



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

Sub:- OWP No. 354/2018 titled Shabir Ahmad Bhat vs. State of J&K and others and corrigendum to G.O .O No 1019-Home of 2017 dated 04.08.2017 thereof.

Ref: i) PHQ No Legal/OWP-03/S/20188-34485 dated 22.05.2018.
ii) PHQ No. Leal/OWP-03/S/2018/46865-68 dated 03.07.2-018.

Government Order No. 1046-Home of 2018
Dated 09 .08.2018

Whereas, on 11.07.1997, an accident had occurred at General Road, near Nigeen Club, Srinagar, involving the vehicle (Gypsy) bearing Regd No. JKO1/5039 belonging to P/S Nigeen being driven by Gh Hassan Naaz, the then SHO P/S Nigeen. The offending vehicle hit the deceased namely Gh Nabi Beigh S/o Mohammad Sidiq Bhat R/o Beigh Mohalla, Ashai Bagh, Srinagar resulting in his death on 11.07.1997;

2. And, whereas, a case FIR No. 60/1997 u/s 279,304-A RPC was registered in P/S Nigeen and investigation set into motion related to rash and negligent driving of the then SHO P/S Nigeen, Gh Hassan Naaz;

3. And, whereas, a claim petition was preferred by the father of the deceased and other legal heirs before the MACT, Srinagar titled Mohammad Sadiq Beigh and others vs. State of J&K and others. The Hon'ble MACT, Srinagar vide its final order dated 27.06.2016 decided the claim petition in favour of the claimants and awarded compensation of Rs 4.10 lacs in favour of the claimant in the following terms:

"..As a sequel to what has been stated above as regards the finding on all the issues, the claim petition is accepted and award of Rs 4,10,000/- including interim award, if any, alongwith 6% interest from the date of institution till its final realization is passed in favour of petitioners.

Now a question arises as to who is liable to pay the awarded compensation. It stands established from the evidence on record that the offending vehicle belonged to respondent No-2 as such respondent No 2 is saddled with the liability of paying the compensation to the petitioners.

The Respondent no 2 is directed to deposit the awarded amount before this Tribunal within a period of three months beyond which the awarded amount shall be recoverable with interest @ 9% per annum. The first charge on awarded amount shall be the court fee. The office is directed to farm the Decree sheet accordingly. The case is disclosed of and the file after due completion be consigned to the records... ”

4. And, whereas, in the award dated 27.06.2016 passed by Hon'ble MACT, two different rates of interest i.e. 6% and 9% were mentioned. The Hon'ble MACT, however, while hearing the execution petition on 29.03.2017, clarified the rate of interest as 6% in the following terms:

“...In view of the statement made at bar the rate of interest be read as 6% instead of 9% awarded while passing the order dated 27.06.2016. However, the Ld. Counsel for the respondents/judgment debtors is directed to deposit award amount alongwith interest @ 6% from the date of institution till realization expeditiously. Ld Counsel for the judgment debtors has sought six weeks time to comply with the order dated 27.06.2016....”

5. And, whereas, the matter was examined in consultation with PHQ and vide G.O No. 1019-Home of 2017 dated 04.08.2017, sanction was accorded to the drawal of an amount of Rs 596030/- in favour of the Director General of Police, J&K, enabling him to deposit the compensation amount with the Hon'ble MACT, Srinagar in the claim petition titled Mohd Saadiq Beigh and others vs. State of J&K and others. However, in the aforesaid order, it was further stipulated that the amount shall be recovered from the erring driver of the offending vehicle;

6. And, whereas, the driver of the offending vehicle approached the Hon'ble High Court at Srinagar through the medium of OWP No. 354/2018 titled Shabir Ahmad Bhat vs. State of J&K and challenged the Government order G.O No. 1019-Home of 2017 dated 04.08.2017. The Hon'ble High Court vide its order dated 08.03.2018 stayed the operation of the aforesaid order subject to objections from other side till next date;

7. And, whereas, the matter was further examined in consultation with PHQ and vide communication dated 03.07.2018, PHQ clarified that on the date of accident, the offending vehicle was not driven by its actual driver namely, Shabir Ahmad Bhat and the vehicle was driven by the then SHO P/S Nigeen, Ghulam Hassan Naaz, who, as per the PHQ communication dated 22.05.2018 has expired. Since the then SHO P/S Nigeen is not reportedly alive, the awarded amount from then SHO P/S Nigeen, Ghulam Hassan Naaz cannot be recovered.

8. And, whereas, PHQ in the facts and circumstance of the case and clarification furnished by PHQ, it is observed that ends of justice would meet, if the stipulation in G.O No. 1019-Home of 20017 dated 04.08.2017 with regard to recovery of awarded amount from the petitioner is removed/deleted.

9. Now, therefore, Keeping in view the above, in partial modification of G.O No. 1019-Home of 2017 dated 04.08.2017, issued under endorsement No Home/MACT/06/2017 dated 04.08.2018, the condition "However, the amount shall be recovered from the erring driver of the offending vehicle" is hereby deleted.

By order of the Government of Jammu and Kashmir.

Sd/-

(R.K Goyal), IAS

Principal Secretary to the Government

No. Home/Accts/OWP/08/2018/

Dated: - -08-2018

Copy to the:-

1. Principal Account General, J&K, Srinagar.
2. Director General of Police, J&K. Srinagar.
3. Principal Secretary to Government, Finance Department.
4. Commissioner/Secretary to Government, General Administration Department.
5. Treasury Officer, Civil Secretariat Treasury, Srinagar.
6. Private Secretary to Principal Secretary to the Government, Home Department.
7. Incharge website Home Department.
8. Government orders file (w.2.s.c).
9. Stock file

(Tahir Hussain) 9.8.18

Director Finance,
Home Department