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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 24th June, 2021

+ FAO 385/2013 & CM APPLs.15735/2013, 20942/2016,
752/2018, 27316/2018, 45143/2018 & 25425/2019

THE NEW INDIA ASSURANCE CO.LTD. Appellant
Through:

versus

PURAN LAL & ORS Respondents

Through: Ms. Nandita Rao, Additional
Standing Counsel for
GNCTD.

Mr. Rajiv Agarwal, Advocate
as *Amicus curiae*.

Mr. Saurabh Prakash,
Advocate as *Amicus curiae*.

Mr. Satyam Thareja,
Advocate as *Amicus curiae*.

Mr. S.P. Jain, Advocate as
Amicus curiae.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

Special Scheme for Employees Compensation Cases

1. Employee's Compensation Act, 1923 was enacted to provide compensation to the workers who suffer injury(ies)/fatal injury(ies) during the course of their employment. Employee's Compensation Act is a social beneficial welfare legislation for the benefit of the

workmen. Section 25A of the Employee's Compensation Act provides for expeditious disposal of a compensation case within a period of three months.

2. Vide order dated 14th September, 2015, this Court called for the details of the pending cases under Employee's Compensation Act whereupon the State filed the status report according to which 1195 cases of Employee's Compensation were pending as on 01st September, 2015 and only two officers were dealing with those cases.

3. Vide order dated 22nd September, 2015, this Court directed the Government of NCT of Delhi to expedite the hearing and disposal of 1195 cases of Employee's Compensation by 31st December, 2015. Pursuant to the directions issued by this Court, Government of NCT of Delhi appointed 17 officers to deal with the Employee's Compensation and 1118 (94% cases out of 1195 cases) pending as on 01st September, 2015 were disposed of by 27th May, 2016. Government of NCT of Delhi approved the proposal of the Labour Department for creation of 13 posts of Joint Labour Commissioner (Legal) to be filled up on deputation basis in addition to the officers already working in the cadre.

4. Vide judgment dated 28th October, 2015, this Court exercised the extra-ordinary writ jurisdiction to streamline and regulate the procedure for expeditious disposal of Employees Compensation cases and formulated the *Employee's Compensation Agreed Procedure* for time bound settlement of employee's compensation cases within 90 days to be implemented w.e.f. 01st September, 2015.

The *Employee's Compensation Agreed Procedure* revolutionized the disposal of employee's compensation cases in a time bound manner as the victims get the compensation within 90 days of the accident without the need of filing a claim application.

5. According to the *Employee's Compensation Agreed Procedure*, the police files the *Employee Accident Report (EAR)* with the Commissioner, Employee's Compensation within 30 days of accident. The police also completes the investigation of the criminal case and files the chargesheet (Report under Section 173 CrPC) before the Magistrate within 30 days. The copy of the EAR is furnished to the employee/dependant of the deceased employee, employer and the insurance company (if the employer had taken an insurance policy). The Investigating Officer produces the employee/legal representatives of the deceased employee, employer as well as the eye-witnesses before the Commissioner, Employee's Compensation along with EAR. The Commissioner, Employee's Compensation treats EAR as an information under Section 10A(1) of the Employee's Compensation Act. The Insurance Company appoints a designated officer within 10 days of the receipt of EAR and process the EAR and submits the response before the Commissioner, Employee's Compensation within 30 days. The Commissioner, Employee's Compensation thereafter passes the award whereupon the amount is deposited within 30 days of the award.

6. Vide order dated 05th August, 2016, this Court directed the Delhi Police as well as Commissioners, Employee's Compensation

to file the status report with respect to the implementation of the Special Scheme for the six-month period from 01st December, 2015 to 31st May, 2016. Reference is made to para 3 of the order dated 05th August, 2016 which is reproduced hereunder:

“3. Para 4 of the order dated 28th October, 2015 is modified to the extent that the Delhi Police as well as Commissioner, Employees’ Compensation are directed to furnish the following data with respect to the implementation of the system for the period of six months i.e. 1st December, 2015 to 31st May, 2016:-

By Delhi Police

- (i) Number of accidents reported to the Police.*
- (ii) Number of cases in which the investigation was completed within 30 days.*
- (iii) Number of cases in which the investigation was completed after 30 days.*
- (iv) Number of cases in which the EAR was filed with the Commissioner, Employees’ Compensation within 30 days.*
- (v) Number of cases in which the EAR was not filed with the Commissioner, Employees’ Compensation.*
- (vi) Number of cases in which the copy of EAR has been furnished to the claimants, employers and insurance companies.*
- (vii) Number of cases in which the IO has produced the employee/legal representatives of the deceased employee, employer and eye witnesses before the Commissioner, Employees’ Compensation along with EAR.*

By Commissioners, Employees’ Compensation

- (i) Number of cases in which the EAR has been treated as information under Section 10(A)(1) of the Employees’ Compensation Act, 1923 in terms of Clause 10 of Scheme.*
- (ii) Number of cases in which the employer and/or insurance companies have submitted their offer of*

settlement within 30 days in terms of Clause 12 of Scheme.

- (iii) Number of cases in which the consent award has been passed by the Commissioner, Employees' Compensation in terms of Clause 13 of Scheme.*
- (iv) Number of cases in which the Commissioner has passed the award in terms of Clause 14 of Scheme.*
- (v) Number of cases in which the claimants have been examined by the Commissioner, Employees' Compensation before passing the award in terms of Clause 15 of Scheme.*
- (vi) Number of cases in which the award amount has been deposited with the Commissioner within 30 days of the order in terms of Clause 18 of Scheme.*
- (vii) Number of cases in which the Commissioner has disbursed the award amount in a phased manner in terms of Clause 19 of the Scheme.*
- (viii) Number of cases in which the Commissioner, Employees' Compensation has kept the case pending for compliance of the award in terms of Clause 20 of the Scheme.*
- (ix) Whether the Commissioner, Employees' Compensation has maintained the record of the deposit of the award amount in terms of Clause 21 of the Scheme."*

7. Vide order dated 02nd February, 2017, this Court modified para 19 of the *Employee's Compensation Agreed Procedure* with respect to the protection of the award amount. Reference is made to para 9 of the order dated 02nd February, 2017.

8. On 24th May, 2017, this Court noted that the Commissioners, Employee's Compensation were not complying with the mandatory provision of imposition of penalty on the employer under Section 4A(3) of the Employee's Compensation Act. This Court directed the Commissioner, Employee's Compensation to initiate penalty

proceedings wherever the amount had not been deposited within 30 days from the due date. Relevant portion of the order dated 24th May, 2017 is reproduced hereunder:

“3. Section 4A(3) of the Employee's Compensation Act, 1923 empowers the Commissioner to impose penalty upto 50% of the compensation amount where the employer is in default of the compensation due under the Act within one month from the date it fell due, after affording the opportunity to show cause to the employer. Section 4A(3) is reproduced hereunder:-

“Section 4A - Compensation to be paid when due and penalty for default:-

(1).....

(2).....

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall—

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent, per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent, of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

Explanation.-For the purposes of this sub-section, "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).

(3A) The interest and the penalty payable under sub-section (3) shall be paid to the [employee] or his dependant, as the case may be.

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xxx

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5. *Section 25A of the Employee's Compensation Act, 1923 imposes a time limit of three months to dispose of the entire matter relating to the compensation. Section 25A of the Employee's Compensation Act, 1923 is reproduced hereunder:-*

"Section 25A - Time limit for disposal of cases relating to compensation.—

The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee."

6. *While hearing the appeals against the orders passed by the Commissioner, Employee's Compensation, this Court has noted that in many cases, the Commissioners, Employee's Compensation have not at all initiated the proceedings for imposition of penalty whereas in some cases, the show cause notice is issued after the passing of the final order due to which the proceedings further get delayed.*

7. *This Court is of the view that in cases where the employer has not deposited the amount within 30 days it fell due, the show cause notice for imposition of the penalty should be issued after the filing of the written statement and the issue with respect to the penalty be framed at the stage of framing of issues and the issue with respect to the imposition of penalty be decided together with the issue of entitlement to the compensation. Learned amicus curiae as well as learned counsel for Government of NCT of Delhi agree with the suggestion of this Court.*

8. *The Commissioners, Employee's Compensation are*

directed to issue the show cause notice to the employer in all pending cases where the compensation amount has not been deposited within 30 days it fell due and the question of penalty be decided along with the issue of entitlement to the compensation. With respect to the fresh cases to be instituted, the show cause notice be issued to the respondents after the filing of the written statement in cases where the employer has not deposited the amount within 30 days it fell due and the appropriate issue of the penalty be framed and all the issues, including the issue of compensation as well as the penalty be decided together within the time frame mentioned in Section 25A of the Employee's Compensation Act.

9. With respect to the delay in cases due to the service of the notice on the employer and the witnesses, this Court is of the view that the service be effected through the investigating officer of the criminal case. Mr. Rajesh Mahajan, learned Additional Standing Counsel for Delhi Police submits that he shall communicate this order for compliance to Delhi Police.

10. Mr. Ankur Chhibber, learned counsel for Government of NCT of Delhi submits that the cases relating to permanent disability cannot be expedited till the treatment of the injured is over and the permanent disability is determined by the Medical Board. This Court agrees with the submission and the cases relating to permanent disability have to be decided after the permanent disability is determined by the Medical Board.”

9. On 09th January, 2018, this Court directed the Commissioners, Employee's Compensation to file the status report with respect to the compliance of the above directions. The relevant portion of the order is as under:

“3. Vide order dated 24th May, 2017, this Court noted that the Commissioners, Employee's Compensation have not initiated the proceedings for imposition of the penalty in many cases. GNCTD is directed to submit a report giving particulars of total number of cases decided by the Commissioners, Employee's Compensation during the last

three years i.e. 01st January, 2015 to 31st December, 2017; number of cases in which compensation applications have been allowed; and number of cases in which the penalty was imposed.

4. Vide order dated 24th May, 2017, this Court also directed the Commissioners Employee's Compensation to issue show cause with respect of penalty in all pending cases where compensation amount has not been deposited within 30 days and in fresh cases, the show cause notice be issued to the respondent after the filing of the written statement. The status report be placed on record giving particulars of total number of cases pending before Commissioners, Employees' Compensation as on 24th May, 2017; number of cases in which show cause notice for imposition of penalty have been issued along with the date of show cause notice(s).

5. Vide order dated 02nd February, 2017, the Commissioners, Employee's Compensation were directed to disburse the compensation amount in a phased manner by releasing the some part of the award amount according to the requirement/needs of the claimants and keeping the balance amount in monthly fixed deposits. The status report be placed on record giving particulars of total number of cases decided by Commissioners, Employee's Compensation after 2nd February, 2017 and whether the disbursement have been made in terms of the order dated 2nd February, 2017.

6. Section 25A of the Employee's Compensation Act provides that the compensation application shall be disposed of within a period of three months. GNCTD shall also submit a report to place on record as to how many cases have been instituted during the last three years and the time period taken for their disposal.”

10. On 19th February, 2018, this Court noted from the status reports that penalty was imposed only in 143 out of 1578 cases in the last three years. This Court also noted the non-compliance of the other directions passed by this Court. Relevant portion of the order dated 19th February, 2018 is as under:

“2. As per the status report, Commissioner, Employee’s Compensation have imposed penalty in 143 out of 1578 cases during the period 1st January, 2015 to 31st December, 2017.

3. With respect to the show cause notice for imposing penalty in terms of the order dated 24th May, 2017, it is submitted that the show cause notice has been issued in 116 cases. However, the affidavit does not disclose the total number of cases pending on 24th May, 2017. Further time is sought to place the relevant data on record. The affidavit further states in 55 cases the disbursement has been done in a phased manner without disclosing the total number of cases decided by the Commissioner after 2nd February, 2017. The additional affidavit with respect to the incomplete information be also filed before this Court on the next date of hearing.

4. This Court is shocked to note that the mandatory provision in imposition of penalty has been applied by the Commissioner only in 143 out of 1578 cases meaning thereby that the poor victims of the accidents under the Employee’s Compensation Act have been deprived of the penalty amount to which they would have been entitled in law. Let the status report filed today be placed before Govt. of NCT of Delhi at the highest level and the response thereto be placed before this Court on the next date of hearing.”

11. On 13th July, 2018, this Court again directed the Commissioners, Employee’s Compensation to file the compliance report. Para 5 of the order dated 13th July, 2018 is reproduced hereunder:

“5 Learned amicus curia[e] has handed over the chart giving the particulars of the non-compliance of the directions of this Court. Copy of the chart has been handed to counsel for Govt. of NCT of Delhi. Govt. of NCT of Delhi is directed to file the affidavit in response to para 4 of the order dated 12th March, 2018 as well as the response to the chart handed over by learned amicus curia[e] today in Court.”

12. On 29th March, 2019, this Court issued fresh directions for

filing of status report with the following particulars:

“2. The Government of NCT of Delhi is directed to file a fresh status report giving the following particulars:

- (i) The list of the Commissioners, Employee’s Compensation along with their qualifications;*
- (ii) Whether all the Commissioners, Employee’s Compensation are duly qualified in terms of Section 20 of Employee’s Compensation Act;*
- (a) How many cases were filed under Employee’s Compensation Act, 1923 between 01st December, 2015 till 31st March, 2019;*
- (b) How many cases were disposed within three months as per Section 25A of the Act;*
- (c) Number of cases in which penalty notice has been issued as directed in the order dated 31st July, 2017.*
- (iii) Number of Officers/Inspectors/Staff in the Labour Department; the duties assigned to them and the statutory functions being performed by them under the various Acts;*
- (iv) The sanctioned strength, the required strength and the present strength of Officers/Inspectors/Staff to discharge the statutory functions and duties under the various Acts;*
- (v) The reasons for delay in fulfilling the sanctioned strength; and*
- (vi) The suggested measures required to efficiently discharge the statutory functions and duties under the various Acts.*

3. The status report be filed within a period of four weeks from today.

4. Mr. Ankur Chhibber, learned counsel for the GNCTD submits that the Delhi Police is not complying with the directions of this Court contained in the judgement dated 28th October, 2015 with respect to the filing of the Employee’s Accidents Report (EAR).

5. The Delhi Police is directed to file status report to be

placed on record as to how many cases, the Employee's Accidents Reports (EAR) have been filed with the Commissioner, Employee's Compensation, 1923 between 01st December, 2015 till 31st March, 2019."

13. The *Employee's Compensation Agreed Procedure* formulated by this Court vide judgment dated 28th October, 2015 was based on the Scheme formulated by this Court in ***Rajesh Tyagi v. Jaibir Singh***, I (2015) ACC 838 (Del.). This Court vide judgment dated 08th January, 2021, has modified the Scheme in ***Rajesh Tyagi's case***.

14. Mr. Rajeev Aggarwal, Mr. Satyam Thareja, Mr. Saurabh Prakash and Mr. S.P. Jain, learned *amici curiae* submit that the *Employee's Compensation Agreed Procedure* formulated by this Court in judgment dated 28th October, 2015 be suitably modified to bring it in consonance with the Special Scheme formulated by this Court in ***Rajesh Tyagi's case*** vide judgment dated 08th January, 2021.

15. This Court is satisfied that the *Employee's Compensation Agreed Procedure* formulated by this Court by judgment dated 28st October, 2015 warrants modification in view of the Special Scheme formulated in ***Rajesh Tyagi's case***.

16. The Scheme formulated by this Court namely *Employee's Compensation Agreed Procedure* vide judgment dated 28th October, 2015 is hereby modified and is substituted with this Special Scheme for Employee's Compensation Claims which shall be implemented by the Commissioners, Delhi Police and Insurance Companies w.e.f. 02nd August, 2021. The modified Special Scheme is attached to this

judgement.

17. The successful implementation of this Scheme requires strict compliance by Delhi Police, Insurance Companies as well as the Commissioners and a Committee is constituted to supervise the implementation of this Scheme and take remedial measures. This Committee shall comprise of the following members:

- (i) Principal Secretary (Law, Justice & Legislative Affairs), GNCTD as Convenor.
- (ii) Secretary-cum-Commissioner (Labour), GNCTD.
- (iii) Member Secretary, DSLSA.
- (iv) DCP - Legal Cell, Delhi Police.
- (v) Ms. Nandita Rao, Additional Standing Counsel, GNCTD.
- (vi) Mr. Akshay Chowdhary, Advocate.

18. The Government of NCT of Delhi shall bear the necessary expenditure for the functioning of the Committee.

19. The Commissioners, Employee's Compensation as well as the Delhi Police shall file quarterly reports before the Committee with respect to the compliance of these directions of this Court. The Commissioner, Employee's Compensation shall also send the copies of all the awards passed during the quarter to the Committee along with their report. The first Report for the quarter 02nd August, 2021 to 31st October, 2021 be filed by 30th November, 2021 and thereafter by 30th of each quarter. The Committee shall prescribe the format of the compliance reports which shall be circulated to the Commissioners, Employee's Compensation and the Delhi Police.

The Committee shall consider the reports and take such remedial measures as may be considered necessary for the successful implementation of this Scheme.

20. The Commissioners, Employee's Compensation shall expedite the adjudication of the claim cases and make an endeavour to decide these cases within the timelines mentioned in the flow chart attached to the judgment herein below. In the case of non-compliance of the directions of this Court, the Committee shall send their report to be placed in the personal file of the officer in default to be considered at the time of their promotion.

21. If any modifications are considered necessary in this Scheme, the same shall be carried out by the Committee after hearing all the stakeholders. Any suggestion or grievance with respect to the working of this Scheme shall be considered by the Committee.

22. This appeal is disposed of in the above terms. Pending applications are disposed of.

23. This Court appreciates the valuable and effective assistance rendered by Ms. Nandita Rao, Additional Standing Counsel for GNCTD, Mr. Rajiv Agarwal, Advocate, Mr. Saurabh Prakash, Advocate, Mr. Satyam Thareja, Advocate and Mr. S.P. Jain, Advocate as *amici curiae* and Mr. Akshay Chowdhary and Ms. Anjali Agrawal, Law Researchers attached to this Court.

24. Copy of this judgment, and *Special Scheme for Employee's Compensation Claims* along with the *EDAR* be sent to Principal Secretary (Law), GNCTD who shall circulate it to all the Commissioners, Employee's Compensation and Delhi State Legal

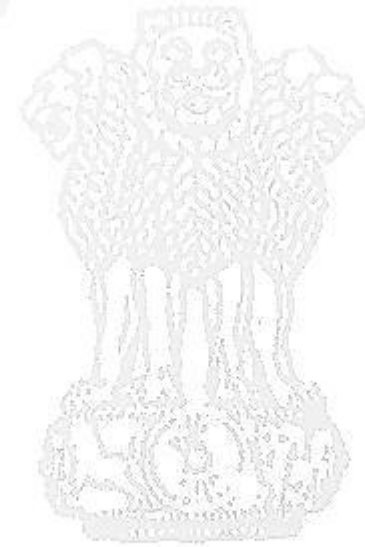
Services Authority (DSLISA).

25. Copy of this judgment along with the *Special Scheme for Employee's Compensation Claim* and the *EDAR* be sent to Delhi Judicial Academy to sensitize the Commissioners about this Scheme.

26. Delhi Judicial Academy shall upload this judgment along with the *Special Scheme* and the *EDAR* on their website (<http://judicialacademy.nic.in>) as good practices of this Court.

JUNE 24, 2021
dk/ak/ds

J.R. MIDHA, J.



भारतमेव जयते

SPECIAL SCHEME
FOR
EMPLOYEE'S
COMPENSATION
CLAIMS
FORMULATED BY
DELHI HIGH COURT



भारत्यमेव जयते

SPECIAL SCHEME FOR
EMPLOYEE'S COMPENSATION CLAIMS
FORMULATED BY DELHI HIGH COURT

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SPECIAL SCHEME FOR
EMPLOYEE'S COMPENSATION CLAIMS
FORMULATED BY DELHI HIGH COURT

1. ***Investigation of Accidents arising out of and in the course of employment by the Police***

Immediately upon the receipt of the information of an accident, from any source, the Investigating Officer of Police shall inspect the site of the accident, take photographs of the site of the accident from all angles, prepare a site plan and collect the relevant evidence/documents especially relating to the proof of employment and last drawn salary of the employee. In injury cases, the Investigating Officer shall also take the photograph(s) of the injured in the hospital. The Investigating Officer shall conduct an on the spot enquiry by examining the eye-witnesses.

2. ***Duty of the police to complete the investigation and file EDAR before the Commissioner, Employee's Compensation within 30 days***

The police shall make complete the investigation and shall submit the *Employee Detailed Accident Report (EDAR)* with the Commissioner, Employee's Compensation within 30 days of the accident. The *EDAR* shall be in the form attached hereto as *Form - I* and shall be accompanied with the documents mentioned therein.

3. **Commissioner, Employee's Compensation to treat EDAR as information under Section 10A(1) of the Employee's Compensation Act**

The Commissioner shall treat *EDAR* as information under Section 10A(1) of the Employee's Compensation Act. Where the claimants have filed a separate claim application, the *EDAR* shall be tagged to the claim application.

If a claimant opts to claim compensation under the Motor Vehicles Act/or any other Act/Statute instead of Employee's Compensation Act, the Commissioner, Employee's Compensation shall record the option of the claimant/ employee/dependants of the deceased employee and close the matter.

4. **Duty of the Investigating Officer to produce the employee/legal representatives of the deceased employee, employer and the eyewitnesses before the Commissioner, Employee's Compensation along with the EDAR**

The Investigating Officer shall produce the employee/legal representatives of the deceased employee, employer and the eye witnesses before the Commissioner, Employee's Compensation along with the *EDAR*. However, if the Police is unable to produce the employer, claimants and eye-witnesses before the Commissioner, Employee's Compensation on the first date of hearing for reasons beyond its control, the Commissioner, Employee's Compensation shall issue notice to them to be served through the Investigating Officer for a date for appearance not later than 30 days. If the employer

has taken an insurance policy, the Investigating Officer shall give an advance notice to the concerned Insurance Company about the date of filing of the *EDAR* before the Claims Tribunal so that the nominated counsel for the Insurance Company can remain present on the first date of hearing before the Commissioner, Employee's Compensation.

5. ***Copy of EDAR to be furnished to the claimants, employer and the Insurance Company***

The Investigation Officer shall furnish the copy of *EDAR* to the employee/legal representatives of the deceased employee, employer and the insurance company (if the employer had taken an insurance policy).

6. ***Extension of time to file EDAR***

Where the Investigating Officer is unable to complete the investigation within 30 days for reasons beyond his control, he shall seek appropriate extension of time to file *EDAR* from the Commissioner, Employee's Compensation.

7. ***Investigating Officer to seek necessary directions from the Commissioner, Employee's Compensation***

In the event of failure of the employer, Insurance Company and/or employee/claimants to disclose the relevant information and documents required to complete the *EDAR*, the Investigating Officer shall seek necessary directions from the Commissioner, Employee's Compensation whereupon the Commissioner shall, in appropriate cases, direct the parties in default to disclose the relevant information on affidavit along

with the original documents within 15 days.

8. **Duty of the police to complete the investigation of the criminal case and to file the copy chargesheet before the Commissioner, Employee's Compensation**

The police shall make endeavour to complete the investigation of the criminal case within 30 days and shall submit the copy of chargesheet before Commissioner, Employee's Compensation.

9. **Duty of the hospital to issue MLC and Post-mortem Report expeditiously of the accident**

The concerned hospital shall issue the MLC and Post-Mortem Report, if any, to the Investigating Officer within 30 days of the accident.

10. **Duty of the Insurance Company to appoint a Designated Officer within 10 days of the receipt of the copy of EDAR**

In cases where the employer has taken an insurance policy, the Insurance Company shall appoint a Designated Officer within 10 days of the receipt of copy of the EDAR. The Designated Officer shall be responsible for dealing/processing of that case and to pass a reasoned decision in writing with respect to the liability of the Insurance Company in accordance with law.

11. **Duty of employer and/or Insurance Company to submit the response to EDAR within 30 days**

The employer/Insurance Company shall examine the EDAR and submit the response. The decision shall be taken by the employer/Designated Officer of the Insurance Company in writing and it shall be a reasoned decision. The

employer/Designated Officer of the Insurance Company shall place the written reasoned decision before the Commissioner, Employee's Compensation within 30 days of the date of receipt of the copy of EDAR from the Investigating Officer.

12. **Award to be passed by the Commissioner, Employee's Compensation within 90 days of the intimation of the accident**

The Commissioner, Employee's Compensation shall complete the inquiry and pass the award within 90 days of the intimation of the accident whereupon the employer/Insurance Company shall make the payment of the award amount within 30 days. However, before passing the award, the Commissioner, Employee's Compensation shall ensure that the claimants are awarded compensation according to the Section 4 read with Schedule-IV of the Employee's Compensation Act. The Commissioner, Employee's Compensation shall also pass an order with respect to the respective shares of the individual claimants, where there are more than one, and the mode of disbursement.

It is clarified that in injury cases, where the treatment is continuing and more particularly cases where the injured is hospitalised and surgery has to be performed, the time limit of three months for passing the award shall stand suitably extended and the Commissioner, Employee's Compensation shall pass the award within such time period as considered appropriate to do complete justice to the victim(s).

13. **The Commissioner, Employee's Compensation shall incorporate the compliance of this Scheme in the award**

The Commissioner, Employee's Compensation shall incorporate the compliance of this Scheme in the opening para of the award in the following format:-.

COMPLIANCE OF THE PROVISIONS OF THE SCHEME TO BE MENTIONED IN THE AWARD

1.	Date of the accident	
2.	Date of filing of <i>EDAR in Form-I</i>	
3.	Date of appointment of the Designated Officer by the Insurance Company	
4.	Date of response of the employer and Insurance Company	
5.	Date of the award	
6.	Date of show cause notice to the employer as to why the penalty be not imposed	
7.	Date of the order imposing penalty	
8.	Date of order by which claimant(s) was/were directed to open savings bank account(s) near his place of residence and produce PAN Card and Aadhaar Card and the direction to the bank not issue any cheque book/debit card to the claimant(s) and make an endorsement to this effect on the passbook	
9.	Date on which the claimant(s) produced the passbook of their savings bank account near the place of their residence along with the	

	endorsement, PAN Card and Adhaar Card	
10.	Permanent Residential Address of the claimant(s)	
11.	Whether the claimant(s) savings bank account(s) is near his place of residence	
12.	Whether the claimant(s) was/were examined at the time of passing of the award to ascertain his/their financial condition	
13.	Date of disbursement order	
14.	Whether the amount has been released to the victim(s) in a phased manner	

14. **Examination of the claimants before passing of the award**

Before or at the time of passing of the award, the Commissioner, Employee's Compensation shall examine the claimants to ascertain their financial condition/needs to determine their share, mode of disbursement, amount to be kept in fixed deposit and period of fixed deposit. The Commissioner, Employee's Compensation shall also ascertain the complete address and Bank Account details of the claimants. The Commissioner, Employee's Compensation shall take on record the following documents from the claimants:

- (i) Proof of residence;
- (ii) Details of the Bank Account of the Claimants; and
- (iii) Two sets of photographs and specimen signatures of the claimants.

15. **Deposit of the award amount**

In the award, the Commissioner, Employee's Compensation shall specifically direct the employer/Insurance Company, as the case may be, to deposit the award amount with the Commissioner, Employee's Compensation along with the interest upto the date of notice of deposit to the claimants with a copy to their counsel within 30 days of the award. The names and addresses of the claimants and their counsel for issuance of notice of deposit be mentioned in the award.

The Commissioner, Employee's Compensation shall keep the amount deposited by the owner/insurance company in fixed deposit till the disbursement of the amount to the claimants. The Commissioner, Employee's Compensation shall ensure that the amount deposited is kept in fixed deposit within three working days of the deposit.

16. **Protection of the award amount**

The Commissioner, Employee's Compensation shall, depending upon the financial status and financial need of the claimant(s), release such amount as may be considered necessary and direct the remaining amount to be kept in fixed deposits in phased manner (For example, if a sum of Rs.5,50,000/- has been awarded to the claimants, Rs. 50,000/- may be released immediately and the remaining amount of Rs.5,00,000/- may be kept in 10 fixed deposits of Rs. 50,000/- each for a periods of six months, one year, one and a half

years, two years and so on till five years or one year, two years, three years and so on till ten years). The Commissioner, Employee's Compensation shall also consider imposing the following conditions with respect to the fixed deposits:

- (i) The interest on the fixed deposits be paid monthly to the Claimant(s).
- (ii) The monthly interest be credited automatically in the saving account of the claimant(s).
- (iii) Original fixed deposit receipts be retained by the bank in safe custody. However, a passbook of the FDRs be given to the claimant(s) along with the photocopy of the FDR. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank account of the Claimant(s).
- (iv) No cheque book be issued to the claimant(s) without permission of the Commissioner, Employee's Compensation. However, a photo identity card be issued to the claimant(s) and the withdrawal be permitted upon production of the identity card.
- (v) No loan, advance or withdrawal be allowed on the fixed deposits without permission of the Commissioner, Employee's Compensation.
- (vi) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the victim.
- (vii) Half yearly statement of account be filed by the Bank

with the Commissioner, Employee's Compensation.

17. **Penalty for delay in deposit of compensation amount under Section 4A(3)**

In cases where the employer has not deposited the compensation amount within 30 days from the day it fell due, the show cause notice for imposition of penalty shall be issued by the Commissioner, Employee's Compensation to the employer immediately after the filing of the written statement and the issue with respect to the imposition of penalty be framed and decided at the time of passing of the award. However, if the show cause notice could not be issued before passing of the award, the Commissioner, Employee's Compensation shall issue the show cause notice in the award or after the award and the issue of penalty be decided within 30 days of the award.

18. **Commissioner, Employee's Compensation shall fix a date for reporting compliance**

The Commissioner, Employee's Compensation shall fix a date for reporting compliance in the award itself. The Commissioner, Employee's Compensation shall also direct the employer/Insurance Company to place on record the proof of deposit of the award amount, the notice of deposit and the calculation of the interest deposited on the date fixed for compliance. Upon such proof being filed, the Commissioner, Employee's Compensation shall ensure that the interest upto the date of notice of deposit has been deposited.

The Commissioner Employee's Compensation shall close the matter only after the release of the award to the claimant.

The order closing the case shall be in the following format:

- (i) Case title and number.
- (ii) Date of award.
- (iii) Award amount.
- (iv) Date of deposit of the award amount.
- (v) Date on which the amount was kept in fixed deposit.
- (vi) Date of notice by the employer/insurance company to the claimant.
- (vii) Date of notice by the Commissioner, Employee's Compensation to the claimant.
- (viii) Period for which the claimant is entitled to interest under Order XXI Rule 1(4), CPC.
- (ix) Amount of interest to which the claimant is entitled under Order XXI Rule 1(4), CPC.
- (x) Amount of interest actually received by the claimant under Order XXI Rule 1(4), CPC.
- (xi) Date of release of the award amount to the claimant.

19. **Recovery certificate to be issued within 30 days of the award**

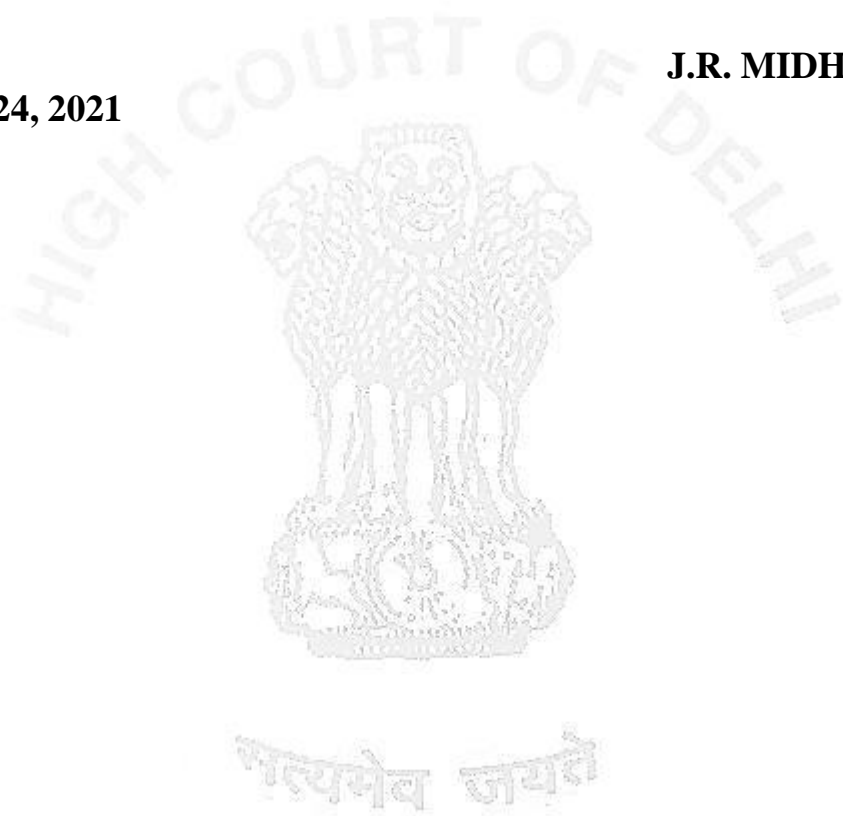
If the award amount is not deposited within the stipulated period, the Commissioner, Employee's Compensation, after notice to the respondent, shall issue a Recovery Certificate to the SDM/Recovery Officer within 30 days of the award.

20. *Duties of Police shall be construed to be part of State Police Act*

The duties of police enumerated above shall be construed as if they are included in the respective State Police Act and any breach thereof shall entail consequences envisaged in that law

JUNE 24, 2021
dk

J.R. MIDHA, J.



FORM-I
FORMAT OF EMPLOYEES DETAILED ACCIDENT
REPORT (EDAR)

By Investigating Officer to Commissioner, Employee's Compensation
Within 30 days of the receipt of intimation of the Accident
Copy to Employee(s)/Victim(s)/Dependant(s), Employer and Insurance
Company

PART I		
<u>PARTICULARS OF THE ACCIDENT</u>		
S. No.		
1.	FIR No	
2.	Date	
3.	Under Section	
4.	Police Station	
5.	Date of accident	
6.	Time of Accident	
7.	Place of accident	
8.	Who reported the accident to the Police? (Give name, address & contact no.) (a) Employer (b) Victim (c) Witness (d) Hospital/Medical facility (e) Any other (Specify)	
9.	Name of the person who took the victim to the hospital,	

	name of the hospital and at what time	
10.	Nature of the accident: (a) Whether resulted in death or injury or both? (b) Number of persons injured/died	
11.	Name and contact no. of the Investigating Officer	
12.	Names of witnesses of the accident	
13.	Whether accident recorded in a CCTV footage/ other electronic device etc.	
14.	Date of preparation of the site plan	
15.	Brief description of the accident:	

PART II
INFORMATION RELATING TO / DECEASED/INJURED EMPLOYEE

16.	<p><u>Death Cases:</u></p> <p>(a) Name and address of the deceased</p> <p>(b) Age</p> <p>(c) Gender</p> <p>(d) Education</p> <p>(e) Occupation</p> <p>(f) Income (monthly)</p> <p>(g) Legal heirs/Guardian:</p> <p style="padding-left: 20px;">(i) Name</p> <p style="padding-left: 20px;">(ii) Relationship</p> <p style="padding-left: 20px;">(iii) Age</p> <p style="padding-left: 20px;">(iv) Address</p> <p style="padding-left: 20px;">(v) Contact No.</p>	
17.	<p><u>Injury Cases:</u></p> <p>(a) Name and address of injured</p> <p>(b) Age</p> <p>(c) Gender</p> <p>(d) Education</p> <p>(e) Occupation</p> <p>(f) Income (monthly)</p> <p>(g) Details of family/dependants of the victim.</p> <p>(h) MLC No.</p>	

	<p>(i) Nature of injuries</p> <p>(j) Name of hospital(s) where injured treated?</p> <p>(k) Whether victim refused medical treatment</p> <p>(l) Period of hospitalization</p> <p>(m) Period of treatment</p> <p>(n) Whether treatment continuing</p> <p>(o) Name, address and contact number of the doctor(s) who treated the injured</p> <p>(p) Whether injured underwent any surgery(s)? If so, give particulars?</p> <p>(q) Whether suffered any permanent disability? If yes, give details</p>	
18.	Any other relevant information	

PART III
INFORMATION RELATING TO EMPLOYMENT

19.	Job Profile of injured / deceased employee	
20.	Date of joining of injured / deceased employee	
21.	Salary drawn by injured / deceased on day of accident	
22.	Name of employer (including name of manager / concerned person)	
23.	Address of employers including owner of the Establishments, Principal Employer, Contractor etc.	
24.	Details of Registration of employer or establishment	
25.	Account no. with name and address of the Bank in which the employer is having its account	

Note: [Employer, in this Form would mean, but not limited to, Company, Partnership, Proprietorship, Co-operative or any other entity or association]

PART IV
PARTICULARS OF THE INSURANCE

26.	Policy Number	
27.	Period of policy	

28.	Issued by (give name and address of the Insurance Company)	
29.	Nature of policy	
30.	Date of intimation of the accident by the Investigating Officer to the Insurance Company	
PART V <u>RELEVANT DOCUMENTS TO BE ATTACHED</u>		
31.	First Information Report or Daily Diary Entry	
32.	Site plan of the location where the accident took place	
33.	Statements of the witnesses recorded by the police under Section 161 CrPC	
34.	Photographs of the scene of accident from all angles.	
35.	Documents relating to registration of the Employer or Establishment	
36.	Proof of employment of the injured/deceased employee such as appointment letter, salary slips, duty register etc.	
37.	Insurance Policy	

38.	Report under Section 173 CrPC	
39.	<p><u>In case of Death</u></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 age of the deceased which may be in form of :</p> <ul style="list-style-type: none"> (i) Birth certificate (ii) School certificate (iii) Certificate from gram panchayat (in case of illiterate) <p>(e) Proof of Occupation and income of the deceased</p> <p>(f) Proof of the legal representatives of the deceased</p> <ul style="list-style-type: none"> (i) Names (ii) Age (iii) Address (iv) Relationship (v) Contact no. <p>(g) Photographs, specimen signatures attested by the bank and identity proof of the legal representatives of the deceased</p> <p>(h) Treatment record, medical bills and other expenditure</p>	

	(i) Bank Account no. of the legal representatives of the deceased with name and address of the bank	
40.	<p><u>In case of Injury</u></p> <p>(a) MLC of the deceased /injured</p> <p>(b) Multi angle photographs of the injured</p> <p>(c) Photographs, specimen signatures attested by the bank and identity proof of the injured</p> <p>(d) Proof of age of the injured which may be in form of :</p> <p style="padding-left: 40px;">(i) Birth certificate</p> <p style="padding-left: 40px;">(ii) School certificate</p> <p style="padding-left: 40px;">(iii) Certificate from Gram Panchayat (in case of illiterate)</p> <p>(e) Proof of occupational income of the injured at the time of the accident</p> <p>(f) Treatment record, medical bills and other expenditure</p> <p>In case of long-term treatment, the SHO/IO shall also record the details so that the claimant may furnish documents</p>	

	<p>before the Commissioner, Employees' Compensation. (g) Bank Account no. of the injured with name and address of the bank</p>	
<p style="text-align: center;">VERIFICATION</p> <p>Verified at _____ on this _____ of _____, that the contents of the above report are true and correct as per information and documents gathered during investigation.</p> <p style="text-align: right;">Station House Officer (Name and Stamp)</p> <p style="text-align: right;">Assistant Commissioner of Police (Name and Stamp)</p>		

भारत्यमेव जयते