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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
NEW DELHI.

(PRINCIPAL BENCH)

O.A. No. 220 OF 2023

In Ref: Notice of Hearing in Suo Motu matter in re: news item published in The Indian Express, dated 14.3.2023 titled as "Ludhiana: Three workers dead, two critical as fire breaks out in Hosiery Factory".

REPLY IN THE FORM OF AFFIDAVIT BY TEJ PARTAP SINGH
PHOOLKA, LABOUR COMMISSIONER, PUNJAB.

RESPECTFULLY SHOWETH

1. That undersigned is posted as Labour Commissioner, Punjab and thus filing the reply as respondent in the O.A. No. 220 OF 2023.
2. That this Hon'ble Tribunal in the afore mentioned matter has passed an order dated 13.07.2023, the operative part of the said order is reproduced as below:

" 1. The matter was initiated in the light of captioned media report of death of three workers and burn injuries to two others on account of fire in hosiery factory at Ludhiana.

2. The matter was considered vide order dated 29.03.2023 and a joint Committee of CPCB, District Magistrate and State PCB was



constituted with direction to submit a factual and action-taken report.

Notices were also issued to the concerned.

3. *In compliance thereof, Respondent No. 1, Punjab State PCB has filed the reply. The Project Proponent, M/s. Ganesh Trading Corporation, Ludhiana has also filed reply/written submission with the facts that some amount has been paid as one time compensation to the persons concerned. Respondent No. 3, Deputy Commissioner, Ludhiana has also filed the reply*
4. *Reply of Director of Factories & Labour Commissioner, Punjab is not on record. Registry is directed to issue fresh notice to Respondent No. 2, Director of Factories & Labour Commissioner, Punjab to enable it to submit reply or file counter affidavit within three weeks.*
5. *List for further consideration on 12.10.2023."*
3. That in this case the partner of M/s Ganesh Trading Corporation, Ram Nagar, Civil Lines, Ludhiana was called by the Assistant Labour Commissioner, Ludhiana in his office on 02-05-2023, 04-05-2023, 08-05-2023 and 09-05-2023 and was asked to submit his reply about the one-time compensation paid by the firm to the family members of the deceased and injured employees. The firm submitted the reply vide their letters dated 08-05-2023, 26-06-2023 and 30-06-2023 giving the details of the employees and the amount of compensation paid by them to the family members of the deceased employees and to the injured employee. The firm also submitted the copies of the Affidavit executed by the family/legal heirs of the deceased employees. The employer made the following payments to the family members of the deceased & injured:

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1. Sh. Inderjeet Yadav (Deceased)- Rs 7 Lakhs Paid.
2. Sh. Ravinder Chopra (Deceased)- Rs 6 Lakhs Paid.
3. Sh. Mohinder Singh (Deceased)-Rs 6 Lakhs Paid.
4. Sh. Gulshan Kumar (Deceased)- Rs 8 Lakhs Paid
5. Sh. Ashwani Kumar (Injured)- Rs 2.50 Lakhs Paid.

The details of one-time compensation paid to each family member are given in the Report attached as **Annexure -A**.

4. That, it is further submitted that all the employees were covered under the ESI Act and the benefits under the ESI law was paid as per the detail as follows:

S.No	Employee Name	ESI Insurance No.	Benefits under the ESI Act
1.	Inderjeet Yadav	2605556157	Sh. Inderjeet Yadav (Deceased)- Rs 15,000 Paid as funeral expenses on 13.04.2023 and dependent benefit/ family pension to the nominee has been approved and disbursed @ of 283.80 per day.
2.	Ravinder Chopra	2607621891	Sh. Ravinder Chopra (Deceased)- Rs 15,000 Paid as funeral expenses to the dependent of the deceased on 13.04.2023. In the case of Sh. Ravinder Singh (Deceased) ESI has stated that

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			since the wife of the deceased employee had expired and the children are more than 25 years of age and married no dependent benefit/Family Pension is applicable.
3.	Mohinder Singh	2607647957	Sh. Mohinder Singh (Deceased)- Rs 15,000 Paid as funeral expenses on 13.04.2023 and dependent benefit/family pension to the nominee has been approved and disbursed @ of 274.80 per day.
4.	Gulshan Kumar	2614561742	Sh. Gulshan Kumar (Deceased)- Rs 15,000 Paid as funeral expenses on 08.05.2023. The Assistant Labour Commissioner circle -4 has informed that the case of dependent benefit (Pension) has been approved in favour of Mrs. Kamlesh Kumari, wife of late Mr. Gulshan Kumar. The daily rate of dependent benefit (Pension) is Rs. 279/- Also, four payments (Apr/23 to June/23) amounting 23994.00/- had already been disbursed to Smt. Kamlesh Kumari.



			(Dependent benefits/Pension released)
5.	Ashwani Kumar	2614561749	Sh. Ashwani Kumar (Injured)- The Individual received minor injuries hence no dependent benefit/Family Pension is applicable in this case.

The details of benefits paid under the ESI Act to the dependents of a deceased employee are given in the Report attached as **Annexure -A**.

5. That, It is pertinent to mention here that assistance under the Punjab Labour Welfare Fund Act,1965 is also given to the dependents of the deceased workers as per the following details:
- i. Sh. Inderjeet Yadav (Deceased) S/o Sh. Tapsi Ram: Ex-gratia claim of Rs 2 Lakhs and Rs 20,000 Funeral Expenses have been paid to the dependent.
 - ii. Sh. Mohinder Singh (Deceased) S/o Sh. Telu Ram: Ex-gratia claim of Rs 2 Lakhs and Rs 20,000 Funeral Expenses have been paid to the dependent.
 - iii. Sh. Gulshan Kumar (Deceased) @ Gulshan S/o Sh. Hari Chand: Ex-gratia claim of Rs 2 Lakhs and Rs 20,000 Funeral Expenses have been paid to the dependent.
 - iv. Sh. Ravinder Singh @Ravinder Chopra Aka Ravinder Kumar S/o Sh. Tarsem Lal: Since the wife of the deceased employee had expired and the children are more than 25 years of age and married no benefit under the Punjab Labour Welfare Board is applicable.

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- v. Sh. Ashwani Kumar (Injured) S/o Sh. Karamjit: As per the report of ESI Corporation the insured employee received only minor injuries and was discharged from the hospital on 15.03.2023 and is absolutely fine. No benefit is payable to him under the Punjab Welfare Fund Act, 1965.

The details of the benefits paid under the Labour Welfare Fund is attached as **Annexure-A**.

6. That the dependents of the deceased persons namely Sh. Inderjeet Yadav, Shri Mohinder Singh, and Shri Gulshan Kumar have been paid funeral expenses amounting to Rs. 15,000 each along with the dependent pension by the ESI Corporation. Further, the son of Shri Ravinder Singh has been given funeral expenses amounting to Rs 15,000 by ESIC. However, the family member of Sh. Ravinder Chopra are not eligible for dependent pension as the wife of Ravinder Chopra had already expired long ago and the age of his children is more than 25 years and they are married. As such they were not eligible under ESIC to received dependent pension. Shri Ashwini Kumar had sustained only minor injuries and was discharged from the hospital after treatment. The detail of benefits provided to the dependents of the deceased employees/workman under different provisions is attached with annexure A.
7. That, as per the report received from the O/o Deputy Director of Factories, During the investigation carried out, violations of the following clauses of the Factories Act, 1948 and the following rules under the Punjab Factory Rules, 1952 have come to light:-



- a) The additions/altered maps/forms of the Factory not deposited in the office of the Director of Factories, Punjab. Section 6 of Factories Act 1948 and Rule 3(A) of Punjab Factory Rules 1952.
- b) The renewed stability certificate (after 5 years) of the Factory has not been submitted in the office Director of Factories, Punjab. Section 6 of Factories Act 1948 and Rule 4(2) of Punjab Factory Rules 1952.
- c) Intimation of accident in writing on time in prescribed Form No. 18 has not been sent to the office of Deputy Director Factories Circle 5 Ludhiana. Section 88 of Factories Act 1948 and Rule 103 of Punjab Factory Rules 1952.
- d) Fire Exits not marked on emergency exit routes provided in the Factory. Section 38 of Factories Act 1948 and Rule 66 of Punjab Factory Rules 1952.
- e) Fire hydrant pipe line for extinguishing the fire not provided in the Factory. Section 38 of Factories Act 1948 and Rule 66 of Punjab Factory Rules 1952.
- f) No training was given to the workers regarding exit through Fire Exits routes during emergency Section 38 of Factories Act 1948 and Rule 66 of Punjab Factory Rules 1952.
- g) Insulation of Electrical wires not done properly in the Factory, due to which the short circuit occurred. Rule 67 (C) of Punjab Factory Rules 1952.

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It is also submitted that hosiery goods were manufactured in M/s Ganesh Trading Corporation, B- 1-1365, Ram Nagar, Civil Lines, Ludhiana. This manufacturing process does not come under the definition of hazardous

process under Schedule (1) under Section 2(CB) of the Punjab Factories Act, 1948.

8. That the above said violations are mentioned in the challan and the said challan are filed in the court of Chief Judicial magistrate on 21/07/2023 vide registration number 47254/2023. The next date of the case is 13/09/2023.
9. That in reference to the payment of compensation under the NGT Act the provisions of Section 17 of the NGT Act are to be referred that provides for the liability to pay relief or compensation in certain cases. The relevant part of section 17 is reproduced below:

"Section 17. (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such a relief or compensation for such death, injury or damage, under all or any of the heads specified in schedule II, as maybe determined by the tribunal."

The term "workman" is defined under Section 2(o) of the NGT Act, 2010 as having the same meaning assigned to it in the Workmen's Compensation Act, 1923 (8 of 1923). The workmen who lost their lives in the accident, are 'Workmen' within the meaning of section 2(dd)(iii) of the Workmen's Compensation Act, read with clause (ii) of the Schedule II of the said Act. Further, the deceased were also 'insured person' under the Employees State Insurance Act, 1948 and the dependents of the deceased are paid the dependent benefits and pensions by the ESI Corporation. Further Section 53 of the ESI Act, 1948 puts a bar against dependents and insured person from receiving or recovering compensation or damages

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under any other law including the Workmen Compensation Act, 1923 in respect of employment injury suffered by the employees.

10. Hence, the applicability of section 17(1) of NGT act, 2010 is limited and applies in case of death of or injury to any person other than a workman, which is not the case at hand, and therefore, no provision to give any One Time Comp

In view of the submissions made herein above, necessary instructions may be passed and original application no 220 of 2023 may be disposed of accordingly by this Hon'ble Tribunal. That any instruction passed by this Hon'ble Tribunal to the undersigned shall be complied with in letter and spirit. It is, therefore, prayed that the Original Application No. 220 of 2023 may kindly be Disposed off with appropriate orders.

Place:

Submitted by

Dated:


Tej Partap Singh Phoolka,
Labour Commissioner, Punjab.

Verification:-

Verified that the contents of para no.1 to 10 of the above reply are true and correct to my knowledge as derived from the official record. No part of the above reply is false and nothing material has been kept concealed therein.

Place:

Submitted by

Dated:


Tej Partap Singh Phoolka,
Labour Commissioner, Punjab

No	Name of deceased Employee	One-Time Compensation/ Settlement given by Employee M/s Ganesh Trading Corp.	Benefits given by Department	ESIC	Benefits given under Labour Welfare Board	Punjab	Remarks
1	Sh. Underjeet Yadav S/o Sh. Tapsi Ram (deceased)	<ol style="list-style-type: none"> Rs. 4,00,000 paid to Asha w/o Sh. Inderjit vide cheque no. 004737 dated 28/06/2023 Rs. 1,00,000 paid to Ramesh Kumar S/O Inderjit vide cheque no. 004738 dated 28/06/2023 Rs. 1,00,000 paid to Dinesh Kumar S/O Inderjit vide cheque no. 004740 dated 28/06/2023 Rs. 1,00,000 paid to Umesh Kumar S/O Inderjit vide cheque no. 004739 dated 28/06/2023 <p>(Total amount Paid- Rs. 7,00,000/-)</p>	Funeral Expense Amount -/15000 has been paid to the dependent of IP on 13.04.2023	Dependent Benefit The case of dependent benefit(Pension) has been approved in favour of Mrs. Asha, wife of late Mr. InderjitYadav. The daily rate of dependent benefit is Rs.-/283.8 Also, three payments (Mar/23, Apr/23 & May/23) amounting 4541/- and 8514/- & 8798/-had already been disbursed to Smt. Asha. (Dependent benefits/Pension released)	Ex-gratia The exgratia claim of Rs 2 Lac of the individual has been processed and the benefit has been credited in the bank account of the nominee.	Funeral Expenses The Funeral expenses claim of Rs 20,000/- of the individual has been processed and the benefit has been credited in the bank account of the nominee.	(Total amount Paid- Rs. 20,000/-)

Name of deceased Employee	One-Time Compensation/ Settlement given by Employer M/s Ganesh Trading Corp.	Benefits given by Department	ESIC	Benefits given under Labour Welfare Board	Punjab	Remarks
2 Sh. Ravinder Singh @Ravinder Chopra aka Ravinder Kumar S/o Sh. Tarsem Lal (deceased)	Rs. 6,00,000/- paid to Gaurav Chopra S/o Sh. Ravinder Chopra Vide two separate cheques, i.e., cheque No. 004623 dated 30.03.2023 of Rs. 4,00,000/- and another cheque No. 004669 dated 26.04.2023 of Rs. 2,00,000/- both cheques drawn on HDFC Bank, The Mall, Ludhiana. (Total amount Paid- Rs. 6,00,000/-)	Funeral Expenses Amount -/15000 has been paid to the dependent of IP on .13.04.2023	Dependent benefit is not payable.	Not eligible, as the wife of the employee had already expired and the children are more than 25 years of age and are married.	Funeral Expenses Not eligible, as the wife of the employee had already expired and the children are more than 25 years of age and are married.	ESIC-The age of the children of the IP is more than 25 years and all are married. The wife of the IP has also died. Hence, the benefit is not payable to the dependents of the IP.

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Name of deceased Employee	One-Time Compensation/ Settlement given by Employee M/s Ganesh Trading Corp.	Benefits given by Department	ESIC	Benefits given under Punjab Labour Welfare Board	Punjab	Remarks
3 Sh. Mohinder Singh S/o Sh. Telu Ram (deceased)	1. Kamla Devi W/o Sh. Mohinder Singh given a sum of Rs. 4,00,000/- vide Cheque no. 004730 dated 16/06/2023 2. Harbans Singh S/o Sh. Mohinder Singh given a sum of Rs. 2,00,000/- vide Cheque no. 004731 dated 16/06/2023 Both cheques drawn on HDFC Bank, The Mall, Ludhiana. (Total amount paid-6,00,000/-)	Funeral Expenses Amount -/15000 has been paid to the dependent of IP on .13.04.2023	The case of dependent benefit (Pension) has been approved in favour of Mrs. Kamla Devi, wife of late Mr. Mohinder Singh. The daily rate of dependent benefit (Pension) is Rs.274.80.-/ Also, one payment (16/03/23 & 31/05/23) amounting 21601/- has been already disbursed to Smt. Kamla Devi. (Dependent benefits/Pension released)	The exgratia claim of Rs 2 Lac of the individual has been processed and the benefit has been credited in the bank account of the nominee. (Total amount Paid- Rs. 2,00,000/-)	The Funeral expenses claim of Rs 20,000/- of the individual has been processed and the benefit has been credited in the bank account of the nominee. (Total amount Paid- Rs. 20,000/-)	

NAME of deceased Employee	One-Time Compensation/ Settlement given by Employer M/s Ganesh Trading Corp.	Benefits given by ESIC Department	Benefits given under Punjab Labour Welfare Board	Benefits given under Punjab Labour Welfare Board	Remarks
4 Sh. Gulshan Kumar @ Gulshan S/o Sh. Hari Chand	1. KamleshKumari W/o Sh. Gulshan Kumar paid Rs. 4,00,000/- vide Cheque no. 004665 dated 24/04/2023 2. GaganoOberoi S/o Sh. Gulshan Kumar paid Rs. 2,00,000/- vide Cheque no. 004662 dated 24/04/2023 3. Naresh Kumar S/o Sh. Gulshan Kumar paid Rs. 2,00,000/- vide Cheque no. 004664 dated 24/04/2023 All cheques drawn on HDFC Bank, The Mall, Ludhiana. (Total amount paid-8,00,000/-)	The case of dependent benefit(Pension) has been approved in favour of Mrs. KamleshKumari, wife of late Mr. Gulshan Kumar. The daily rate of dependent benefit (Pension) is Rs. 279/-Also, four payments (Apr/23 to June/23) amounting 23994.00/- had already been disbursed to Smt. KamleshKumari. (Dependent benefits/Pension released)	The exgratia claim of Rs 2 Lac of the individual has been processed and the benefit has been credited in the bank account of the nominee. (Total amount Paid- Rs. 2,00,000/-)	The Funeral expenses claim of Rs 20,000/- of the individual has been processed and the benefit has been credited in the bank account of the nominee. (Total amount Paid- Rs. 20,000/-)	

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Sl. No.	Name of deceased Employee	One-Time Compensation/ Settlement given by Employer M/s Ganesh Trading Corp.	Benefits given by ESIC		Benefits given under Punjab Labour Welfare Board		Remarks
			Department	ESIC	Labour Welfare Board	ESIC- The	
5	Sh. Ashwani Kumar S/o Sh. Karamjit	Rs. 2,50,000/- paid vide Cheque No. 004644 dated 10.04.2023 drawn on HDFC Bank, The Mall, Ludhiana. Remarks: Management incurred a sum of Rs. 94,000/- (approx.) towards his medical expenses and paid a sum of Rs. 30,000/- towards his diet and medicines. (Total amount Paid- Rs. 2,50,000/-)	Funeral Expenses Benefit is not payable.	Dependent Benefit Dependent benefit is not payable.	He received only minor injuries and was discharged from the hospital and is absolutely fine therefore, no benefit is payable to him.	Funeral Expenses He received only minor injuries and was discharged from the hospital and is absolutely fine therefore, no benefit is payable to him.	ESIC- The insured person had only Minor Injuries and he has come home after being discharged from the hospital the next day on 15.03.2023 and IP is absolutely fine now. Therefore, no benefit is payable to him.

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