken to be Rs.7000/- per month as per the guidelines of the Labour Department. The Tribunal accordingly on the basis of above observation and the law laid down by the Hon’ble Supreme Court in Pranay Sethi’s case, AIR 2017 SC 5157 has passed an award.**
- The award passed by the Ld. Tribunal in the instant case after perusing the entire records available in the departmental file is reasonable and calls for no further judicial scrutiny as the chances of its reversal are meagre.”
9. Now, therefore, in view of the above, sanction is hereby accorded to the drawal of award amount of Rs.1247449/- (Rupees twelve lakh forty seven thousand four hundred and forty nine) only in claim petition titled Sunita Devi and others vs State and others in favour of Director General of Police , J&K, Jammu under Major Head: 2055-Police, Non-Plan (Normal), Detailed Head “633-Compensation”, for the current financial year 2018-19 enabling him to deposit the award amount with the Hon’ble MACT, Jammu.
16. 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 Classified as under:-

Demand No.	02
Head of Department	01-Director General of Police
Major Head	2055-Police
Sub-Major Head	00
Minor Head	001-Direction and Administration
Group Head	0099- General
Sub Head	0789-Director General of Police
Detailed Head	633-Compensation

This issues with the standing concurrence of the Finance Department conveyed vide U.O No. FD-VII-2(442) MACT/2015 dated 13.05.2015.

By order of the Government of Jammu and Kashmir.

Sd/-

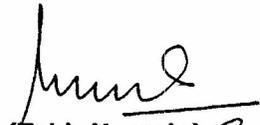
(R.K.Goyal), IAS
Principal Secretary to the Government

No. Home/Acctts/MACT/59/2017

Dated: 27.01.2019

Copy to the:-

1. Principal Secretary to the Govt., Finance Department, J&K, Srinagar.
2. Principal Accountant General, J&K, Srinagar.
3. Director General of Police, J&K, Srinagar.
4. Treasury Officer Civil Secretariat (Moving) Treasury.
5. Government order file (W.2.S.C).
6. Stock File.
7. I/c Website Home Department.


(Tahir Hussain) 9.1.19
Director Finance
Home Department