

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

Sub: Claim petition titled *Javaid Ahmad Malik vs. State of J&K and Ors.*

Ref: PHQ Letter No. Legal/CP-26/S/2006/25201-04 dated 15.06.2023.

Government Order No. Home-343 of 2023
Dated 26.06.2023

Whereas, on 20.10.2005, one person namely, Javaid Ahmad Malik, while riding on his motor cycle was hit by a vehicle bearing registration No. JK02R-1270 of the Police Department near petrol pump Gangoo, Pulwama, resulting in serious injuries to him. Accordingly, a case FIR No. 379/2005 P/S Pulwama u/s 279, 337 RPC was registered and investigation taken up and;

2. Whereas, Shri Javaid Ahmad Malik filed a claim petition in the Hon'ble MACT, Pulwama titled *Javaid Ahmad Malik vs. State of J&K and Ors.* praying therein for compensation to the tune of Rupees 24.00 lakhs, along with interest thereon from the date of accident till its final realization. and;

3. Whereas, the Hon'ble MACT, Pulwama upon consideration of the matter, granted an interim compensation of Rs. 28,000/- in favour of the petitioner, which on the recommendations of the Police Headquarters, J&K was sanctioned vide Govt. Order No. 322-F of 2007 dated 10.12.2007 and;

4. Whereas, the claim petition 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 for judicial determination and directed the parties to lead evidence and;

5. Whereas, the Hon'ble Tribunal on appreciation of the evidence and after hearing the parties, vide its judgment/award dated 31.01.2017, decided the Claim petition in favour of the petitioner and directed the respondents to pay a compensation of Rs.13,01,600/- along with simple interest @ 6% per annum from the date of filing of the claim petition till final realization of the awarded amount and;

6. Whereas, on the proposal submitted by the PHQ, the matter was examined in consultation with Department of law, Justice and PA with regard to the filing of appeal against the impugned judgement/award dated 31.01.2017 and;

7. Whereas, the Department of law, Justice and PA advised to file an appeal against the impugned judgement/award dated 31.01.2017 passed by the Hon'ble MACT, Pulwama, pursuant to which an appeal bearing MA No. 45/2018 CM

No. 6214/2019 titled *State of J&K and others versus Javaid Ahmad Malik* was filed in the Hon'ble High Court at Srinagar through the PHQ, J&K and;

8. Whereas, the appeal filed by the respondents came up for consideration on 16.10.2018, before the Hon'ble High Court at Srinagar and the Hon'ble Court directed for deposition of entire awarded amount before its Registry as a precondition for staying of the operation of impugned judgement/award dated 31.01.2017 of Hon'ble MACT, Pulwama. The matter was again considered by the Hon'ble High court on 20.03.2019 and the Hon'ble Court granted two weeks time to deposit the awarded amount and;

9. Whereas, upon consultation with the Department of Law, Justice & Parliamentary Affairs, pursuant to the directions of the Hon'ble High Court contained in its orders dated 16.10.2018 & 20.03.2019, it was decided to file application for modification of the orders dated 16.10.2018 & 20.03.2019 passed by the Hon'ble High Court of J&K and Ladakh at Srinagar in the appeal *ibid.* Accordingly, an application for modification of the orders *ibid.* was filed in the Hon'ble High Court at Srinagar by the PHQ and;

10. Whereas, the modification application file by the appellants was, however, dismissed by the Hon'ble High Court vide its order dated 03.06.2022 with the direction to the respondents to deposit the award amount before the Registry of the Hon'ble Court within two weeks. While he matter was under examination, the appeal filed in the matter was also dismissed by the Hon'ble High Court vide its order dated 11.10.2022 and;

11. Whereas, upon dismissal of the appeal, the PHQ vide communication dated 15.06.2023, *inter-alia*, conveyed that the order dated 11.10.2022 passed by the Hon'ble High Court at Srinagar is reasonable and proposed to implement the judgement/award dated 31.01.2017 passed by the Hon'ble MACT, Pulwama in the claim petition, as no fruitful results would be achieved if the order dated 11.10.2022 is challenged in the higher forum. It was further conveyed that in an Execution Petition filed by the Claimant, the Ld. MACT Pulwama vide order dated 03.06.2022 attached the Account head of the DGP, J&K under Account Number CD-171 to the extent of the awarded amount of Rs. 13,01,600/- alongwith interest @ 6% per annum from the date of passing to the filing of the petition i.e, 06.09.2006.

12. Now, therefore, in due deference of the judgement/award dated 31.01.2017 passed by the Hon'ble MACT, Pulwama in the claim petition read with the order dated 11.10.2022 passed by the Hon'ble High Court of J&K and Ladakh at Srinagar in the appeal, sanction is hereby accorded to the drawal of award amount of Rs.22,57,666/- (Rupees Twenty Two lakh fifty Seven thousand six hundred and sixty six only) in claim petition titled *Javaid Ahmad Malik vs. State of J&K and Ors*, in favour of Director General of Police, J&K, Srinagar under Major Head: 2055-Police, Non-Plan (Normal), Detailed Head "633-

Compensation", for the current financial year 2023-24, enabling him to deposit the said awarded amount in the Hon'ble MACT, Pulwama.

13. 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

By order of the Government of Jammu and Kashmir.

Sd/-

(Raj Kumar Goyal), IAS
Financial Commissioner/
Additional Chief Secretary

No. HOME-MACT/23/2021-11/56715

Dated: 26-06-2023

Copy to the:-

1. Director General of Police, J&K.
2. Principal Accountant General, J&K, Srinagar.
3. Principal Secretary to the Government, Finance Department, J&K.
4. Shri Mohsin-Ul-Showkat Qadri, Ld. Sr. Addl. Advocate General, High Court at Srinagar.
5. Financial Advisor/ CAO, PHQ for information and necessary action.
6. Treasury Officer Civil Secretariat (Moving) Treasury.
7. Government order file (W.2.S.C).
8. Stock File.
9. I/c Website Home Department.

(Manoj Gupta)

Financial Advisor/CAO