

Government of Jammu and Kashmir

Home Department

Civil Secretariat, Jammu/Srinagar

Subject: Claim Petition titled Bashir Ahmad Thokar and others vs. Director General of Police and another.

Reference: Communications bearing No. Legal/CP/04/S/2017/2/33999-34002 dated 19.08.2023 and No. Legal/CP-04/S/2012/47503-04 dated 20.10.2023 of the Police Headquarters, J&K

Government Order No.: Home- 65 of 2024

Dated : 30 .01.2024

Whereas, on 27.04.2012, a Police vehicle (Ruby-407) bearing Chassis No. 33606, while returning to Srinagar from Shopian collided with a motorcyclist at Sheermal (Shopian) Crossing, resulting in multiple injuries to the motorcyclist, who later on succumbed to the injuries after three days of hospitalization. Accordingly, a case FIR No. 121/2012 was registered in the Police Station, Shopian under sections 279,337,304-A RPC and a charge sheet filed in the court of law for judicial determination; and

2. Whereas, the NoKs of the deceased filed a claim petition under The Motor Vehicles Act, 1988 before the Ld. MACT, Srinagar, inter-alia, praying therein for compensation. The Ld. MACT Srinagar vide its interim order dated 12.06.2012 directed for payment of an amount of Rs. 50,000/- as interim relief in favour of the claimants. Accordingly, vide Govt. Order No. 808-Home of 2012 dated 20.09.2012, sanction was accorded to the release and drawal of interim relief to the tune of Rs. 50,000/- in favour of the claimants; and

3. Whereas, the matter was contested by the Police Headquarters, J&K by filing objections to the claim petition, resisting therein the claim of the petitioners on various grounds for grant of compensation. The Ld. Tribunal framed issues for judicial determination and directed the parties to lead evidence; and

4. Whereas, upon consideration of the matter, the Ld. MACT, Srinagar vide its Award dated 26.10.2016 disposed of the claim petition and awarded compensation to the tune of Rs, 26,45,992/- including interim compensation, alongwith the simple interest @ 6% per annum from the date of petition till the final realization, in favour of petitioners/claimants; and

5. Whereas, upon examination of the matter in consultation with the Department of Law, Justice and PA and the PHQ, it was decided to file an appeal in the Hon'ble High Court of Jammu and Kashmir at Srinagar against the Award dated 26.10.2016 passed by the Ld. MACT, Srinagar. Accordingly, an

Appeal bearing CIMA No. 92/2017 MP No. 01/2017 was filed by the PHQ in the Hon'ble High Court of Jammu and Kashmir and Ladakh at Srinagar. The statutory amount of Rs. 25,000/- for filing of appeal was also sanctioned vide Order. No.SSG/QB/MACT/Claim/2012/4902-04 dated 19.06.2017 and deposited in the Hon'ble High Court at Srinagar

6. Whereas, the Hon'ble High Court of Jammu and Kashmir and Ladakh at Srinagar, vide its interim order dated 20.09.2017 granted a stay on the award dated 26.10.2016 passed by the Ld. MACT, Srinagar, subject to deposition of the entire awarded amount before the Registry of the Hon'ble High Court.

7. Whereas, after consulting the Department of Law, Justice & PA, it was decided to file a review petition against the interim order dated 20.09.2017 of the Hon'ble High Court. Accordingly, a review petition was filed by the appellants and the Hon'ble High Court of Jammu and Kashmir and Ladakh at Srinagar vide its order dated 12.03.2018 was pleased to dispose of the review petition with the following direction:

"Since the applicants-appellants have already deposited the statutory amount while filing the appeal, therefore, there shall be no further need to ask them to deposit the entire amount, with this modification the review petition is disposed of."

8. Whereas, the Hon'ble High Court of Jammu and Kashmir & Ladakh at Srinagar vide its order dated 16.06.2023 dismissed the Appeal filed by the appellants with the following directions:

"...In such circumstances, there is no force in submissions of appellants that impugned award has been passed without appreciation of evidence on record. In that view of matter impugned Award need not be interfered with and consequently the Appeal is liable to be dismissed."

9. Whereas, the PHQ vide its communication 19.08.2023 conveyed that the order dated 16.06.2023 passed by the Hon'ble High Court of Jammu and Kashmir & Ladakh at Srinagar seems to be reasonable and that no fruitful result may be yielded in case, the said order is challenged in any higher forum. The PHQ accordingly requested that necessary sanction for drawl/release of the award amount in terms of award dated 26.10.2016 passed by the Ld. MACT, Srinagar to the tune of Rs. 43,19,767/- including interest may be accorded at an earliest, so that same could be deposited before the Ld. MACT, Srinagar to avoid any adverse orders from the Court of law; and

10. Whereas, based on the above request of the PHQ, the case was further examined in light of the calculation sheet prepared in the matter and certain clarifications were sought from the PHQ including clarification relating to actual date of filing of claim petition.

11. Now, therefore, Sanction is hereby accorded to the drawal of an amount of Rs. 43,19,767/- (Rupees Forty Three Lakh, Nineteen Thousand,

Seven Hundred and Sixty Seven only) in claim petition titled Bashir Ahmad Thokar and others vs. Director General of Police and another in favour of Director General of Police, J&K Srinagar as 'Award Amount' under Major Head 2055-Police, Detailed Head '633' "Compensation" during financial year 2023-24 enabling him to deposit the amount before the Ld. MACT, Srinagar.

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

Dated: 30.01-2024

No:- HOME-MACT/7/2023-11-HOME
.01.2024

Copy to the:

1. Director General of Police, J&K, Srinagar.
2. Principal Secretary to the Government, Finance Department J&K.
3. Principal Accountant General, J&K, Srinagar.
4. Sh. Mohsin Ul Qadri, Sr. AAG, High Court at Srinagar.
5. Financial Advisor/CAO, PHQ for information and necessary action
6. Treasury officer, Civil Secretariat Treasury.
7. I/c Website, Home Department
8. Government Orders file (w.2.s.c.).

(Manav Gupta)

Financial Advisor/CAO