



दिल्ली विश्वविद्यालय  
UNIVERSITY OF DELHI

स्थापना शाखा- II (I)  
ESTABLISHMENT BRANCH-II (I)  
कमरा नं० 212  
Room No. 212  
स्थापना खण्ड  
Establishment Block  
दिल्ली - 110007  
Delhi - 110007  
Tel. No. 27001168

26645

Ref. No. Estab.II (i)/2012/39/

3<sup>rd</sup> October, 2018

CIRCULAR

The Office Memorandum/letter mentioned below on the subject mentioned against each issued by the Government of India/UGC is circulated for information to all concerned:

S.No.	OM No.	Subject
1.	UGC letter No. F.71-19/2018 (CU) dated 31 <sup>st</sup> August, 2018 alongwith F. No. A-44011/03/2018-E.IV Government of India, Ministry of Human Resource Development, Department of Higher Education, (E-IV Section), dated 21 <sup>st</sup> May, 2018	Adoption of guidelines framed by DoT to grant compensation to the families of the victim dying at public due to the negligence and/or unforeseen causes, by other Ministries and Departments/ Government entities functioning under their respective administrative control reg.

The above cited O.M./letter will be reported in the Executive Council at its next meeting.

Yours faithfully,

Deputy Registrar-Estab.(NT)

Encl.: As above.

1. The University Engineer, University Delhi, Delhi-110007.
2. The Director, DUCC with a request to upload the circular on Delhi University website.
3. The Joint Registrar-VCO/Colleges/Finance/JFO.
4. The Assistant Registrar -Colleges/Registrar's Office/SDC/Finance/Finance-II.
5. The PA to the Registrar/Finance Officer.

Section Officer

8857  
27/10/18



सत्यमेव जयते

विश्वविद्यालय अनुदान आयोग  
University Grants Commission  
मानव संसाधन विकास मंत्रालय, भारत सरकार  
Ministry of Human Resource Development (Govt. of India)  
बहादुरशाह जफर मार्ग, नई दिल्ली - 110 002  
Bahadurshah Zafar Marg, New Delhi-110002  
Phone : 011-23406308, 011-23406309



ज्ञान-विज्ञान विमुक्तये

F.No.71-19/2018(CU)

August, 2018

The Registrar  
University of Delhi  
Delhi - 110 007.

31 AUG 2018

*RO*  
*[Signature]*

**Sub: - Adoption of guidelines framed by DoT to grant instant compensation to the families of the victim dying at public due to the negligence and / or unforeseen causes, by other Ministries and Departments/Government entities functioning under their respective administrative control – reg.**

Sir,

The undersigned is directed to enclose herewith an e-mail letter dated 02.08.2018, received from Ms. Kham Ngaih Lun, Section Officer, Govt. of India, Ministry of HRD, Dept. of Higher Education, Shastri Bhawan, New Delhi, on the subject mentioned above, enclosing therewith O.M. F. No. A-44011/03/2018-E.IV dated 21<sup>st</sup> May, 2018, received from Shri Achint Kumar, Under Secretary to the Govt. of India, Ministry of HRD, E-IV Section, Shastri Bhawan, New Delhi, alongwith CDN's Section communication No. C-30020/02/2018-CDN dated 27.04.2018 circulating instructions/guidelines framed by Department of Telecommunications on the subject above, for your information and compliance.

Yours faithfully,

Encl: As above



*[Signature]*  
(Kulvinder Kaur)  
Under Secretary

*JK (NT)*  
*06/09/18*

*RBSBS*  
*02/09/18*

*Raj*  
*10/9*  
*SO E/II (Li)*

*Mr. R. Sharma*  
*[Signature]*  
*11/9*

*JR (NT)*  
*19/08/10-2-18*

S.No. 1 (Chryt)

302 (w)  
10/8/18  
-/-



V Talreja <talreja.ugc@gmail.com>

**Fwd: Adoption of guidelines framed by DoT to grant instant compensation to the families of the victim dying at public due to the negligence and / or unforeseen causes, by other Minister and Departments/Government entities functioning under their respective administrative control**

JitendrakumarTripathi JS,UGC <jitendratripa...> Thu, Aug 2, 2018 at 7:43 AM  
To: CU <socu.ugc@gmail.com>, V TALREJA <talreja.ugc@gmail.com>, SUSHMA RATHORE <srathore.ugc@nic.in>

----- Original Message -----

From: KHAM NGAIH LUN <cusection.edu@gov.in>  
Date: Jul 26, 2018 4:20:13 PM  
Subject: Adoption of guidelines framed by DoT to grant instant compensation to the families of the victim dying at public due to the negligence and / or unforeseen causes, by other Minister and Departments/Government entities functioning under their respective administrative control  
To: secy.ugc@nic.in, jitendratripa...@gov.in

Sir,

Please find attachment for further necessary action

with regard

Sh. Bhgawan Sawroop  
A.S.O  
011-23385897

DR. JITENDRA K TRIPATHI  
JOINT SECRETARY  
UNIVERSITY GRANTS COMMISSION  
NEW DELHI-110002  
PH.011-23239200  
FAX NO.011-23238897

DoT\_1.pdf  
5921K

Shri Parvati  
V Talreja  
10/8/18

File No.A-44011/03/2018-E.IV

Government of India  
Ministry of Human Resource Development  
Department of Higher Education  
(E-IV Section)

Shastri Bhawan, New Delhi  
Dated - 21st May, 2018

OFFICE MEMORANDUM

**Subject-** Adoption of guidelines framed by DoT to grant instant compensation to the families of the victims dying at public places due to the negligence and/ or unforeseen causes, by other Ministries and Departments/ Government entities functioning under their respective administrative control- regarding

Kind attention is invited towards CDN's Section communication No. C-30020/02/2018 CDN dated 27.04.2018 circulating instructions/guidelines framed by Deptt. of Telecommunications on subject mentioned above (copy attached).

2. In this regard, a copy of minutes of the meeting of Group of Officers that was held on 09.05.2018 issued by Cabinet Secretariat vide O.M. No. 111/2/3/2016-Cab.III date 14.05.2018 is enclosed herewith.

2. It is informed that with the approval of the Competent Authority it has been decided to adopt the guidelines formulated by DoT to grant instant compensation to the families of the victims dying at public places due to the negligence and/ or unforeseen causes in this ministry and its attached/subordinate offices/institutes etc working under the control of this ministry and the same will be followed as and when such cases arise in this Ministry.

3. All bureau heads are requested to circulate the aforesaid guidelines in their respective attached/subordinate offices/institutes etc working under the administrative control of this Ministry for information and compliance.

Signature valid

Digitally signed by ACHINT KUMAR  
Date: 2018.05.21 10:06:49 IST

(Achint Kumar)

Under Secretary to the Govt. of India  
Telefax: 23385400

DS(SS)

To,

All Bureau Heads in both Departments of MHRD [As per list]

Copy to :-

1. Cabinet Secretariat [Kind Attn: Shri Alok Tiwari, Deputy Secretary], Rashtrapati Bhawan, New Delhi.
2. Department of Telecommunications [Kind Attn: Shri Inderjit Hadda, Deputy Secretary], Door Sanchar Bhawan, New Delhi.
3. JS(P&ICC)
4. Deputy Secretary [CDN], MHRD w.r.t. communication No. C-30020/02/2018-CDN dated 27.04.2018

24/5

US/21/5

21/5

21/5

File No.A-44011/03/2018-E.IV

5. Section Officer [E.II/III], SO [CDN], SO[Vig], SO[AR]
6. NIC/CMIS, with request to upload on e-office of this Ministry.

*(Faint, mostly illegible text, likely bleed-through from the reverse side of the page)*

*(Handwritten notes and signatures)*

*(Handwritten notes and signatures)*

DATE TODAY  
COPY NO. 2.2

No. 111/2/3/2016-Cab.III  
Cabinet Secretariat  
Rashtrapati Bhawan

New Delhi, dated the 14<sup>th</sup> May, 2018

Office Memorandum

Subject: Adoption of guidelines framed by DoT to grant instant compensation to the families of the victims dying at public places due to the negligence and/ or unforeseen causes, by other Ministries and Departments/ Government entities functioning under their respective administrative control.

The undersigned is directed to enclose herewith a copy of the minutes of the meeting of Group of Officers (Doc No.13/2018-CA.III) held on 9<sup>th</sup> May, 2018 at 4.30 P.M. in the Conference Hall of the DBT Mission, Cabinet Secretariat, 4<sup>th</sup> Floor, Shivaji Stadium Annexe, Shaheed Bhagat Singh Marg, New Delhi - 110001 on the above-mentioned subject.


2 ---It is requested that the status of action taken on the relevant decisions may please be uploaded in the 'Committee of Secretaries' module of e-Samiksha portal.

(Alok Tiwari)  
Deputy Secretary  
Tel: 23015861

Secretary, D/o Telecommunications  
Secretary, D/o Administrative Reforms & Public Grievances  
Secretary, M/o Agriculture Cooperation & Farmers' Welfare  
Secretary, D/o Animal Husbandry Dairying & Fisheries  
Secretary, D/o Atomic Energy  
Secretary, M/o AYUSH  
Secretary, D/o Biotechnology  
Secretary, D/o Border Management ...  
Secretary, D/o Chemicals & Petrochemicals  
Secretary, D/o Consumer Affairs  
Secretary, M/o Culture  
Secretary, M/o Drinking Water and Sanitation  
Secretary, D/o Defence Research & Development  
Secretary, M/o Development of North Eastern Region  
Secretary, M/o Empowerment of Persons with Disabilities  
Secretary, D/o Economic Affairs  
Secretary, M/o Environment Forest & Climate Change  
Secretary, M/o External Affairs  
Secretary, D/o Financial Services  
Secretary, D/o Food Processing Industries  
Secretary, D/o Food & Public Distribution  
Secretary, D/o Higher Education

SECRET

Secretary, D/o Industrial Development & Promotion  
 Secretary, D/o Justice  
 Secretary, M/o Labour and Employment  
 Secretary, D/o Land Resources  
 Secretary, M/o Micro, Small & Medium Enterprises  
 Secretary, M/o New & Renewable Energy  
 CEO, NITI Aayog  
 Secretary, D/o Official Language  
 Secretary, M/o Parliamentary Affairs  
 Secretary, D/o Personnel & Training  
 Secretary, D/o Pension & Pensioners' Welfare  
 Secretary, M/o Petroleum & Natural Gas  
 Secretary, D/o Rural Development  
 Secretary, D/o Science & Technology  
 Secretary, D/o School Education & Literacy  
 Secretary, Cabinet Secretariat (Security)  
 Secretary, M/o Skill Development and Entrepreneurship  
 Secretary, M/o Statistics & Programme Implementation  
 Secretary, M/o Tourism  
 Secretary, M/o Water Resources, River Development & Ganga Rejuvenation  
 Secretary, M/o Women & Child Development  
 Secretary, D/o Youth Affairs

  
 (Alok Tiwari)

 Deputy Secretary  
 Tel: 23015861
INTERNAL CIRCULATION (One Copy)

Secy(C)/JS(R)/DS(AT)/SO to CS

Meeting Pad/ Office Copy

47 copies

CABINET SECRETARIAT

Doc. No. 13/2018-CA.III

MINUTES OF THE MEETING OF GROUP OF OFFICERS

Venue Conference Hall: DBT Mission  
Date of meeting 09.05.2018  
Time of meeting 4.30 P.M.

P R E S E N T

Dr. Inderjit Singh, Secretary (Coordination), Cabinet Secretariat  
Shri S.A.M. Rizvi, Joint Secretary, Cabinet Secretariat  
Ms. Arati Bhatnagar, Joint Secretary, Office of Secretary (Security), Cabinet Secretariat  
Shri V.A. Chawda, Joint Secretary, D/o Administrative Reforms & Public Grievance  
Shri Sagar Mehra, Joint Secretary, D/o Animal Husbandry, Dairying & Fishing  
~~Shri Rakesh Kumar Kamra, Joint Secretary, D/o Chemicals & Petrochemicals~~  
Shri Samir Kumar, Joint Secretary, M/o Drinking Water & Sanitation  
Shri Kumar V. Pratap, Joint Secretary, D/o Economic Affairs  
Shri Viraj Singh, Joint Secretary, M/o External Affairs  
Dr. Bijaya K. Behera, Joint Secretary, D/o Food Processing Industries  
Shri Suresh Kumar Vashisht, Joint Secretary, D/o Food & Public Distribution  
Shri Swarna Kumar, Joint Secretary, D/o Higher Education  
Shri Ajay Kumar Lal, Joint Secretary, D/o Justice  
Shri B.P. Yadav, Joint Secretary, M/o New & Renewable Energy  
Shri V.K. Singh, Joint Secretary, D/o Personnel & Training  
Ms. Sushma Rath, Joint Secretary, M/o Petroleum & Natural Gas  
Ms. Anju Bhalla, Joint Secretary, D/o Science & Technology  
Ms. Jyotsna Sitling, Joint Secretary, M/o Skill Development & Entrepreneurship  
Shri K. Moses Chalai, Joint Secretary, M/o Women & Child Development  
Shri Asit Singh, Joint Secretary, D/o Youth Affairs  
Shri Saniv Narain Mathur, Joint Secretary, D/o Pension & Pensioners' Welfare  
Shri Bipin Behari, Joint Secretary, D/o Official Language  
Shri Shushil Kumar Singla, Joint Secretary, D/o Land Resources  
Shri Anupam Sharma, OSD, D/o Atomic Energy  
Shri U.K. Sharma, Adviser, NITI Aayog  
Dr. Arun. S. Ninawe, Adviser, D/o Biotechnology  
Shri Sudhakar Shukla, Economic Adviser, D/o Rural Development  
Shri Rajveer Singh, DDG(SR), D/o Telecommunications  
Shri N.K. Santoshi, Deputy DG, M/o Labour & Employment  
Shri P. C. Cyriac, ADG, M/o Tourism  
Shri S. Dasgupta, IG (F), M/o Environment, Forests & Climate Change  
Dr. R. Gopinath, AIG, M/o Environment, Forests & Climate Change  
Shri P. Singh, Director, M/o Development of North Eastern Region  
Shri Vikash Prasad, Director, M/o Empowerment of Persons with Disabilities  
Shri Sudhir Shyam, Director, D/o Financial Services  
Shri Anjan Kumar Mishra, Director, M/o Statistics & Programme Implementation  
Shri L. Haokip, Director, M/o Micro, Small & Medium Enterprises



SECRET

Shri A. Manoharan, Director, M/o Parliament Affairs  
Shri Abhay Kumar, Director, M/o Consumer Affairs  
Shri Mohanadasaw P. Director, D/o School Education & Literacy  
Shri Alok Tiwari, Deputy Secretary, Cabinet Secretariat  
Shri Inderjit Hadda, Deputy Secretary, D/o Telecommunications  
Shri Ashish Dutta, Deputy Secretary, D/o Industrial Policy & Promotion  
Shri P. J. Michael, Deputy Secretary, M/o Environment, Forests & Climate Change  
Shri A.K. Pattanaik, Joint Director, Defence Research Development Organisation  
Shri Ch. David, JD (PP), M/o Water Resources, River Development & GR  
Shri Tara Chandar, Deputy Director, Archaeological Survey of India, M/o Culture  
Shri H. Chinzason, Under Secretary, D/o Telecommunications  
Shri Brajesh Godra, Under Secretary, M/o Agriculture, Cooperation & Farmers' Welfare

Subject: Adoption of guidelines framed by DoT to grant instant compensation to the families of the victims dying at public places due to the negligence and/or unforeseen causes, by other Ministries and Departments/ Government entities functioning under their respective administrative control.

A meeting of Group of Officers (GoO) on the above subject, chaired by Secretary (Coordination), was held on 09.05.2018 at 04.30 PM in the Conference Hall, DBT Mission, Cabinet Secretariat, New Delhi

2. Secretary (Coordination) initiated the discussion by giving background of the case and the orders of Delhi High Court, which led to the formulation of guidelines by DoT, for grant of instant compensation to the families of the victims dying at public places due to the negligence and/or unforeseen causes. He further stated that instructions of Cabinet Secretariat have been issued to all the Ministries/Departments to examine the DoT guidelines for adoption, with/without modification as per need, with approval of their competent authority and send a copy of such guidelines to this Secretariat for apprising the Delhi High Court in the matter. Secretary (Coordination) stressed the point that the prime objective of the guidelines is to ensure timely payment of compensation arising out of ~~accident resulting in loss of life or permanent disability to member of general public or a~~ person who may not be covered under any provisions/rules/guidelines for any compensation on account of their not being even a Govt. employee or employee of any contractor of Govt. agency/department undertaking any activity/work in their premises like the case of a person in which Delhi High Court passed the order to frame such guidelines. Secretary (Coordination) asked the representatives of the Ministries/Departments present in the meeting to give information on the status of adoption of the guidelines on the subject mentioned above.

3. It was stated that till date 29 Ministries/Departments have already agreed to either adopt DoT guidelines or formulate their own guidelines with some modifications. Further, it was stated that the issue relating to formulation of Common guidelines centrally was deliberated at length in previous meetings and considering various aspects, there was a consensus for not issuing common guidelines and allowing Ministries/Departments to either adopt DoT guidelines or formulate their own guidelines with modifications, as considered necessary, with the approval of the respective competent authority. It was also clarified that the guidelines so framed by various Ministries/Departments will be applicable to their autonomous bodies, PSUs, subordinate and attached offices

4(a). The representatives of 13 Ministries/Departments, viz., D/o Industrial Policy and Promotion, D/o Bio-Technology, D/o Personnel and Training, M/o Petroleum and Natural Gas, D/o Administrative Reforms and Public Grievances, D/o Chemicals and Petro-Chemicals, M/o Development of North Eastern Region, D/o Economic Affairs, M/o Food Processing Industries, Cabinet Secretariat (Security), M/o Skill Development and Entrepreneurship, D/o Youth Affairs and M/o Statistics and Program Implementation, expressed their willingness to adopt the guidelines.

SECRET

4(b). The representatives of another 13 Ministries/Departments, viz. D/o Animal Husbandry, Dairying and Fisheries, M/o External Affairs, D/o Food and Public Distribution, D/o Science and Technology, D/o Agricultural Cooperation and Farmers' Welfare, D/o Defense Research and Development, D/o Empowerment of Persons with Disability, D/o Justice, M/o New and Renewable Energy, D/o Rural Development, M/o Women and Child Development, D/o Land Resources and D/o Pension and Pensioners' Welfare, expressed their willingness to adopt the guidelines with some modifications

4(c). The representatives of 6 Ministries/Departments, viz. M/o Drinking Water and Sanitation, D/o Atomic Energy, D/o Higher Education, NITI Aayog, M/o Parliamentary Affairs and D/o School Education and Literacy, expressed their in-principle agreement with the necessity of adoption of guidelines.

4(d). The representatives of D/o Border Management and D/o Official Language stated that they would adopt the guidelines applicable to M/o Home Affairs.

4(e). Further, representatives of D/o Consumer Affairs, M/o Culture, M/o Environment, Forest & Climate Change, D/o Financial Services, M/o Micro, Small & Medium Enterprises, ~~M/o Tourism, M/o Labour & Employment and M/o Water Resources~~ sought time for getting directions from higher authorities in their respective Ministries/Departments.

5. There was a broad agreement among the participants that non-adoption of guidelines on the subject was perhaps due to some misconception and these need to be clarified to all the Ministries/Departments so that they could-reconsider the matter. In this context, Secretary (Coordination) mentioned that D/o Expenditure, vide their OM No. A-60011/01/2017-Ad.I dated 01.08.2017, have conveyed its approval for adoption of the policy guidelines for settlement of claims for compensation on accidents similar to that of DoT, which will facilitate easy concurrence by FAs and approval of competent authority for issue of any such guidelines. Amongst the representatives of the participating Ministries/Departments, there was a general consensus on the need and desirability of issuing such guidelines with/without modifications as considered necessary. The representatives of Ministries/Departments present assured to take immediate action in this regard under intimation to Cabinet Secretariat. Accordingly, representatives of all the Ministries/Departments present were asked to ensure that requisite process of issuing guidelines is completed without any further delay, preferably within 2 weeks, and copy of the guidelines issued is sent to this Secretariat for record and appraising the Hon'ble High Court of the latest status before the next date of hearing.

6. The meeting ended with vote of thanks to the Chair and all the participants.

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F.No.C.30020/02/2018-CDN  
Government of India  
Ministry of Human Resource Development  
Department of Higher Education  
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Date: 27<sup>th</sup> April 2018

**Subject:-** Adoption of guidelines framed by DoT to grant compensation in cases of death/ permanent incapacitation of persons due to unintended / unforeseen occurrences during maintenance, operation and provisioning of public services-adoption by other Ministries / Departments and Government entities functioning under their administrative control

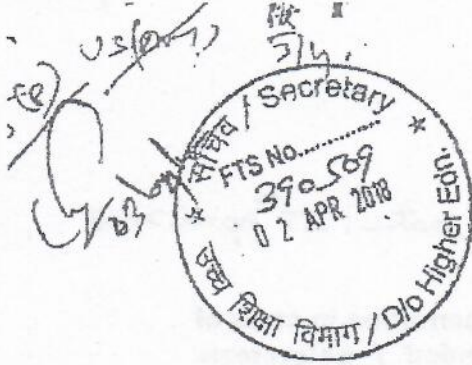
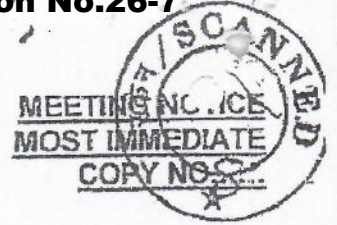
The undersigned is directed to enclose herewith a copy of guidelines framed by DoT to grant compensation in cases of death/ permanent incapacitation of persons due to unintended / unforeseen occurrences during maintenance, operation and provisioning of public services-adoption by other Ministries / Departments and Government entities functioning under their administrative control for information and necessary action.



(M.K. Meena)  
Under Secretary(CDN)  
Intercom: 724

Enclose: As above

1. AS(TE)
- 2.Sr. EA(HE)
3. JS(A/DL)
- 4.JS(Mgmt/ICR)
- 5.JS(ICC/P)
- 6.JS(HE)
7. JS(CU)
- 8.JS(Scholarship)
- 9.JS&FA
- 10.DDG(HE)



No. 111/2/3/2016-Cab.III  
Cabinet Secretariat  
Rashtrapati Bhawan

New Delhi, dated the 28<sup>th</sup> March, 2018

Office Memorandum

**Subject:** Adoption of guidelines framed by DoT to grant instant compensation to the families of the victims dying at public places due to the negligence and/ or unforeseen causes, by other Ministries and Departments/ Government entities functioning under their respective administrative control.

Secretary (Ccoordination), Cabinet Secretariat will take a meeting of Group of Officers on 9<sup>th</sup> April, 2018 at 4.00 P.M. in the Conference Room, Lower Basement of Cabinet Secretariat, Rashtrapati Bhawan, New Delhi on the above mentioned subject. A background Note for the meeting will be circulated by D/o Telecommunications separately.

2. It is requested that a senior officer not below the rank of Joint Secretary dealing with the subject may be deputed to attend the meeting.

~~SECRET~~

(Alok Tiwari)  
Deputy Secretary  
Tel: 23015861

- Secretary, D/o Telecommunications\*
- Secretary, D/o Agriculture Research & Education
- Secretary, D/o Coal
- Secretary, D/o Defence Production
- Secretary, D/o Fertilizers
- Secretary, M/o Health & Family Welfare
- Secretary, D/o Health Education & Research
- Secretary, D/o Higher Education
- Secretary, M/o Mines
- Secretary, D/o Posts
- Secretary, D/o Scientific & Industrial Research
- Secretary, M/o Shipping
- Secretary, D/o Sports
- Secretary, M/o Steel
- Secretary, M/o Textiles

For CDN  
@CDN  
03/4/18  
US (CDN)  
314  
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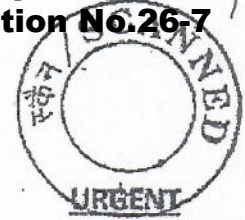
INTERNAL CIRCULATION  
Secy(C)/JS(R)/DS(AT)/SO to CS

*[Handwritten signature]*

Copy to US(RN)

22 copies

\*D/o Telecommunications is requested to circulate a background Note and Presentation to all the invitees and 7 copies of the same may be sent to this Secretariat for internal circulation. A soft copy of the Note and Presentation may also be uploaded in the 'Committee of Secretaries' module in e-Samiksha and e-mailed to (rizvism@nic.in)



No. 36-11/2015-SR(Vol.II)

Government of India

Ministry of Communications (Sanchar Bhawan)

Department of Telecommunications (Doorsanchar Bhawan)

New Delhi, the 28<sup>th</sup> March, 2017.OFFICE MEMORANDUM

**Subject:** Adoption of guidelines framed by DoT to grant instant compensation to the families of the victims dying at public places due to the negligence and/or unforeseen causes, by other Ministries and Departments/Government entities functioning under their respective administrative control.

The undersigned is directed to refer to the Cabinet Secretariat's OM No. 111/2/3/2016-CAB.III dated 28.03.2018 wherein Cabinet Secretariat has intimated that the Secretary (Coordination), Cabinet Secretariat will take a meeting of Group of Officers on 09.04.2018 at 4.00 P.M. in the Conference Room, Lower Basement of Cabinet Secretariat, Rashtrapati Bhawan, New Delhi on the above mentioned subject. A Background Note and the Presentation for the meeting is enclosed.

*(Inderjit Hadda)*  
(Inderjit Hadda)

Deputy Secretary to the Government of India

Tele: 23711239

Secretary, D/o Agriculture Research &amp; Education

Secretary, D/o Coal

Secretary, D/o Defence Production

Secretary, D/o Fertilizers

Secretary, M/o Health &amp; Family Welfare

Secretary, D/o Health Education &amp; Research

✓ Secretary, D/o Higher Education

Secretary, M/o Mines

Secretary, D/o Posts

Secretary, D/o Scientific &amp; Industrial Research

Secretary, M/o Shipping

Secretary, D/o Sports

Secretary, M/o Steel

Secretary, M/o Textiles

Copy for Information to:-

Shri Alok Tiwari, Deputy Secretary, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi w.r.t his letter No. 111/2/3/2016-CAB.III dated 28.03.2018

For CDH

*(Signature)*

2/4

US(CDH)

*Secy CDH - In ntg**IS(P)**(Signature)**US(P)**2/3/4*

13

File No.36-11/2015-SR  
Government of India  
Ministry of Communications (Sanchar Mantralaya)  
Department of Telecommunications (Doorsanchar Vibhag)

New Delhi, the 28<sup>th</sup> March, 2018.

Note for the Group of Officers

**Subject: Guidelines for Settlement of Claims for Compensation on accidents applicable to the Department of Telecommunications and Public Sector Undertakings under its control.**

BACKGROUND

Accidents are unfortunate incidents, occurrences of which cannot be obliterated completely, but can only be minimized by adopting most vigilant practices, safety precautions etc. Sometimes accidents do happen when responsibility and liability cannot be affixed on certain individuals or malfunctioning of certain machinery and the Law recognizes the Principle of 'No faulty Liability' for such unfortunate incidents. In such cases the loss of life and loss of dependency cost of the dependents of such victims cannot be written off merely on the pretext that negligence on the part of Department or its agencies cannot be substantiated for want of stricter proofs. Also being in the public domain and mandated by the Constitution to work for the larger interest of the society, it is expected to pay a just compensation for any loss of life or a good life to the victims or dependents of such victims.

The necessity of preparing such guidelines was arised during awarding of compensation by the Delhi High Court to the family of Shri Om Prakash who was working as Driver in some private company namely Writer Safeguard Ltd. On 30<sup>th</sup> March, 2007, he noticed that two persons were trapped in MTNL manhole in Rajouri Garden, New Delhi. He went inside the main hole to rescue them and was able to rescue one person while rescuing the second person, he was affected by the poisonous gases and ultimately died. The family of deceased Shri Om Prakash

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: 2 :

filed a claimed petition before the Commissioner, Employee's Compensation for claiming compensation under the Employee's Compensation Act and Commissioner had given ex-parte award on 16.02.2012 of Rs.4,42,740/- alongwith interest @12% per annum to the family of the deceased . The employer of Shri Om Prakash paid the compensation to his family on the direction of Delhi High Court and the Hon'ble Court further directed MTNL to pay Compensation of Rs.11,43,500 to the family of the deceased as the work in the manhole was being done by the contractor of the MTNL. The Delhi High Court in its order dated 9<sup>th</sup> July, 2015 (Annexure-A) viewed that there is a need to frame a standard policy of payment of compensation to the family of the victims who die while carrying out hazardous jobs. Shri Sanjay Jain, Additional Solicitor General (ASG) present in the Court agreed with the suggestion of the Hon'ble Court and submitted that if clear guidelines are issued to all the public authorities, the compensation to the family of the victim can be paid directly by the authorities without intervention of the Courts. As the situation stands today, no compensation is paid, unless the public authorities are directed for making the payment of the compensation to the families of the victim. As a result, the families of the victims are forced to file cases in Courts which take a long time to be decided. The Delhi High Court issued a notice dated 30.04.2015 (Annexure-B) to Union of India in the case-FAO-154/2013-&CM No 5185/2013 of WRITER SAFEGAURD LTD Versus COMMISSIONER UNDER EMPLOYEES COMPENSATION ACT AND ORS, and directed to place on record the relevant policy of UOI for granting of awards in such cases. The Hon'ble Court further directed that case is to be considered by the appropriate authority and place the outcome of the deliberations before the Hon'ble Court.

Keeping in view the above scenario and directions of Delhi High Court, guidelines for payment of compensation to the family of the victims who die or become permanently disabled while carrying out hazardous jobs in the Department had been prepared by this Department and sent to ASG on 02.12.2016 for placing the same before the Delhi High Court. The main aim and objective of these guidelines is to provide a comprehensive mechanism for settlement of claims for compensation in such matters in timely and equitable manner. The amount of compensation recommended is based on the principle of just compensation as enunciated in various judgments of the Hon'ble Supreme Court and relied upon in the aforementioned direction of the Delhi High Court and keeping in line with the existing norms in paying compensation in cases of accidents in Road, Railways, Air Transport and also in case of deaths occurring in natural calamities. Example may be seen in Railways wherein compensation is between Rs.32000/- to Rs.400000/-,



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: 3 :

while in Road Accidents it is upto Rs. 200000/- and in accidents related to Airways maximum compensation is limited upto Rs. 1000000/-.

While formulating these Guidelines, it has also been considered that Department have strict responsibilities towards well-being of its employees and they have only that organization to depend upon in the event of the occurrence of any accident. In case of contractor employees, Department have implied and indirect responsibility towards their well-being. Whereas in case of a person who is neither Department's employee nor a Contractor's employees, there is no direct or strict responsibility with respect to paying any compensation in case of death or injury due to accident, however, keeping in view of the larger perspective of public welfare, Department must pay some compensation in their case also. They would also be eligible for compensation from their respective employer in addition to the compensation under these Guidelines. In addition to these guidelines, the Department shall endeavour to make arrangement for first aid facility in the premises and the injured must be provided with the medical aid at the earliest.

~~The guidelines provide compensation of Rs.10 Lakh in case of death or permanent disability resulting loss of both limbs and Rs.7 Lakh in case of other permanent disabilities in the event of any accident resulting solely and directly from any unintended and unforeseen injurious occurrence caused during the maintenance, operation and provisioning of any public services undertaken by the Department & its PSUs. This compensation will be in addition to the existing provisions of compensation under various welfare legislations.~~

To claim the compensation, the victim or dependents would make an application to the designated officer within a period of 90 days of the accident as per the prescribed procedure in the guidelines and the designated Officer is required to dispose of the same within 30 days in any case. In case where no application is received from the victim (any person who suffers permanent disablement or dies in an accident as defined in the guidelines)/dependants of victim, the designated Officer may on receipt of the detailed accident report proceed suo-moto to initiate the process for consideration for grant of the compensation to the victim/dependants of victims.

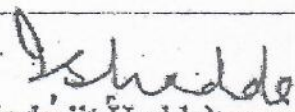
Draft guidelines were considered by the Committee of Secretaries (CoS) in its meeting held on 04.8.2016 in the Cabinet Secretariat. Representatives from the Ministries of Power, Labour and Employment, Civil Aviation, Urban Development,

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Home Affairs, Road & Transport, Departments of Expenditure, Legal Affairs and Railway Board attended the meeting.

As per the directions conveyed by the Cabinet Secretariat in the minutes of the meeting held on 04.08.2016, the draft guidelines had been re-examined and final guidelines based on specific conditions applicable to the entities under it in line with specific directions of the Court has been formulated . The guidelines( Annexure-C) were sent to Shri Sanjay Jain, Ld. ASG on 02.12.2016 for placing the same before the Delhi High Court.

As per Shri Sanjay Jain, learned ASG, the Hon'ble High Court had appreciated the DoT guidelines and viewed that the guidelines should be adopted/ followed by other Departments/Government entities as well, functioning ~~under administrative control of all other Ministries of Central Government.~~ Accordingly, the DoT guidelines have been forwarded by the Cabinet Secretariat to all the Ministries/Departments of Government of India to examine for adoption.

  
(Inderjit Hadda)

Deputy Secretary to the Government of India

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Annexure - A

S-3

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO 154/2013 &amp; C. M. No.5185/2013

WRITER SAFEGAURD LTD

..... Appellant

Through: Mr. (appearance not given), Adv.

versus

COMMISSIONER UNDER EMPLOYEES  
COMPENSATION ACT AND ORS

..... Respondents

Through: Mr. Sanjay Jain, ASG, Mr. Kirtiman  
Singh, CGSC, Mr. Ashtha Jain, Ms.Bani Dikshit, Mr. Rajul Jain &  
Waize Ali, Advocates for UOI.Mr. Saket Sikri & Mr. Vaibhav Kalra,  
Advocates for MTNL.Mr. Aruna Mehta, Advocate for  
respondent No.2 to 5 along with  
respondents.Mr. A. J. Bhambhani, Senior Counsel,  
as amicus curiae.

+ FAO 262/2013 &amp; C. M. No.9569/2013

M/S WRITER SAFEGUARD LTD

..... Appellant

Through: Mr. (appearance not given), Adv.

versus

COMMISSIONER UNDER EMPLOYEES  
COMPENSATION ACT & ORS.

..... Respondents

Through: Mr. Sanjay Jain, ASG, Mr. Kirtiman  
Singh, CGSC, Mr. Ashtha Jain, Ms.Bani Dikshit, Mr. Rajul Jain &  
Waize Ali, Advocates for UOI.Mr. Saket Sikri & Mr. Vaibhav Kalra,  
Advocates for MTNL.Mr. Aruna Mehta, Advocate for  
respondent No.2 to 5 along with

respondents.

Mr. A. J. Bhambhani, Senior Counsel,  
as amicus curiae.

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**ORDER**

**09.07.2015**

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1. Mr. Saket Sikri, learned counsel for MTNL submits that MTNL has taken a decision to pay compensation of Rs.2,00,000/- to the family of deceased, Om Prakash who died on 30<sup>th</sup> March, 2007 while rescuing two persons trapped in the MTNL manhole in Rajouri Garden.

2. Learned counsel for the claimants/respondent no. 2 to 5 submits that MTNL is liable to pay the compensation on the basis of the multiplier method discussed in detail in *Union of Indian Vs. Dhyan Singh & Ors.*, 2013 ACJ 2644, relevant portion whereof is reproduced in the order dated 30<sup>th</sup> April 2015. The deceased Om Prakash was aged about 22 years and was earning Rs.4500/- per month at the time of accident and 50 % is to be added towards future prospects of the deceased. Since the deceased left five legal heirs, one-fourth is to be deducted towards the personal expenses of the deceased. The appropriate multiplier at the age of 22 years is 18. Taking income of deceased Rs.4500/- per month, adding 50 % towards as future prospects, deducting one-fourth towards his personal expenses, applying the multiplier 18, loss of dependency is to be computed as Rs.10,93,500/-. The family of the deceased is entitled to compensation for loss of consortium, love and affection, loss of estate and funeral expenses for which Rs.50,000/- be added. The total compensation according to multiplier comes to Rs.11,43,500/-. Learned counsel for the claimants submits that the legal

heirs of the deceased would not claim interest if MTNL makes the aforesaid amount.

3. In *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers*, 2011 (8) SCC 568, the Supreme Court laid down the guidelines for payment of compensation in respect of the death of workers employed in the maintenance and cleaning of the sewage system. The Supreme Court deprecated the attitude of the public authorities like Delhi Jal Board using the judicial process for frustrating the effort of *National Campaign for Dignity and Rights of Sewerage and Allied Workers* for getting the compensation to the family of the sewerage workers. The Supreme approved the compensation of Rs.5,00,000/- awarded by the High Court and observed that the High Court could have gone upto Rs.10,00,000/- approved by the Supreme Court for compensation to the victims of rape. The Supreme Court further observed that the Delhi Jal Board shall be entitled to recover the compensation from the contractor after making payment to the family of the deceased. The Supreme Court further directed the State and its agencies/instrumentalities to ensure the safety of the persons engaged in hazardous jobs.

4. In *Association of Victims of Uphaar Tragedy & Ors. v. UOI*, 104 (2003)-DLT 234 (DB), the Division Bench of this Court was dealing with the case relating to Uphaar Tragedy dated 13<sup>th</sup> June, 1997 resulting in death of 59 persons. The Division Bench of this Court applied the multiplier method and the Second Schedule of the Motor Vehicles Act, 1988 to compute the compensation payable to the victims of the Uphaar Tragedy. The Division Bench held that the victims of the fire incident belonged to reasonably well-placed families and presumed that the average income of the victims above age of 20 years to be not less than Rs.15,000/- per month, 1/3<sup>rd</sup> was deducted towards the personal expenses and the multiplier of 15

was applied to compute the compensation as Rs.18,00,000/-. With respect to the children, the Division Bench awarded compensation of Rs.15,00,000/-. The Division Bench also awarded interest @ 9% per annum. The Municipal Corporation of Delhi challenged the aforesaid judgment of the Division Bench before the Supreme Court. The Supreme Court in *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy* reduced the compensation from Rs.18,00,000/- to Rs.10,00,000/- in respect of victims aged more than 20 years and from Rs.15,00,000/- to Rs.7,50,000/- lakhs in respect of the victims aged less than 20 years. The findings of the Supreme Court are reproduced hereunder :-

"38. ... It can be by way of making monetary amounts for the wrong done or by way of exemplary damages, exclusive of any amount recoverable in a civil action based on tortious liability. But in such a case it is improper to assume admittedly without any basis, that every person who visits a cinema theatre and purchases a balcony ticket should be of a high income group person. In the year 1997, Rs. 15,000 per month was rather a high income. The movie was a new movie with patriotic undertones. It is known that zealous movie goers, even from low income groups, would not mind purchasing a balcony ticket to enjoy the film on the first day itself. To make a sweeping assumption that every person who purchased a balcony class ticket in 1997 should have had a monthly income of Rs. 15,000 and on that basis apply high multiplier of 15 to determine the compensation at a uniform rate of Rs. 18 lakhs in the case of persons above the age of 20 years and Rs. 15 lakhs for persons below that age, as a public law remedy, may not be proper. While awarding compensation to a large group of persons, by way of public law remedy, it will be unsafe to use a high income as the determinative factor. The reliance upon *Neelabati Behera (AIR 1993 SC 1960 : 1993 AIR SCW 2366)* in this behalf is of no assistance as that case related to a single individual and there was specific evidence available in regard to the income. Therefore, the proper course would be to award a uniform amount keeping in view the principles relating to award of compensation in public law remedy cases reserving liberty to

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the legal heirs of deceased victims to claim additional amount wherever they were not satisfied with the amount awarded. Taking note of the facts and circumstances, the amount of compensation awarded in public law remedy cases, and the need to provide a deterrent, we are of the view that award of Rs. 10 lakhs in the case of persons aged above 20 years and Rs. 7.5 lakhs in regard to those who were 20 years or below as on the date of the incident, would be appropriate. We do not propose to disturb the award of Rs. 1 lakh each in the case of injured. The amount awarded as compensation will carry interest at the rate of 9% per annum from the date of writ petition as ordered by the High Court, reserve liberty to the victims or the LRs. of the victims as the case may be to seek higher remedy wherever they are not satisfied with the compensation. Any increase shall be borne by the Licensee (theatre owner) exclusively.

39. Normally we would have let the matter rest there. But having regard to the special facts and circumstances of the case we propose to proceed a step further to do complete justice. The calamity resulted in the death of 59 persons and injury to 103 persons. The matter related to a ghastly fire incident of 1997. The victims association has been fighting the cause of victims for more than 14 years. If at this stage, we require the victims to individually approach the civil court and claim compensation, it will cause hardship, apart from involving huge delay, as the matter will be fought in a hierarchy of courts. The incident is not disputed. The names and identity of the 59 persons who died and 103 persons who were injured are available and is not disputed. Insofar as death cases are concerned the principle of determining compensation is streamlined by several decisions of this Court. (See for example *Sarla Verma v. Delhi Transport Corporation* (2009) 6 SCC 121: (AIR 2009 SC 3104:2009 AIR SCW 4992). If three factors are available the compensation can be determined. The first is the age of the deceased, the second is the income of the deceased and the third is number of dependants (to determine the percentage of deduction for personal expenses). For convenience the third factor can also be excluded by adopting a standard deduction of one-third towards personal expenses. Therefore, just two factors are required to be ascertained to determine the compensation in 59 individual cases. First is the annual income of the

deceased, two-third of which becomes the annual loss of dependency the age of the deceased which will furnish the multiplier in terms of Sarla Verma (supra). The annual loss of dependency multiplied by the multiplier will give the compensation."

*"Conclusions*

46. In view of the foregoing, we dispose of the appeals as follows:

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(v) CA No. 6748 of 2004 is allowed in part and the judgment of the High Court is modified as under:

(a) The compensation awarded by the High Court in the case of death is reduced from Rs. 18 lacs to Rs. 10 lacs (in the case of those aged more than 20 years) and Rs. 15 lacs to Rs. 7.5 lacs (in the case of those aged 20 years and less). The said sum is payable to legal representatives of the deceased to be determined by a brief and summary enquiry by the Registrar General (or nominee of learned Chief Justice/Acting Chief Justice of the Delhi High Court).

(b) The compensation of Rs. One lakh awarded by the High Court in the case of each of the 103 injured persons is affirmed.

(c) The interest awarded from the date of the writ petition on the aforesaid sums at the rate of 9% per annum is affirmed.

(d) If the legal representatives of any deceased victim are not satisfied with the compensation awarded, they are permitted to file an application for compensation with supporting documentary proof (to show the age and the income), before the Registrar General, Delhi High Court. If such an application is filed within three months, it shall not be rejected on the ground of delay. The Registrar General or such other Member of Higher Judiciary nominated by the learned Chief Justice/Acting Chief Justice of the High Court shall decide those applications in accordance with paras above and place the matter before the Division Bench of the Delhi High Court for consequential formal orders determining the final compensation payable to them."

**(Emphasis Supplied)**

5. In *MCD v. Association of Victims of Uphaar Tragedy* (supra), the Supreme Court has awarded Rs. 10 Lakhs to the victims aged more than 20



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years. It is relevant to note that the Uphaar Tragedy took place on the 13<sup>th</sup> of June, 1997 and the minimum wages at the relevant time ranged from Rs. 1,677/- for unskilled workers to Rs. 2437/- for graduates. It is thus clear that although there was no proof of the income of the victims, the Supreme Court did not find it proper to apply minimum wages.

6. In view of the directions given by the Supreme Court in *Delhi Jal Board v. National Campaign Dignity and Rights of Sewerage and Allied Workers*, (supra), this Court is of the view that in view of the observations made by the Supreme Court in *Delhi Jal Board v. National Campaign Dignity and Rights of Sewerage and Allied Workers* (supra) approving the payment of compensation upto Rs.10,00,000/- to the victims who died while carrying out sewerage work and further in view of the principles laid down by the Supreme Court in *MCD v. Association of Victims of Uphaar Tragedy* (supra) and compensation of Rs.10,00,000/- awarded to the victims of Uphaar Tragedy, this Court is of the view that there is need to frame a standard policy of payment of compensation to the family of victims who die while carrying out hazardous jobs.

7. Mr. Sanjay Jain, learned ASG present in the Court agrees with suggestion of this Court and submits that if clear guidelines are issued to all the public authorities, the compensation to the family of the victims can be paid directly by the authorities without intervention of the Courts. As the situation stands today, no compensation is paid, unless the public authorities are directed making the payment of the compensation to the families of the victim though law in this regard is very well settled. As a result, the families of the victims are forced to file cases in Courts which take a long time to be decided. Mr. Sanjay Jain, learned ASG has done extensive research and has prepared a preliminary note with respect to the present legal position.

8. The learned ASG shall convene a meeting with the concerned officers

from the Ministry of Law, Ministry of Telecommunications as well as Ministry of Urban Development and formulate draft guidelines for being considered by this Court. Learned ASG shall also ascertain whether the guidelines of the Supreme Court in *Delhi Jal Board v. National Campaign Dignity and Rights of Sewarage and Allied Workers* (supra) are being complied with.

9. List on 6<sup>th</sup> August, 2015. The learned ASG shall place the outcome of the aforesaid deliberations before this Court on the next date of hearing. Mr. Saket Sikri shall take instructions from MTNL with respect to the payment of compensation to the legal representatives of the deceased Om Prakash in terms of the judgments discussed hereinabove. Needless to say that the MTNL would be entitled to recover whatsoever amount they agree to pay, from the contractor.

10. Copy of this order be given *dasti* to counsel for all the parties under the signature of the Court Master.

J.R. MIDHA, J.

JULY 09, 2015/ss

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Annexure-B

§-8 &amp; 9

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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+ FAO 154/2013 &amp; CM 5185/2013

WRITER SAFEGAURD LTD

..... Appellant

Through: Mr. Amit Seth, Adv.

versus

COMMISSIONER UNDER EMPLOYEES

COMPENSATION ACT AND ORS

..... Respondents

Through: Ms. Aruna Mehta, Adv. for respondent  
no.2 to 4.

Mr. Saket Sikri, Adv. for MTNL.

Mr. Sanjay Jain, ASG with Mr.

Kirtiman Singh, CGSC, Mr. Noor

Anand, Ms. Aastha Jain, Adv. for

UOI.

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+ FAO 262/2013 &amp; CM 9569/2013

WRITER SAFEGAURD LTD

..... Appellant

Through: Mr. Amit Seth, Adv.

versus

COMMISSIONER UNDER EMPLOYEES

COMPENSATION ACT AND ORS

..... Respondents

Through: Ms. Aruna Mehta, Adv. for respondent  
no.2 to 4.

Mr. Saket Sikri, Adv. for MTNL.

Mr. Sanjay Jain, ASG with Mr.

Kirtiman Singh, CGSC, Mr. Noor

Anand, Ms. Aastha Jain, Adv. for

UOI.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

30.04.2015

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1. The appellant has challenged the order dated 16<sup>th</sup> February, 2012, whereby the Commissioner, Employee's Compensation has awarded Rs.4,42,740/- along with interest @ 12% per annum to respondents No.2 to 6.
2. Respondents No.2 to 6 are the legal representatives, namely, widow, two minor children and parents of late Om Prakash who was working as a driver with the appellant company. On 30<sup>th</sup> March, 2007, late Om Prakash was driving an armoured Omni Van bearing No.DL-1LG-5189 when he noticed two persons trapped in MTNL manhole in Rajouri Garden, whereupon he went inside the manhole to rescue the two persons and was able to rescue one person but while rescuing the second person, he was affected by the poisonous gases and became unconscious and collapsed. FIR No.259/2007 under Section 304A IPC was registered at P.S. Rajouri Garden.
3. Respondents No.2 to 6 filed a claim petition before the Commissioner, Employee's Compensation for claiming compensation under the Employee's Compensation Act, which resulted in an *ex parte* award dated 16<sup>th</sup> February, 2012 in favour of respondents No.2 to 6 and against the appellant. The appellant's application for setting aside the *ex parte* award was dismissed by the Commissioner, Employee's Compensation on 21<sup>st</sup> January, 2013.
4. The appellant has deposited Rs.4,45,240/- with the Commissioner, Employee's Compensation on 11<sup>th</sup> March, 2013. The balance award amount has been directed to be deposited by the appellant with the Registrar General of this Court vide order dated 23<sup>rd</sup> April, 2015.
5. Mr. Yazdi Desai, Managing Director of the appellant company is

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present in Court and he submits that this matter was brought to his notice last week and the appellant company has decided not to press this appeal. Mr. Desai further submits that the decision to contest this case was taken by the Manager (HR) at that time. Mr. Desai further submits that the compensation awarded by the Commissioner, Employee's Compensation be released to the legal representatives of the deceased Om Prakash. Mr. Desai further submits that it would be appropriate for MTNL to pay adequate compensation to the family of the deceased. He further submits that the case of Om Prakash be recommended for the national award in an appropriate category for sacrificing the life for the country.

6. In *Union of India vs. Dhyam Singh & Ors.* 2013 ACJ 2644, this Court had an occasion to deal with a similar case. In that case, three workers were trapped in the sewage tank whereupon Constable Ranbir Singh of CRPF went inside the sewage tank to save the lives of the labourers but was affected by the poisonous gases and lost his life. The deceased was survived by his widow, four minor children and parents who filed a suit for recovery of Rs.5 lakh as compensation, which was contested by Union of India on the ground that it was the liability of the contractor. The learned Trial Court decreed the suit for recovery of Rs.5 lakh which was challenged by Union of India before this Court. This Court considered the well-settled principles laid down by the Supreme Court in *Delhi Jal Board v. National Campaign* ( 2011 ) 8 SCC 568 and found no merit in the appeal. This Court further noticed that the family of the deceased was entitled to compensation of Rs.11,59,052/- according to the multiplier method. This Court exercised of the power under Order XLI Rule 33 of the Code of Civil Procedure and enhanced the decretal award from Rs.5 lakh to Rs.11,59,052/- along with interest @ 9% per annum. This Court also recommended the compassionate appointment to be given to the widow/children of the deceased. This Court

also noted that the CRPF had recommended Jeevan Raksha Padak to be awarded to the deceased. Relevant portion of the said judgment is reproduced hereunder: -

"2. On 11<sup>th</sup> September, 2001, four labourers hired by the contractor of CPWD were cleaning the septic tank at the CRPF Camp, Bawana. The labourers told the contractor that a foul smell was coming out of the septic tank which may be fatal to their lives but the contractor still ordered them to clean the tank whereupon three labourers entered the septic tank and they fell unconscious upon inhaling the poisonous gases in the tank. The fourth labourer, Deepak raised an alarm whereupon Constable Ranbir Singh and Head Constable Dayal Singh reached the spot and went inside the septic tank to save the lives of the labourers. However, both of them were affected by the poisonous gases inside the tank and they fell unconscious. The fire brigade and the police were requisitioned and they pulled out all the men out of the septic tank in a critical condition and they were taken to Babu Jagjivan Memorial Hospital. Head Constable Dayal Singh survived whereas the remaining four persons including Constable Ranbir Singh were declared dead".

"4. The appellant contested the suit on various grounds *inter alia* that the work of cleaning the septic tank was to be done by the contractor between 10<sup>th</sup> July, 2001 to 9<sup>th</sup> August, 2001 and the contractor started the work after the expiry of the said period without seeking the extension from the department and, therefore, the appellant was not responsible for the accident. It was further pleaded that there was no negligence on the part of the appellant. It was further pleaded that the contractor was held liable for the accident in the preliminary enquiry report Ex.PW-5/A by the Deputy Welfare Commissioner and the appellant was not responsible for the negligence of the contractor. It was further pleaded that the legal representatives of the deceased were receiving pension and, therefore, they were not entitled to any compensation".

"14. This case is squarely covered by the judgments of the Supreme Court in *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers*, (2011) 8 SCC 568 and this Court in *National Campaign for Dignity and Rights of Sewerage and Allied Workers v. Delhi Jal Board*, 155 (2008) DLT 136 in which the Government was held liable to

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pay the compensation to the families of the sewage workers who died due to the negligence of the contractor. The plea of the Government that they are not liable for the negligence of the contractor was rejected by the Courts.

15. In *National Campaign for Dignity and Rights of Sewerage and Allied Workers v. Delhi Jal Board* (supra), the National Campaign for Dignity and Rights of Sewerage and Allied Workers, which is engaged in the welfare of sewage workers, filed a Writ Petition to highlight the plight of sewage workers as the legal representatives of the persons who work in the sewers laid or maintained by the State and/or its agencies/instrumentalities on their own or through the contractors and who get killed due to negligence of the employer, do not have the means and resources for seeking intervention of the judicial apparatus of the State. The Division Bench of this Court requested Dr. S. Muralidhar, J. to find out a workable solution to the problem relating to the deaths of the sewer workers, their health and safety, the steps to prevent recurrence of deaths/injuries of the sewer workers, to improve their working conditions, the compensation to be paid for the deaths of the workers and the steps to be taken to phase out manual work and replace it with mechanized sewer cleaning. Dr. S. Muralidhar, J. deliberated upon the matter and gave valuable suggestions which were considered by the Division Bench. The Division Bench after hearing all the parties held that the Government shall remain responsible to pay the compensation for death of a worker due to the negligence of the contractor. However, the Government can recover the said compensation from the contractor. The Division Bench directed the civic agencies to pay the compensation to the families of the victims. The relevant portion of the judgment is reproduced hereunder:-

"We accordingly request Hon'ble Dr. Justice S. Muralidhar, a Judge of this Court, to donate some of his valuable time beyond Court hours in an attempt to find out a workable solution to the problem in consultation with all concerned including experts, if any on the subject. The parties shall appear before Dr. S. Muralidhar, J. on Saturday the 18th August, 2007 at 11.00 a.m. in His Lordships chamber."

3. Thereafter, fairly elaborate detailed hearings

were held by Dr. S. Muralidhar, J. on 18th August, 2007, 22nd September, 2007 and 1st December, 2007. Although a number of issues have been highlighted by the petitioner, the issues that have been considered on priority basis include: (a) deaths of the sewer workers, (b) their health and safety, (c) the steps to prevent recurrence of deaths and injuries of the sewer workers and to improve their working conditions (d) the compensation if any paid for the deaths of the workers in the course of their employment, and (e) the steps to be taken to phase out manual work and replace it with mechanized sewer cleaning. By order dated 5th April, 2008, which is in the form of a report, ~~magnitude of the problem has been noted with~~ reference to the affidavit dated 4th April, 2008 of Delhi Jal Board (DJB) wherein it is mentioned that "the infrastructure in the National Capital comprises a network of 6150 kms long sewers. Out of this 150 kms is the length of trunk sewers, 1500 Kms is the length of peripheral sewers and 4500 kms is the length of internal sewers. The sewer network is connected to 17 Sewage Treatment Plants, having a composite capacity of 512.4 MGD. Besides, there are 33 major Sewage Pumping Stations located at various locations to pump the sewage wherever required." It was noted that at present 3923 permanent workers are employed against 4171 sanctioned posts. In addition there are 1403 muster roll workers. Apart from these workers, contract labour is also engaged from time-to-time. It was further noted that although guidelines on safety have been issued by DJB in November, 2002, they are being observed more in its breach and the DJB is not serious about the implementation of its own safety guidelines. It was further noted that so far as DJB is concerned there have been a total of 36 deaths of sewer workers since 2002 out of which 30 were contract workers and 6 were in regular employment. It was also noted that in spite of repeated directions, DJB has failed to conduct



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inquiries into the deaths and injuries of sewer workers. It was noted that there are many aspects of the matter that will require further monitoring to ensure that real changes are brought about in the working conditions of sewer workers. In particular the liability of the DJB and the contractors under the CLRA and their liability to pay compensation under the WC Act (as amended in 2002) will have to be examined. Even while a workable scheme of remedial measures is formulated, the reasons for the deaths of the sewer workers and for the failure of the DBJ and its contractors to comply with the 2002 guidelines must be unearthed for which the DJB has to honour its commitments to the Court with all seriousness.

4. Thereafter the matter was placed before the Division Bench and by order dated 11th April, 2008, the Court called upon the DJB and NDMC to file status report setting out the requisite information and, inter alia, stating: (a) the number of deaths that have taken place from the year 2002 onwards; (b) have any inquiries/investigations at any level been conducted by the authorities into the cases of such deaths; (c) if inquiries were conducted, was any action taken either against the contractor who employed the deceased workers or against any other functionary of the local body under whom the contractor was engaged; (d) if there any proposal for improvement of the working conditions of the sewer workers, if so what are those proposals and what steps have been taken by the local bodies to implement the recommendations, if any, made in that regard; (e) in case there are no proposals, are the local bodies willing to frame guidelines and take measures to prevent such deaths in future and to provide better working conditions to the workers engaged for cleaning work; (f) if there any provision for payment of compensation to the families of the deceased workers and for those who suffer a disability while working. If so what is the scheme and have any payments under the same been made.

5. Pursuant to the above order, NDMC has filed affidavit dated 8th May, 2008 wherein it has been asserted that no NDMC employee/contractor's labour has died during cleaning of sewer lines/manholes since the year 2002 due to negligence/non-adoption of safety measures. However, it is conceded that 3 persons working under the NDMC contractor died on 7th December, 2003 due to inhalation of toxic gases from the sewer lines. It is stated that the above three persons entered in the manholes without obtaining any permission/approval from Engineer-in-Charge of the site and without any safety precautions/measures which are required before entering into a sewer line. It is further stated that since it was a case of accident and not negligence, no inquiry was conducted. According to NDMC, there is scope for improvement of the working conditions of the sewer workers and following steps have been taken by NDMC in this direction:

"(1) As far as possible cleaning of sewer lines/manholes is done mechanically. Entry of human beings is being restricted to the rarest of rare cases only where mechanical cleaning is not possible.

(2) In cases where manual cleaning is done, it is ensured that all safety equipments are used and all precautions are taken. Sewermen are not allowed to remain in deep manholes for more than 5-10 minutes at a stretch. The concerned Junior Engineer/Assistant Engineer remains present at site during the entire cleaning operation.

(3) All safety appliances like air breathing apparatus, full face cover safety mask, safety belts, torch, safety goggles, safety helmets, safety belts, gum boots, diving suits, air blowers and exhausts, etc. are being extensively used.

(4) Free medical facilities are provided to all employees for health checkup, treatment and hospitalization, etc. in state of the art hospitals of capital. A list of all such hospitals is given below:

(1) Max Balaji Hospital, Indraprastha

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(2) ....

(3) ....

(4) ....

(26) Charak Palika Hospital, Moti Bagh

(5) All the sewer men are insured for Rs.1.00 lac each with the National Insurance Company Ltd. for which the premium is paid by NDMC. This is besides the General Insurance Scheme which is applicable to the Government employees as per Central Govt. Rules.

(6) Accommodation is given to the sewer men as per the availability / seniority. At every service centre labour rest room has been provided. For the education of their family members several NDMC schools are functioning in NDMC area.

(7) Drinking water, bathing and washing facility is provided at the stores/service centres. Recreational club has been provided by NDMC for its employees.

(8) Training for use of appliances and other safety equipments is given to the workers by the department itself. Programme for training from other agencies is being chalked out."

6. The DJB has filed status report dated 7th July, 2008 in which it is admitted that number of deaths since 2002 is 36 and six of those workers were employed by DBJ and 30 were contract workers. The reasons for the deaths in most of the cases have not been given. In the cases in which reasons have been furnished, the cause of death has been attributed to lack of safety equipments or negligence. In none of these cases any disciplinary action has been taken and apart from simple warning, which has been issued in majority of cases, no action has been taken against the concerned official or contractor, responsible for the workers' safety. It is further stated in the status report that the DJB has now made functional Safety and Disaster Management Cell that will take care of issues concerning the sewer workers. Instructions have been issued to all concerned to incorporate a clause in the contract agreement to

reserve the right of DJB to debar/blacklist a defaulting firm. The report further states that the following proposals for improvement of the working conditions have been made:

- “(i) Safety awareness programs.
- (ii) Circulations of do's and don't's for sewer workers.
- (iii) Directions to procure and maintain safety equipment.
- (iv) Training in confined space entry and rescue imparted to ten trainers
- (v) Entered into an MOU with National disaster management for providing consultancy services for safety and disaster management.”

According to DJB it has taken the following steps in an attempt to shift from manual to mechanized cleaning:

- “(i) DJB has stopped using manual labour to clean sewer line deeper than 5 ft. It has procured additional jetting machines.
- (ii) Major trunk/peripheral sewer is desilted by super sucker machines. However, in an emergency, deep sewer entry is allowed with proper safety equipment and the presence of a junior engineer.”

7. According to DJB it has also procured the necessary equipments. It is then stated that DJB has 11 dispensaries, 25 private hospitals and 37 diagnostic centres empanelled with the DBJ to provide care to the workers. It has a decentralised arrangement for reimbursement when beyond normal entitlement so relief in emergency cases is immediate. The first aid boxes are made available for workers and contractors are obliged to provide medical facilities as per provision of the contractual agreement and periodic health check ups are being done. It is stated that model rules and safety codes, which are in force, will be strictly implemented for the workers cleaning the sewers. DJB has introduced a basic safety awareness for the year 2007-2008 in collaboration with National Institute of Disaster Management for providing

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consultancy services for safety and disaster management and the establishment of emergency preparedness and response teams. The guidelines issued by the NHRC are being followed by the DJB. On the issue of compensation, the DJB has stated that if a worker dies, compassionate appointment is given wherever possible. Workers facing injury are provided with compensation as per the insurance policies taken. In cases where there is death of a worker hired by contractor, Workmen's Compensation Act provides for payment of compensation. Although DJB has agreed to provide names of the contract workers working for the contractors, relevant details regarding contractors and the workers working under them have not been furnished.

8. In the written submissions filed on behalf of the petitioner on 22nd July, 2008, it has been brought on record that a daily wage worker by the name of Amit, working for contractor employed by NDMC, died due to inhalation of toxic gases on 20th July, 2008. It is stated that Amit was accompanied by another daily wage worker, Rajpal, who fainted due to the inhalation of gases and was removed from the sewer. Rajpal has, however, survived. Further according to the petitioner, on 5th May, 2008, two contract workers working under contractors employed by the DJB died due to inhalation of gases in the sewer. Their names are Chintu and Pintu (Papu/Hassan Ahmed). They were working in a sewer line situated at Dabri."

16. The interim directions of the Division Bench of this Court are reproduced hereunder:-

"(a) The medical examination and medical treatment will be given free of charge to sewer workers and the treatment will continue for all such workers found to be suffering from an occupational disease, ailment or accident until the workman is cured or until death.

(b) The services of the sewer workers are not to be terminated, either by the respondents or the contractors engaged by them, during the period of

illness and they shall be treated as if on duty and will be paid their wages.

(c) Compensation shall be paid by the respondents and recoverable from the contractors, if permissible in law, to all the workmen suffering from any occupational disease, ailment or accident in accordance with the provisions of the Workmen's Compensation Act, 1923.

(d) The respondents shall pay on the death of any worker, including any contract worker, an immediate ex gratia solatium of Rs. One lac with liberty to recover the same from contractors, if permissible in law.

(e) The respondents shall pay/insure payment of all statutory dues such as Provident Fund, Gratuity and Bonus to all the sewer workers, including contract workers, as applicable in law.

(f) The respondents shall provide as soon as possible modern protective equipments to all the sewer workers in consultation with the petitioner organisation.

(g) The respondents shall provide soap and oil to all the workmen according to the present quota, but on monthly basis and not at the end of the year.

(h) The respondents shall provide restrooms and canteens, in accordance with the DIB model rules, including therein first-aid facilities, safe drinking water, washing facilities, latrines and urinals, shelters, creches and canteens as set out in the model rules. There are to be provided at what is known as 'stores' which are the places where the workers assemble to give their attendance and from where they depart to their respective work sites.

(i) The respondents shall provide all workman, including contract workmen, with an accident-card-cum-wage-slip as set out in Clause 8 of the C.P.W.D./PWD (DA)/Delhi Jal Board Contractors Labour Regulations (for short "Labour Regulations").

(j) The respondents shall provide all workers,

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including contract workers, employment cards as set out in Clause 9 of the Labour Regulations and, on termination of services provide the contract workers and others with a service certificate as set out in Clause 10 of the Labour Regulations.

(k) The respondents shall authenticate by signing the payment of wages register for contract workers in terms of Clause 5 of the Labour Regulations.

(l) The respondents shall submit to this Court and to the petitioner within four weeks from today the full list of contract workers and contractors engaged for work relating to the sewers together with the wages paid to such workmen and the number of years of employment of the workers.

~~(m) The DJB is directed to ensure that the ex gratia payment in case of deaths of sewer workers has been paid to the families of deceased workmen and in case such compensation is not paid, release the same within a period of eight weeks.~~

(n) NDMC is directed to pay ex gratia payment of Rs. One lac each in respect of the accident of 7th December, 2003 where three persons working under the NDMC contractors died, with liberty to recover the same from the contractor, if permissible in law.

(o) The DJB and NDMC are directed to hold an inquiry into deaths of sewer workers referred to in paragraphs 15 and 16 of the written submissions of the petitioner dated 22nd July, 2008 and submit a report to this Court within a period of eight weeks. If it is found that the contract workers in question were working under the contractors employed by NDMC/DJB, ex gratia compensation of Rs. One lac shall be released forthwith to the families of the victims subject to right of recovery from contractors in accordance with law.

(p) The respondents shall place on record a map showing the areas within the NCT, (1) where no sewage facilities are available, (2) where modern machinery cannot enter due to narrow lanes or otherwise, (3) the areas serviced by modern machinery, and (4) critical area where frequent

deaths, accidents and blockages occur. It shall be done within three months from today.

(q) Lastly, the respondents are directed to place on record the proposals and plans to phase out manual work and replace it with mechanized sewer cleaning, as envisaged by DJB as well as NDMC, which shall be done within three months."

(Emphasis supplied)

17. Vide order dated 21<sup>st</sup> April, 2009, the Division Bench of this Court directed the civic bodies to pay compensation of Rs.1,71,000/- to the families of each of the victim through Delhi Legal Services Authority. Delhi Jal Board challenged this order before the Supreme Court. *Vide* judgment reported as *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Worker* (supra), the Supreme Court dismissed the appeal and enhanced the compensation from Rs.1,71,000/- to Rs.5,00,000/- to be paid by the civil agencies. The Supreme Court held that the State and its agencies/instrumentalities cannot absolve themselves of the responsibility to put in place effective mechanism for ensuring safety of the workers employed for maintain and cleaning the sewage system. The Supreme Court further held that human being employed for doing work in the sewers cannot be treated as mechanical robots, who may not be affected by poisonous gases in the manholes. The State and its agencies or contractors are under constitutional obligation for the safety of such persons who undertake such hazardous jobs and cannot use the judicial process for frustrating the efforts of the dependants of the workers, who died due to the negligence of the contractor to whom the work of maintaining the sewage system was outsourced. The relevant findings of the Supreme Court are as under:-

"1...This appeal filed by Delhi Jal Board for setting aside an interlocutory order passed by the Division Bench of the Delhi High Court whereby it has been directed to deposit Rs 79,000 with the Delhi High Court Legal Services Committee in addition to Rs 1.71 lakhs already paid to the families of the deceased worker, namely, Rajan is one of the several thousand cases filed by the State and/or its agencies/instrumentalities to challenge the orders passed by the High Courts for ensuring



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that the goal of justice set out in the Preamble to the Constitution of India is fulfilled, at least in some measure, for the disadvantaged sections of the society who have been deprived of the fundamental rights to equality, life and liberty for last more than 6 decades. The appeal is also illustrative of how the State apparatus is insensitive to the safety and well-being of those who are, on account of sheer poverty, compelled to work under most unfavourable conditions and regularly face the threat of being deprived of their life.

2. The laws enacted by Parliament and State Legislatures provide for payment of compensation to the legal representatives of those killed in air, rail or motor accident. The legal representatives of a workman, who dies while on duty in a factory/industry/establishment get a certain amount of compensation. Even those who are killed in police action get compensation in the form of ex gratia announced by the political apparatus of the State. However, neither the law-makers nor those who have been entrusted with the duty of implementing the laws enacted for the welfare of the unorganised workers have put in place an appropriate mechanism for protection of persons employed by or through the contractors to whom services meant to benefit the public at large are outsourced by the State and/or its agencies/instrumentalities like the appellant for doing works, which are inherently hazardous and dangerous to life nor made provision for payment of reasonable compensation in the event of death.

3. Since the legal representatives of the persons who work in the sewers laid or maintained by the State and/or its agencies/instrumentalities on their own or through the contractors and who get killed due to negligence of the employer do not have the means and resources for seeking intervention of the judicial apparatus of the State, the National Campaign for Dignity and Rights of Sewerage and Allied Workers, which is engaged in the welfare of

sewage workers filed Writ Petition No. 5232 of 2007 in the Delhi High Court to highlight the plight of sewage workers many of whom died on account of contemptuous apathy shown by the public authorities and contractors engaged by them and even private individuals/enterprises in the matter of providing safety equipments to those who are required to work under extremely odd conditions.

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25. In the last 63 years, Parliament and the State Legislatures have enacted several laws for achieving the goals set out in the Preamble but their implementation has been extremely inadequate and tardy and the benefit of welfare measures enshrined in those legislations has not reached millions of poor, downtrodden and disadvantaged sections of the society and the efforts to bridge the gap between the haves and have-nots have not yielded the desired result. The most unfortunate part of the scenario is that whenever one of the three constituents of the State i.e. judiciary, has issued directions for ensuring that the right to equality, life and liberty no longer remains illusory for those who suffer from the handicaps of poverty, illiteracy and ignorance and directions are given for implementation of the laws enacted by the legislature for the benefit of the have-nots, a theoretical debate is started by raising the bogey of judicial activism or judicial overreach and the orders issued for the benefit of the weaker sections of the society are invariably subjected to challenge in the higher courts. In a large number of cases, the sole object of this litigative exercise is to tire out those who genuinely espouse the cause of the weak and poor.

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38. In view of the principles laid down in the aforesaid judgments, we do not have the slightest hesitation to reject the argument that by issuing the directions, the High Court has assumed the legislative power of the State. What the High

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Court has done is nothing except to ensure that those employed/engaged for doing work which is inherently hazardous and dangerous to life are provided with life-saving equipments and the employer takes care of their safety and health.

39. The State and its agencies/instrumentalities cannot absolve themselves of the responsibility to put in place effective mechanism for ensuring safety of the workers employed for maintaining and cleaning the sewage system. The human beings who are employed for doing the work in the sewers cannot be treated as mechanical robots, who may not be affected by poisonous gases in the manholes. The State and its agencies/instrumentalities or the contractors engaged by them are under a constitutional obligation to ensure the safety of the persons who are asked to undertake hazardous jobs. The argument of choice and contractual freedom is not available to the appellant and the like for contesting the issues raised by Respondent 1.

Re: Question 3

40. We shall now consider whether the High Court was justified in issuing interim directions for payment of compensation to the families of the victims. At the outset, we deprecate the attitude of a public authority like the appellant, which has used the judicial process for frustrating the effort made by Respondent 1 for getting compensation to the workers, who died due to negligence of the contractor to whom the work of maintaining sewage system was outsourced. We also express our dismay that the High Court has thought it proper to direct payment of a paltry amount of Rs 1.5 to 2.25 lakhs to the families of the victims.

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50. In view of the law laid down in the aforementioned judgments, the appellant's challenge to the interim directions given by the High Court for payment of compensation to the families of the workers deserves to be rejected. However, that is not the end of the matter. We feel

that the High Court should have taken cue from the judgment in *Railway Board v. Chandrima Das* [(2000) 2 SCC 465] and awarded compensation which could be treated as reasonable. Though, it is not possible to draw any parallel between the trauma suffered by a victim of rape and the family of a person who dies due to the negligence of others, but the High Court could have taken note of the fact that this Court had approved the award of compensation of Rs 10 lakhs in 1998 to the victim of rape as also increase in the cost of living and done well to award compensation of at least Rs 5 lakhs to the families of those who died due to negligence of the public authority like the appellant which did not take effective measures for ensuring safety of the sewage workers.

51. We may have remitted the case to the High Court for passing appropriate order for payment of enhanced compensation but keeping in view the fact that further delay would add to the miseries of the family of the victim, we deem it proper to exercise power under Article 142 of the Constitution and direct the appellant to pay a sum of Rs 3.29 lakhs to the family of the victim through the Delhi High Court State Legal Services Committee. This would be in addition to Rs 1.71 lakhs already paid by the contractor.

52. In the result, the appeal is dismissed subject to the aforesaid direction regarding the amount of compensation to be paid by the appellant. It is needless to say that the appellant shall be entitled to recover the additional amount from the contractor. Respondent 1 shall also be entitled to file appropriate application before the High Court for payment of enhanced compensation to the families of other victims and we have no-doubt that the High Court will entertain such request.

53. With a view to obviate further delay in implementation of the directions contained in the first order passed by the High Court on 20-8-2008, we direct the appellant to ensure compliance with

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clauses (a), (b), (d), (e), (f), (g), (i), (k), (m) and (n) within a period of two months from today and submit a report to the High Court. The appellant shall also ensure that these directions are complied with by the contractors engaged by it for execution of work relating to laying and maintenance of sewer system within the area of its jurisdiction. A report to this effect be also submitted to the High Court within two months. Additionally, we direct that in future the appellant shall ensure that the directions already given by the High Court and which may be given hereafter are made part of all agreements which may be executed with contractors/private enterprises for doing work relating to sewage system.

54. The directions contained in the preceding paragraph do not imply that the appellant and other agencies/instrumentalities of the State like New Delhi Municipal Council, Municipal Corporation of Delhi, Delhi State Industrial Development Corporation are not required to comply with the directions given by the High Court. Rather, they too shall have to submit similar reports."

18. This case is also covered by the principles of *res ipsa loquitur*. In *Shyam Sunder v. State of Rajasthan*, [1974] 1 SCC 690, the Supreme Court discussed the doctrine of *res ipsa loquitur*. In para 10, the Supreme Court observed as under:

"The maxim is stated in its classic form by Erle, C.J. [See: *Scott Vs. London & St. Katherine Docks* (1865) 3 H & C 596, 601]:

.... where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence in the absence of explanation by the defendants, that the accident arose from want of care."

In para 15, the Supreme Court held as follows:

"*Res ipsa loquitur* is an immensely important vehicle for importing strict liability into

negligence cases. In practice, there are many cases where *res ipsa loquitur* is properly invoked in which the defendant is unable to show affirmatively either that he took all reasonable precautions to avoid injury or that the particular cause of the injury was not associated with negligence on his part. Industrial and traffic accidents and injuries caused by defective merchandise are so frequently of this type that the theoretical limitations of the maxim are quite over shadowed by its practical significance. [See: Millner: "Negligence in Modern Law" 92]."

(Emphasis supplied)

~~In para-16, the Supreme Court further held as under:~~

"Over the years, the general trend in the application of the maxim has undoubtedly become more sympathetic to plaintiffs. Concomitant with the rise in safety standards and expanding knowledge of the mechanical devices of our age, less hesitation is felt in concluding that the miscarriage of a familiar activity is so unusual that it is most probably the result of some fault on the part of whoever is responsible for its safe performance [See: John G. Fleming. The Law of Torts, 4th Ed. p. 260]."

19. In *Syad Akbar v. State of Karnataka*, (1980) 1 SCC 30, the Supreme Court held that the rule of *res ipsa loquitur* in reality belongs to the law of torts. Where negligence is in issue, the peculiar circumstances constituting the event or accident, in a particular case, may themselves proclaim in concordant, clear and unambiguous voices the negligence of somebody as the cause of the event or accident. The Supreme Court held as under:

"19... The peculiar circumstances constituting the event or accident, in a particular case, may themselves proclaim in concordant, clear and unambiguous voices the negligence of somebody as the cause of event or accident. It is to such cases that the maxim *res ipsa loquitur* may

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apply, if the cause of the accident is unknown and no reasonable explanation as to the cause is coming forth from the defendant. The event or accident must be of a kind which does not happen in the ordinary course of things if those who have the management and control use due care. Further the event which caused the accident must be within the defendant's control. The reason for this second requirement is that where the defendant has control of the thing which caused the injury, he is in a better position than the plaintiff to explain how the accident occurred..."

(Emphasis supplied)

20. In *Kerala State Electricity Board v. Kamalakshy Amma*, 1987 ACJ 251, a person died by accidentally coming into contact with the live wire which snapped out of the cup joint on electric post. The legal representatives of the victim instituted a suit against Kerala State Electricity Board (KSEB) for damages on account of his death alleging that KSEB was negligent in maintaining the electric line under their management. The Division Bench of the Kerala High Court applied the rule of *res ipsa loquitur* and upheld the compensation awarded by the Trial Court. The Court held as under:-

"9. When the plaintiffs succeeded in proving that a pedestrian (in this case, the deceased) was electrocuted from a live wire hanging down from an electric post, there is a presumption of fact that there was lack of proper care on the part of those in the management or control of the power supply system at the particular place. The maxim *res ipsa loquitur* is a principle which aids the court in deciding as to the stage at which the onus shifts from one side to the other. S. 114 of the Evidence Act gives a wide discretion to the courts to draw presumptions of fact based on different situations and circumstances. This is in a way, a recognition of the principle embodied in the maxim *res ipsa loquitur*. The leading case on the subject is *Scott v. London and St. Katherine Docks Co.* (1865) 3 H & C 596. Erle C.J. in the said case has stated that, "where the thing is shown to be under the management of the defendant or his servants and

the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by the defendants, that the accident arose from want of care". Evershad M. R. in Moore v. R. Fox & Sons (1956) 1 OB 596 affirmed and followed the principle laid down in Scott's case. Winfield in his famous treatise on Tort, after referring to the decisions which founded the above doctrine, has mentioned the two requirements to attract the above principle. They are, (i) that the "thing" causing the damage be under the control of the defendant or his servants and (ii) that the accident must be such as would not in the ordinary course of things have happened without negligence. This principle which was often found to be a helping guide in the evaluation of evidence in English decisions has been recognised in India also. The Supreme Court in Syed Akbar v. State of Karnataka MANU/SC/0275/1979 : AIR 1979 SC 1848 has discussed the applicability of the maxim *res ipsa loquitur* in civil as also criminal cases, in the light of the provisions of the Evidence Act..."

(Emphasis supplied)

21. In *State of Gujarat v. Purnimaben*, MANU/GJ/0340/2000, the Division Bench of the Gujarat High Court explained the rule of *res ipsa loquitur* as under:-

"18. In the realm of tort negligence, at times, it becomes difficult to establish the nexus, with the result or the consequence or the cause thereof by leading direct evidence. In order to mitigate such a contingency, a very interesting concept and philosophy of doctrine of 'res ipsa loquitur' has been evolved in English Law and we have also followed in tort negligence. Rule of 'res ipsa loquitur', in reality, belongs to law of tort. Where negligence is in issue, peculiar circumstances constituting the event or accident in a particular



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case might themselves proclaim in concordant, clear, consistent and unambiguous basis the negligence of somebody as a cause of the event or the accident. The primary facts, constituted from the record would give a rise to such a concept if cause of accident is unknown and no reasonable explanation as to its cause is coming forth from the opposite party. In such a fact situation, the maxim of 'res ipsa loquitur' comes into play.

19. It is, therefore, necessary to invoke such a doctrine in examining, determining and adjudicating upon the claim of compensation founded upon the tort negligence. **The event or the accident must be a kind which would not happen in ordinary course of event or nature or thing if those who have the management and control of the thing has exercised due, appropriate and reasonable standard of care and caution. Further, the events are caused, the accident must be within the control of the defendant or the adversary. The reason for second requirement is that where the defendant or the adversary has the control of the thing which caused the injury, he was in a better position than the plaintiff to explain as to how the incident or the accident has occurred. Moreover, 'res ipsa loquitur' must not be speaking negligence but pin it on the defendant. In our country, the rules of evidence are governed by the Evidence Act, 1872; under which the general rule is with the burden of proving negligence as to the cause of the accident is on the party who propounds it. In order to lighten this burden, there are certain provisions and the doctrines, namely,**

- (1) permissive presumption,
- (2) presumption of fact,
- (3) rebuttable presumption of law
- (4) irrebuttable presumption of law.

20. Presumptions of fact are inferences on fact patterns drawn from the experience and experiments. It is, therefore, the discretion of the Court to draw an inference about the existence on

certain factual situation, if primary facts brought out on record warrants such presumption. In fact, doctrine of 'res ipsa loquitur' could only create an aid in evaluation and analysis and assessment of evidence on record. When such a doctrine is applied properly to the facts, the burden of proof, initially, rests with the victims of the tort or their heirs or legal representatives is lightened or reduced as the Court would be able to presume certain things and therefore, it will be for the defendant or the adversary to explain or rebut such a presumption. No doubt, this doctrine could be invoked where direct evidence is not obtainable. ..."

"23. The rule that it is for the plaintiff to prove negligence and not the defendant to disprove it, in some cases, is one of the considerable hardship to the plaintiff because, it may be that the true cause of the accident lies solely within the knowledge of the defendant who caused it. The plaintiff can prove the accident, but he cannot prove how it happened so as to show its genesis or origin in the negligence of the defendant. This hardship is avoided to a considerable extent by the principle of 'res ipsa loquitur'. To sum up, the effect of the doctrine of 'res ipsa loquitur' depends on the cogency of the inference to be drawn, and will vary from case to case, if for instance, a vehicle mounts to pavement, this is evidence of negligence, but reasonable men may differ about the inference to be drawn from it, so that a verdict of no negligence would not be upset although a withdrawal from the jury would be - yet something may fall from the defendant's window in such circumstances that only an inference of negligence can be drawn, whereupon a verdict of no negligence might be set aside.

24. Truly and plainly speaking, the effect of doctrine of 'res ipsa loquitur' is to shift the onus to the defendant in the sense that the doctrine continues to operate unless the defendant calls

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credible evidence which explains how the accident or mishap may have occurred without negligence, and it seems that the operation of the rule is not displaced merely by expert evidence showing, theoretically, possible ways in which the accident might have happened without the defendant's negligence. The doctrine of 'res ipsa loquitur', therefore, plays a very significant role in the law of tort and it is not the relic of the past, but the living force of the day in determining the tortious liability."

(Emphasis supplied)

22. The principle of *res ipsa loquitur* laid down in the aforesaid four judgments is summarized as under:

i. *Res ipsa loquitur* means that the accident speaks for itself. In such cases, it is sufficient for the plaintiff to prove the accident and nothing more.

ii. Where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence in the absence of explanation by the defendants, that the accident arose from want of care.

iii. There are two requirements to attract *res ipsa loquitur*, (i) that the "thing" causing the damage be under the control of the defendant and (ii) that the accident must be such as would not in the ordinary course of things have happened without negligence.

iv. *Res ipsa loquitur* is an exception to the normal rule that mere happening of an accident is no evidence of negligence on the part of the driver. This maxim means the mere proof of accident raises the presumption of negligence unless rebutted by the wrongdoer.

v. In some cases considerable hardship is caused to the plaintiff as the true cause of the

accident is not known to him, but is solely within the knowledge of the defendant who caused it, the plaintiff can prove the accident, but cannot prove how it happened to establish negligence. This hardship is to be avoided by applying the principle of *res ipsa loquitur* is that the accident speaks for itself or tells its own story. There are cases in which the accident speaks for itself so that it is sufficient for the plaintiff to prove the accident and nothing more.

vi. The effect of doctrine of '*res ipsa loquitur*' is to shift the onus to the defendant in the sense that the doctrine continues to operate unless the defendant calls credible evidence which explains ~~how the accident or mishap may have occurred~~ without negligence, and it seems that the operation of the rule is not displaced merely by expert evidence showing, theoretically, possible ways in which the accident might have happened without the defendant's negligence. The doctrine of '*res ipsa loquitur*', therefore, plays a very significant role in the law of tort and it is not the relic of the past, but the living force of the day in determining the tortious liability.

vii. The principal function of the maxim is to prevent injustice which would result if a plaintiff were invariably compelled to prove the precise cause of the accident and the defendant responsible for it, even when the facts bearing in the matter are at the outset unknown to him and often within the knowledge of the defendant.

viii. The doctrine of '*res ipsa loquitur*' has been applied by the Courts in the following cases:-

- Where victim was sleeping on a cot placed in front of his house by the side of the road when the offending vehicle dashed against the cot and injured the claimant.
- Where a bus had dashed against a tree, causing death of a passenger.

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- Where a vehicle negotiating a sharp "U" turn dashed against a tree, moved away to a distance of 150 feet from the road and then overturned.
- Where a vehicle went-off the road, hit against the tree and rolled down killing a passenger.
- Where a truck dashed against the victim standing by roadside.
- Where a truck came at breakneck speed without blowing horn and dashed against a 9 years old boy, who was walking on the extreme left side of the road, from behind resulting in instantaneous death."

23. This case is squarely covered by the aforesaid judgments. ~~Following the aforesaid judgments, it is held that since the~~ sewage tank was under the management of the appellant, the accident in the ordinary course of events would not have happened if the appellant had properly maintained it. The deceased has not in any manner contributed to the accident. DW-1 in cross-examination admitted that he never inspected the septic tank. In the circumstances, it is held that the accident occurred due to the negligence of the appellant as well as its contractor and the appellant is liable to pay the compensation to the legal representatives of the deceased, Constable Ranbir Singh.

24. The next question which arises for consideration is as to the amount of compensation to which the legal representatives of the deceased are entitled.

25. ~~The plaintiffs/respondents No.1 to 7 are entitled to just~~ compensation under Sections 1A and 2 of the Fatal Accidents Act, 1885 which has to be computed according to the multiplier method. Reference may be made to *Gobald Motor Service Ltd. v. Veluswami*, 1962 (1) SCR 929, *Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Babu Godbole*, AIR 1969 SC 128, *Ishwar Devi Malik v. Union of India*, ILR (1968) 1 Delhi 59, *Lachman Singh v. Gurmit Kaur*, 1 (1984) ACC 489 (SB), *Lachman Singh v. Gurmit Kaur*, AIR 1979 P&H 50, *Bir Singh v. Hashi Rashi Banerjee*, AIR 1956 Cal. 555. The multiplier method has been accepted as legally sound method for determining compensation in death cases by the Supreme Court in *Lata Wadhwa v. State of Bihar*, (2001) 8 SCC 1997; *Municipal Corporation of Delhi v. Association of Victims of Uphaar*

*Tragedy*, AIR 2012 SC 100 and Delhi High Court in *Jaipur Golden Gas Victims Association v. Union of India*, 164 (2009) DLT 346; *Nagrik Sangarsh Samiti v. Union of India*, MANU/DE/0965/2010; *Ram Kishore v. MCD*, 2007 (97) DRJ 445; *Ashok Sharma v. Union of India*, 2009 ACJ 1063.

26. In *Lata Wadhwa v. State of Bihar* (supra), a fire broke out in a factory in which sixty people died and one hundred and thirteen got injured. The Supreme Court awarded compensation to the victims on the basis of the multiplier method.

27. In *Association of Victims of Uphaar Tragedy & Ors. v. UOI*, 104 (2003) DLT 234 (DB), the Division Bench of this Court applied the multiplier method and the Second Schedule of the Motor Vehicles Act, 1988 to compute the compensation payable to the victims of the Uphaar Tragedy. The Division Bench held that the victims of the fire incident belonged to reasonably well-placed families and presumed that the average income of the victims above age of 20 years to be not less than Rs.15,000/- per month, 1/3<sup>rd</sup> was deducted towards the personal expenses and the multiplier of 15 was applied to compute the compensation as Rs.18,00,000/-. With respect to the children, the Division Bench awarded compensation of Rs.15,00,000/-. The Division Bench also awarded interest @ 9% per annum. The Municipal Corporation of Delhi challenged the aforesaid judgment of the Division Bench before the Supreme Court. The Supreme Court in *Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy* (supra) reduced the compensation from Rs.18 lakhs to Rs.10 lakhs in respect of victims aged more than 20 years and from Rs.15 lakhs to Rs.7.5 lakhs in respect of the victims aged less than 20 years. The findings of the Supreme Court are reproduced hereunder:-

“38. ... It can be by way of making monetary amounts for the wrong done or by way of exemplary damages, exclusive of any amount recoverable in a civil action based on tortious liability. But in such a case it is improper to assume admittedly without any basis, that every person who visits a cinema theatre and purchases a balcony ticket should be of a high income-group person. In the year 1997, Rs. 15,000 per month was rather a high income. The movie was a new

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movie with patriotic undertones. It is known that zealous movie goers, even from low income groups, would not mind purchasing a balcony ticket to enjoy the film on the first day itself. To make a sweeping assumption that every person who purchased a balcony class ticket in 1997 should have had a monthly income of Rs. 15,000 and on that basis apply high multiplier of 15 to determine the compensation at a uniform rate of Rs. 18 lakhs in the case of persons above the age of 20 years and Rs. 15 lakhs for persons below that age, as a public law remedy, may not be proper. While awarding compensation to a large group of persons, by way of public law remedy, it will be unsafe to use a high income as the determinative factor. The reliance upon Neelabati Behera (*AIR 1993 SC 1960 : 1993 AIR SCW 2366*) in this behalf is of no assistance as that case related to a single individual and there was specific evidence available in regard to the income. Therefore, the proper course would be to award a uniform amount keeping in view the principles relating to award of compensation in public law remedy cases reserving liberty to the legal heirs of deceased victims to claim additional amount wherever they were not satisfied with the amount awarded. Taking note of the facts and circumstances, the amount of compensation awarded in public law remedy cases, and the need to provide a deterrent, we are of the view that award of Rs. 10 lakhs in the case of persons aged above 20 years and Rs. 7.5 lakhs in regard to those who were 20 years or below as on the date of the incident, would be appropriate. We do not propose to disturb the award of Rs. 1 lakh each in the case of injured. The amount awarded as compensation will carry interest at the rate of 9% per annum from the date of writ petition as ordered by the High Court, reserve liberty to the victims or the LRs. of the victims as the case may be to seek higher remedy wherever they are not satisfied with the compensation. Any increase shall be borne by the

Licensee (theatre owner) exclusively.

39. Normally we would have let the matter rest there. But having regard to the special facts and circumstances of the case we propose to proceed a step further to do complete justice. The calamity resulted in the death of 59 persons and injury to 103 persons. The matter related to a ghastly fire incident of 1997. The victims association has been fighting the cause of victims for more than 14 years. If at this stage, we require the victims to individually approach the civil court and claim compensation, it will cause hardship, apart from involving huge delay, as the matter will be fought in a hierarchy of courts. The incident is not disputed. The names and identity of the 59 persons who died and 103 persons who were injured are available and is not disputed. Insofar as death cases are concerned the principle of determining compensation is streamlined by several decisions of this Court. (See for example *Sarla Verma v. Delhi Transport Corporation (2009) 6 SCC 121*: (AIR 2009 SC 3104:2009 AIR SCW 4992). If three factors are available the compensation can be determined. The first is the age of the deceased, the second is the income of the deceased and the third is number of dependants (to determine the percentage of deduction for personal expenses). For convenience the third factor can also be excluded by adopting a standard deduction of one-third towards personal expenses. Therefore, just two factors are required to be ascertained to determine the compensation in 59 individual cases. First is the annual income of the deceased, two-third of which becomes the annual loss of dependency the age of the deceased which will furnish the multiplier in terms of *Sarla Verma*. The annual loss of dependency multiplied by the multiplier will give the compensation.”

“Conclusions

46. In view of the foregoing, we dispose of the appeals as follows:

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(v) CA No. 6748 of 2004 is allowed in part and the judgment of the High Court is modified as under:

(a) The compensation awarded by the High Court in the case of death is reduced from Rs. 18 lacs to Rs. 10 lacs (in the case of those aged more than 20 years) and Rs. 15 lacs to Rs. 7.5 lacs (in the case of those aged 20 years and less). The said sum is payable to legal representatives of the deceased to be determined by a brief and summary enquiry by the Registrar General (or nominee of learned Chief Justice/Acting Chief Justice of the Delhi High Court).

(b) The compensation of Rs. One lakh awarded by the High Court in the case of each of the 103 injured persons is affirmed.

(c) The interest awarded from the date of the writ petition on the aforesaid sums at the rate of 9% per annum is affirmed.

(d) If the legal representatives of any deceased victim are not satisfied with the compensation awarded, they are permitted to file an application for compensation with supporting documentary proof (to show the age and the income), before the Registrar General, Delhi High Court. If such an application is filed within three months, it shall not be rejected on the ground of delay. The Registrar General or such other Member of Higher Judiciary nominated by the learned Chief Justice/Acting Chief Justice of the High Court shall decide those applications in accordance with paras above and place the matter before the Division Bench of the Delhi High Court for consequential formal orders determining the final compensation payable to them."

(Emphasis Supplied)

28. In *Jaipur Golden Gas Victims Association v. Union of India* (supra), the Division Bench of this Court awarded compensation to the victims of Jaipur Golden Fire Tragedy by applying the multiplier method.

29. In *Ashok Sharma v. Union of India* (supra), six children lost their lives by drowning during an annual training camp of

NCC on account of negligence on the part of respondents. The compensation was awarded by applying the multiplier method.

30. The compensation in death cases according to the multiplier method is based on the pecuniary loss caused to the dependants by the death of the victim of the road accident. The dependency of the dependants is determined by taking the annual earning of the deceased at the time of the accident. Thereafter, effect is given to the future prospects of the deceased. After the income of the deceased is established, the deduction is made towards the personal expenses of the deceased which he would have spent on himself. If the deceased was unmarried, normally 50% of the income is deducted towards his personal expenses. If the deceased was married and leaves behind two to three dependents, 1/3rd deduction is made; if the deceased has left behind four to six family members, deduction of 1/4<sup>th</sup> of his income is made and where the number of dependent family members exceeds six, the deduction of 1/5<sup>th</sup> of the income is made. The remaining amount of income after deduction of personal expenses is taken to be the loss of dependency to the family members which is multiplied by 12 to determine the annual loss of dependency. The annual loss of dependency of the dependants of the deceased is multiplied by the multiplier according to the age of the deceased or claimant whichever is higher. A table of multiplier is given in Schedule-II of the Motor Vehicle Act, 1988 but there was some error in the said table which has been corrected by the Supreme Court in the judgment of *Sarla Verma v. DTC*, 2009 ACJ 1298. The summary of principles laid down by the Supreme Court in *Sarla Verma v. DTC* (supra) is as under:-

• Multiplier

Age of the deceased (in years)	Multiplier approved by the Supreme Court
Upto 15	
15 - 20	18
21 - 25	18
26 - 30	17
31 - 35	16
36 - 40	15
41 - 45	14

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46 - 50	13
51 - 55	11
56 - 60	09
61 - 65	07
Above 65	05

• Deduction for Personal and Living Expenses

Deceased – unmarried

- (i) Deduction towards personal expenses : 1/2 (50%)
- (ii) Deduction where the family of the bachelor is large and dependent on the income of the deceased : 1/3<sup>rd</sup>  
 (33.33%)

Deceased – married

- (i) 2 to 3 dependent family members : 1/3<sup>rd</sup> deduction towards personal expenses.
- (ii) 4 to 6 dependent family members : 1/4<sup>th</sup> deduction towards personal expenses.
- (iii) More than 6 family members : 1/5<sup>th</sup> deduction towards personal expenses.
- (iv) Subject to the evidence to the contrary : Father, brother and sisters will not be considered as dependents.

• Future Prospects

- (i) Permanent job below 40 years of age future : Actual salary – tax 50% towards prospects.

(ii). Permanent job + between 40 – 50 years future	:	Actual salary – tax  30% towards  prospects.
(iii). More than 50 years with: permanent job. future	:	Actual salary only. No addition for prospects.
(iv). Deceased employed at a income fixed salary (without provision for annual increments)	:	Only actual  to be taken. No addition.

• Non-Pecuniary Damages

(i). Compensation for loss of estate	:	Rs.5,000/- to Rs.10,000/-
(ii). Compensation for loss of consortium	:	Rs.5,000/- to Rs.10,000/-
(iii). Compensation for pain and sufferings and hardship	:	Nil
(iv). Funeral expenses, cost of transportation of body and medical expenses	:	Actual

31. The deceased was aged 32 years at the time of the accident and was working as a Constable with CRPF. His salary at the time of the death was Rs.4,857/- per month (Basic Pay of Rs.3,350 + Dearness Allowance of Rs.1,507). 50% has to be added towards future prospects and 1/5th has to be deducted towards his personal expenses and the appropriate multiplier at the age of 32 is 16. Taking the income of the deceased as Rs.4,857/-, adding 50% towards future prospects, deducting 1/5th towards personal expenses and applying the multiplier of 16, the loss of dependency is computed to be Rs.11,19,052/-. Rs.10,000/- is awarded towards loss of consortium, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of estate and Rs.10,000/- towards

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funeral expenses. The respondents are entitled to total compensation of Rs.11,59,052/-.

32. Learned counsel for the appellant submits that the plaintiffs/respondents No.1 to 7 have not filed any cross-objections and, therefore, the compensation cannot be enhanced. The argument of the learned counsel for the appellant is misconceived and contrary to law. It is well settled that under Order XLI Rule 33 of the Code of Civil Procedure, the Appellate court has power to enhance the compensation even in the absence of cross-objections. Reference in this regard can be made to the recent judgment of this Court in *National Insurance Co. Ltd. v. Komal*, MANU/DE/2870/2012 in which this Court enhanced compensation in the absence of cross-objections following the catena of the judgments of the Supreme Court and various High Courts in *Pannalal v. State of Bombay*, AIR 1963 SC 1516, *Rameshwar Prasad v. M/s Shyam Beharilal Jagannath*, (1964) 3 SCR 549, *Nirmal Bala Ghose v. Balai Chand Ghose*, AIR 1965 SC 1874, *Giani Ram v. Ramjilal*, AIR 1969 SC 1144, *Harihar Prasad Singh v. Balmiki Prasad Singh*, AIR 1975 SC 733, *Mahant Dhangir v. Madan Mohan*, AIR 1988 SC 54, *State of Punjab v. Bakshish Singh*, AIR 1999 SC 2626, *Nagappa v. Gurudayal Singh*, (2003) 2 SCC 274, *Oriental Fire And General Insurance Co. Ltd. v. Amarsing Pratapsing Sikliker*, (1999) 3 MLJ 147 and *Prakramchand v. Chuttan*, AIR 1991 MP 280.

33. In the present case, the plaintiffs/respondents No.1 to 7 are entitled to just compensation of Rs.11,59,052/- according to multiplier method. The plaintiffs have in fact taken a specific plea before the Trial Court and also proved in evidence that they have suffered loss to the tune of Rs.13,50,000/-. However, due to poverty and legal advice received by them, they restricted the claim to Rs.5,00,000/-. This Court agrees with the submission of the Ld. Amicus Curiae that it is the duty of the Court to compute just compensation in accordance with law. This is a fit case where this Court should exercise jurisdiction under Order XLI Rule 33 of the Code of Civil Procedure to do complete justice to the plaintiffs/respondents No.1 to 7.

34. The learned counsel for respondents No.1 to 7 submits that respondent No.8 has not provided compassionate appointment to the widow/children of the deceased. It is

submitted that on the basis of the report, Ex.DW2/1, the Commandant had recommended that Jeevan Raksha Padak be awarded to the deceased, Ranbir Singh. The Commandant also recommended that the widow or the children may be given compassionate appointment and if any child was a minor, he may be considered for the job on attaining majority. The learned counsel for respondent No.8 submits that the widow or children have not applied for the compassionate job. The learned counsel for respondents No.1 to 7 submits that the wife/children had in fact applied for the job. Be that as it may, the learned counsel for respondent No.8 submits that if any application is submitted even now, the same shall be considered in accordance with the rules. The statement of learned counsel for respondent No.8 is taken on record. The widow/children may apply for compassionate appointment to respondent No.8 which shall be considered in accordance with the rules.

35. In the facts and circumstances of this case, the appeal is dismissed with costs. However, in exercise of jurisdiction under Order XLI Rule 33 of the Code of Civil Procedure, the decree is enhanced from Rs.5,00,000/- to Rs.11,59,052/-. The Trial Court has awarded interest @ 18% which is on a higher side. The Trial Court has awarded interest after the expiry of 30 days of the judgment. However, no interest has been awarded from the date of filing of the suit. This Court is of the view that the plaintiffs/respondents No.1 to 7 are entitled to the interest @ 9% per annum from the date of filing of the suit i.e. 5<sup>th</sup> April, 2003 upto the date of payment. The interest @ 9% per annum is awarded on Rs.11,59,052/- from the date of filing of the suit i.e. 5<sup>th</sup> April, 2003 till the date of payment”.

7. Mr. Sanjay Jain, learned Additional Solicitor General and Mr. Kirtiman Singh, learned Standing Counsel for Union of India shall produce the policy of the Government for granting awards in such cases.

8. Mr. Saket Sikri, learned counsel for MTNL present in Court seeks time to look into the matter and respond on the next date of hearing.

9. Mr. Anup J. Bhambhani, Senior Advocate, who assisted this Court in *Union of India v. Dhyan Singh* (supra), is appointed as amicus curiae to assist this Court in this matter as well.

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10. Let the complete set of paper book be furnished by learned counsel for the appellant to Mr. Kiritiman Singh, learned Standing Counsel for Union of India, Mr. Saket Sikri, learned counsel for MTNL as well as learned *amicus curiae*.

11. List on 14<sup>th</sup> May, 2015.

12. This Court appreciates the grace shown by Mr. Yazdi Desai, Managing Director of the appellant company in consenting to the release of the compensation to the family, of the deceased employee.

13. The record of W.P.(C) 97/2010 be called for the next date of hearing.

14. Copy of this order be given *dasti* to counsel for the parties as well as

to Mr. Kiritiman Singh, learned Standing Counsel for Union of India and Mr. Saket Sikri, learned counsel for MTNL as well as learned *amicus curiae*.

J.R. MIDHA, J.

APRIL 30, 2015

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**GUIDELINES FOR SETTLEMENT OF CLAIMS FOR COMPENSATION ON ACCIDENTS APPLICABLE TO THE DEPARTMENT OF TELECOMMUNICATIONS AND PUBLIC SECTOR UNDERTAKINGS UNDER ITS CONTROL**

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**PREAMBLE**

Accidents are unfortunate incidents, occurrences of which cannot be obliterated completely, but can only be minimized by adopting most vigilant practices, safety precautions etc. Sometimes accidents do happen when responsibility and liability cannot be affixed on certain individuals or malfunctioning of certain machinery and the Law recognizes the Principle of 'No Faulty Liability' for such unfortunate incidents. In such cases, the loss of life and loss of dependency cost of the dependents of such victims cannot be written off merely on the pretext that negligence on the part of Department or its agencies cannot be substantiated for want of stricter proofs. Also being in the public domain and mandated by the Constitution to work for the larger interest of the society, it is expected from the Department/Entities to pay a just compensation for any loss of life or a good life to the victims or dependents of such victims. In addition to the existing provisions under various welfare legislations, The Department being model employer is required to undertake certain duties.

The need of payment of such compensation by the Department to the sufferer of such accidents is recognized and stressed upon by the Hon'ble Courts in various judgments and more recently in FAO 154/2013 and & CM No 5185/2013, wherein Hon'ble High Court of Delhi has directed to frame standard policy of payment of compensation to the family of the victims who die or become permanently disabled while carrying out hazardous jobs at the sites or work places of Department. The Hon'ble Court recognizing the principle of Strict Liability has issued directions to frame the guidelines in consonance of the concept of Welfare State enshrined in the Constitution of India.

Keeping in view the above scenario and directions of Hon'ble High Court of Delhi in FAO 154/2013 & CM No 5185/2013 in the matter of WRITER



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SAFEGAURD LTD. Versus COMMISSIONER UNDER EMPLOYEES COMPENSATION ACT AND ORS. the draft Guidelines for payment of Compensation to the family of the victims who die or become permanently disabled while carrying out hazardous jobs in the Department is prepared and attached herewith which may be placed before the Hon'ble High Court. The main object and aim of these guidelines is to provide a comprehensive mechanism for calculation, application and settlement of claims for compensation in such matters in timely and equitable manner.

The amount of compensation recommended is based on the principle of just compensation as enunciated in various judgments of Hon'ble Supreme court and relied upon in the aforementioned directions of the Hon'ble Court and keeping in line with the existing norms in paying compensation by Department in cases of accidents in Road, Railways, Air transport and also in case of deaths occurring in natural calamities. Example may be seen in Railways wherein compensation is between Rs. 32,000/- to Rs. 4,00,000/- while in Road Accidents it is upto Rs. 2,00,000/- and in accidents related to Airways maximum compensation is limited upto Rs. 10,00,000/-.

While formulating these Guidelines, it has also been considered that Department have strict responsibilities towards well being of its employees and they have only that organization to depend upon in the event of the occurrence of any accident. In case of contractor employees, Department has implied and indirect responsibility towards their well being. Whereas in the case of a person who is neither Department's employee nor a Contractor's employee, there is no direct or strict responsibility with respect to paying any compensation in case of death or injury due to accident, however, keeping in view of the larger perspective of public welfare, Department must pay some compensation in their cases also. They would also be eligible for compensation from their respective employers in addition to the compensation under these Guidelines. The Department shall also endeavor to make arrangement for first aid facility in the premises and the injured must be provided with the medical aid at the earliest.

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**GUIDELINES FOR SETTLEMENT OF CLAIMS FOR COMPENSATION ON ACCIDENTS APPLICABLE TO THE DEPARTMENT OF TELECOMMUNICATIONS AND PUBLIC SECTOR UNDERTAKINGS UNDER ITS CONTROL**

1. **Title:** These guidelines would be called as Guidelines for Settlement of Claims for Compensation.
2. **Effective date:** The guidelines would be effective from 01/12/2016.
3. **Applicability:** These guidelines would govern the settlement of compensation claims arising out of accidents resulting into loss of life or permanent disability.
4. **Definitions:**
  - a) **Accident:** Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious occurrence caused during the maintenance, operation and provisioning of any public services undertaken by the Department.
  - b) **Competent Authority:** Competent Authority means Secretary to Government of India in the Department or Chairman & Managing Director of a Public Sector Undertaking under the control of the Department of Telecommunications.
  - c) **Department:** Means Department of Telecommunications and for the purposes of the present Guidelines includes, any Public Sector Undertaking, under the control of the Department of Telecommunications.
  - d) **Dependent:** As defined in the Employee's Compensation Act, 1923.
  - e) **Designated Officer:** An Officer designated by the Competent Authority of the Grade of Junior Administrative Grade (JAG) or equivalent for the purposes of receiving and processing claims for compensation under the present Guidelines.
  - f) **Victim:** Any person who suffers permanent disablement or dies in an accident as defined in these Guidelines.
  - g) **Permanent Disablement:** A disablement that is classified as a permanent total disablement under the proviso to Section-2 (I) of The Employee's Compensation Act 1923.

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5. **Detailed Accident Report:** - The report prepared by the police within a period of 30 days from the date of incident as per Schedule - I of this guidelines.

**Explanation:** For the purposes of the preparation of the detailed accident report, the word "injury" as referred in Schedule - I refers to "permanent disability" as mentioned in clause 4(i) of the Guidelines.

6. **Extent of Liability:** On the occurrence of any "accident" as defined under these Guidelines, the Department shall, whether or not there has been any wrongful act, neglect or default on its part and notwithstanding anything contained in any other law, be liable to pay compensation to such extent as prescribed below:

- (i) In the event of death or permanent disability resulting from loss of both limbs: Rs.10,00,000/- (Rupees Ten Lakh);
- (ii) In the event of other permanent disability: Rs.7,00,000/- (Rupees Seven Lakh)

7. **Procedure for settlement of claims in respect of compensation.**

a) The victim or his/her dependents would make an application within a period of 90 days of the accident to the Designated Officer under whose jurisdiction the accident had occurred. The application should be accompanied by the following documents:

- (i) Proof of age of the victim.
- (ii) Death certificate of the victim.

OR

permanent disability certificate issued by the Medical Board authorized by the Government.

- (iii) Certified copy of FIR lodged in respect of the accident.
- (iv) Proof of applicant's relation with the victim/ Dependency Certificate.

The Designated Officer may seek any further documents for settlement of claim to its satisfaction.

Provided that where there are more than one dependent, the Applicant must mention their name, addresses and relations with the victim and the Designated Officer may at its own discretion issue notices to all before releasing the compensation.

- b) The Designated Officer on receipt of above application shall take into consideration the Detailed Accident Report submitted by the Police Authority would process the claim of compensation on priority basis but would not take more than 30 days for disposing off the same in any case.
- c) The Designated Officer, in case where no application is received from the victim/dependents of victims, may on receipt of the detailed accident report proceed suo moto to initiate the process for consideration for grant the compensation to the victim/dependents of victim.
- d) With effect from the date of the present Guidelines, all contracts/agreements to be entered into by the Department with any person or agency for maintenance, operation and provisioning of public service would invariably include a clause whereby any compensation paid under these guidelines shall be recoverable from such person, agency or firm.
- e) In no case a claim for appointment of any of the dependents on the compassionate grounds would be entertained by the Department.

### 8. Method of Disbursement of compensation

1. The amount of compensation so awarded shall be deposited in a Nationalized Bank or if the branch of a Nationalized Bank is not in existence, it shall be deposited in the branch of a scheduled commercial bank, in the joint or single name of the victim/dependent(s). Out of the amount so deposited, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of one year and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent(s) as the case may be.

- ii. In the case of a minor, 75% of the amount of compensation so awarded shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before one year of the deposit. Provided that in exceptional cases, amounts may be withdrawn for educational or medical needs of the beneficiary at the discretion of the Department.
- iii. The interest on the sum shall be credited directly by the bank in the savings account of the victim dependent(s) on monthly basis.

g. **Appeal:** An appeal against the decision of the Designated Officer in respect of the amount of compensation or rejection of such claim shall be made to competent authority within a period of 30 days of such decision. The Competent Authority would decide the same within 30 days of receipt of such appeal.

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**SCHEDULE-I**

**PART - I - PARTICULARS OF THE ACCIDENT**

1.	FIR No. Date and Under Section:	
2.	Name of the Police Station	
3.	Date, Time, Place of the accident	
4.	Who reported the accident to the police	
5.	Name of the Person who took the victim to the hospital and Name of the Hospital	
6.	Whether any hospital denied treatment to the Victim?	
7.	Nature of the accident :- (i) Whether resulted in death or injury or both?  (ii) Number of persons injured/died.	
8.	Name and Contact No. of the Investigating Officer	
9.	Name of the witnesses of the accident	
10.	Description of the accident	

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**PART- II - IMPACT OF THE ACCIDENT ON THE VICTIMS**

1	<b>Death Cases</b> a) Name and Address of the deceased  b) Age  c) Gender  d) Education  e) Occupation  f) Income (Monthly)	
	g) Legal Heirs/Guardian: i) Name  ii) Relationship  iii) Age  iv) Address  v) Contact No.	
2	<b>Injury Cases (permanent disablement)</b> a) Name and address of the injured  b) Age	

c) Gender

d) Education

e) Occupation

f) Income (Monthly)

g) Details of family dependent of the victim  
MLC No.

h) Nature of injuries

i) Name of the Hospital where the injured treated

j) Whether victim refused medical treatment

k) Period of hospitalization

l) Period of treatment

m) Whether treatment continuing

n) Name, address and contact number of the doctor  
(s) who treated the injured

o) Whether the injured underwent any surgery? If  
yes, then give particulars.



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	<p>p) Whether suffered any permanent disability.</p> <p>q) Expenditure incurred on treatment conveyance, special diet, attendant etc. Give details, if available.</p> <p>r) Whether the injured got reimbursement of medical expenses from his employer or under a mediclaim policy. Give details, if available.</p> <p>s) Whether the injured was provided cashless treatment by the Insurance Company? Give details, if available.</p>	
3	Any other relevant information.	

PART-III RELEVANT DOCUMENTS TO BE ATTACHED		
1	First Information Report	
2	Photographs of the scene of the accident from all angles	
3	Statement of the witnesses recorded by the Police.	
4	Scientific report, if the Victim was under the influence of any liquor/drugs.	
5	<p>In case of Death:</p> <p>a) Post Mortem Report</p> <p>b) Death Certificate</p> <p>c) Photograph and proof of the identity of the Dead.</p>	

	<p>d) Proof of legal representatives of the deceased;</p> <p>e) Photograph, specimen, signatures attested by the bank and identify proof of the legal representatives of the deceased.</p> <p>f) Treatment of the deceased with name and address of the Hospital.</p> <p>g) Bank account No. of the legal representatives of the deceased.</p>	
6.	<p>In case of Injury</p> <p>a) M&amp;C</p> <p>b) Multi angled photographs of the injured</p> <p>c) Photograph, specimen, signatures attested by the bank and identify proof of the injured.</p> <p>d) Disability certificate</p>	
7.	<p>Any other relevant information.</p>	

**VERIFICATION**

Verified at \_\_\_\_\_ on this \_\_\_\_\_ of \_\_\_\_\_ that the contents of the above report are true and correct and the documents mentioned in Part III have been verified.

Station House Officer  
(Name and Stamp)

Assistant Commissioner of Police  
(Name and Stamp)

References:

1. J/O dated 15.04.2009 of Hon'ble Supreme Court of India in Civil Appeal No. 3483/2008 in the matter of SAKLA VERMA Versus DELHI TRANSPORT CORPORATION
2. J/O dated 12.07.2011 of Hon'ble Supreme Court of India in Civil Appeal No. 5322 in the matter of DELHI JAL BOARD Versus NATIONAL CAMPAIGN FOR DIGNITY AND RIGHTS OF SEWERAGE AND ALLIED WORKERS
3. J/O dated 12.10.2012 of Hon'ble High Court of Delhi in RFA NO.116/2007 and CM Nos.2924-25/2007 in the matter of UNION OF INDIA versus DHYAN SINGH & ORS.
4. Judgment dated 27.11.2014 passed by the Hon'ble Delhi High Court in FAO No. 642/2009 RAJESH TYAGI & ORS. versus RAMESH CHANDRA GUPTA & ANR.

(S.R. Mishra)  
JS&LA  
Dept. of Legal  
Affairs  
Member

(Rajveer Singh)  
DDG(SR) DoT  
Member

(S.C. Sharma)  
DDG(C&A) DoT  
Member

(R.M. Agarwal)  
DDG(SU) DoT  
Member

(S.L. Meena)  
Director(B&P) DoT  
Member

(Sudhir Kain)  
Deputy Director(PLG)  
UTTIPEC, DDA  
Member

(Gautam Kumar)  
Director(SR) DoT  
Member

(Shashi Ranjan Kumar)  
Joint Secretary (T) DoT  
Chairman

3/28/2018

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**Adoption  
of  
guidelines framed by DoT to grant instant  
compensation to the families of victims/victims  
dying at public places due to negligence and/or  
unforeseen causes, by other Ministries and  
Departments/Government entities functioning under  
their respective administrative control**

Department of Telecommunications

9<sup>th</sup> April, 2018

## **BACKGROUND**

- Shri Om Prakash, who was working as driver in Writer Safeguard Ltd, died on 30.3.2007 while rescuing the lives of two persons trapped in a MTNL manhole in Rajouri Garden, New Delhi.
- The family of the deceased filed a claim before the Commissioner, Employees' Compensation and an ex-parte award of Rs.4,42,740/- along with interest @12% per annum was given on 16.02.2012.
- Writer Safeguard Ltd. filed an appeal in the High Court against the Order, which was dismissed by the Court on 30<sup>th</sup> April, 2015.

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## BACKGROUND

- The Hon'ble court also directed MTNL to pay compensation of Rs 11,43,500 to the family of the deceased as the work in the manhole was being done by the contactor of the MTNL.
- The Hon'ble Court further directed the ASG for framing a policy to provide compensation in such cases vide orders dated 30<sup>th</sup> April, 2015 and 9<sup>th</sup> July, 2015. So that the compensation to the family of the victims/victim can be paid directly by the authorities without intervention of the Courts.
- ASG was asked to convene a meeting with different departments to formulate the draft guidelines.

## BACKGROUND

- The draft guidelines were prepared by DoT and Note for CoS was circulated to the invitees and presentation was given to the Committee of Secretaries on 04.08.2016.
- The guidelines were vetted by Ministry of Law and finally submitted to the Delhi High Court on 01.12.2016.
- The Cabinet Secretariat has forwarded the guidelines to all Ministries/Departments of the Government of India to examine for its adoption.

3/28/2011

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## SCOPE

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- **Applicability:** These guidelines would govern the settlement of compensation claims arising out of accidents resulting into loss of life or permanent disability.
- **Accident:** Any death or permanent disability to the person caused during the maintenance, operation and provisioning of any public services undertaken by the Department.
- **Extent of Liability:** The liability in the event of death and in case of permanent disability of losing both the limbs by the victim in the accident will be Rs 10.00 lakh.
- The amount in other permanent disability will be Rs.7.00 lakh.

## Procedure for settlement of claims (1)

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- The victim or dependents would make an application within a period of 90 days of the accident. The application should be accompanied with the following documents:
  - (i) Proof of age of the victim.
  - (ii) Death certificate of the victim.

OR

  - permanent disability certificate issued by the Competent Authority in this regard.
  - (iii) Certified copy of FIR lodged in respect of the accident.
  - (iv) Proof of applicant's relation with the victim/ Dependency Certificate.

### Procedure for settlement of claims (2)

- The Department will designate an officer of JAG or equivalent level to receive application.
- Police will prepare a detailed accident report within the period of 30 days from the date of accident.
- The Designated Officer on receipt of the application and the detailed accident report will process the claim of compensation within 30 days.

### Procedure for settlement of claims (3)

- The amount of compensation shall be deposited in a bank in a joint or in a single name of dependent(s).
- 75% of the amount shall be put in a fixed deposit for a minimum period of one year.
- An appeal against the designated officer shall be made to the Competent Authority (Secretary/MDs) within 30 days.
- The Competent Authority will take a final decision within 30 days.

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*Thanks*