

Before the National Green Tribunal Principal Bench, New Delhi

Original Application No. 171/2021

**SUB: SUPPLEMENTARY REPORT OF THE COMMITTEE IN COMPLIANCE OF
HON'BLE NGT ORDER DATED 22.07.2021 IN O.A. NO. 171/2021**

Report of the Committee was forwarded to the Hon'ble NGT on 28.08.2021. Further the Commissioner Employee's Compensation / Dy. Labour Commissioner of District West has forwarded a Action Taken Report regarding calculation of compensation, the brief details of which are as under: -

Sl No.	Name of Deceased	Amount Calculated	Funeral Benefit	Remarks
01	Late Sh. Shamshed	Rs. 16,89,150/-	Rs. 5000/-	
02	Late Sh. Sonu	Rs. 16,60,275/-	Rs. 5000/-	
03	Late Sh. Vikram	Rs. 16,70,325/-	Rs. 5000/-	
04	Late Sh. Abhishek			The amount could not be calculated as the age of the deceased is not available on record
05	Late Sh. Ajay Shukla	Rs. 16,60,275/-	Rs. 5000/-	
06	Late Sh. Neeraj	Rs. 16,70,325/-	Rs. 5000/-	

Besides above compensations, interest @ 12% of the Principal Amount i.e. w.e.f. 21.07.2021 till the date of realization has also been imposed under section 4 A(3)(a) of the Employees Compensation Act, 1923. A letter has been issued to the surviving members of Late Sh. Abhishek for providing complete address, ID proof and Age proof through the police stations of Nihal Vihar and Paschim Vihar West. A copy of the forwarding letter alongwith the report of the Commissioner Employee's Compensation is also enclosed.

The Revenue Department has already released an initial amount of Rs. 100000/- each as ex-gratia to the next to kin of the 06 deceased as per the revenue department order no. F.1(87) /Relief/Building Collapse/2010/2663 dated 05.03.2020 and the balance of Rs. 9,00,000/- would be released after the documentation process is completed i.e. the final report of FSL is available.



OFFICE OF THE JOINT LABOUR COMMISSIONER, WEST DISTRICT
LABOUR DEPARTMENT, GOVT. OF NCT OF DELHI,
LABOUR WELFARE CENTRE, F-BLOCK, KARAMPURA, NEW DELHI - 110015

No. CEC/D/43-48/WD/21/8751

Dated: 4/9/21

To

The SDM (Punjabi Bagh)
Office of the Divisional Magistrate, Punjabi Bagh
Govt. of NCT of Delhi,
Main Rohtak Road, Nangloi,
New Delhi-110041



Subject: Providing of details of compensation to the victims of the Fire incident at I-5, Udyog Nagar, New Delhi on 21.06.2021

Madam,

This is in reference your office letter No.F.1/SDM/PB/Fire Udyog Nagar/2021/5666-67 dated 04.09.2021 on the above mentioned subject.

The reply/status/action taken report is as under:-

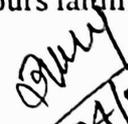
1. 03 hearings were conducted, none of these dates management not appeared, copies of proceedings are enclosed.
2. Compensation amount has been calculated as per order No.CEC/D/43-48/WD/21/8737-8744 dated 03.09.2021 (copy enclosed) and parties have been informed.

The above report is submitted for kind perusal of the District Magistrate (West) with the request to apprise the same to Hon'ble NGT.

Thanking you.

Encl: As above

Yours faithfully


04/09/2021

(U.K Sinha)

Commissioner Employee's Compensation/
Dy. Labour Commissioner
District I/C
West District



CEC/D/43 to 48/WD/21

Date- 02.08.2021

None Present

Issue again notice through speed post/SHO. Fixed for 19.08.2021 at 10.30 a.m.

QWJ
02/08
CEC

Date-04.08.2021

On the directions of DM office this case is preponed 19.08.2021 to 09.08.2021 and fresh notice for 09.08.2021 to be issued.

QWJ
04/08
CEC

09.08.2021

None Present

However, a report by concerned I.O Paschim Vihar filed, which is taken on record in which the details of person who are suspected to be burnt alive in the fire accident (06 in number).

In view of above, revised notice u/s 10A(1) of the Employees Compensation Act, 1923 will be issued with the direction to the management to file their comments/reply.

List the matter on 31.08.2021 at 12.00 Noon.

QWJ
09/08
CEC

31.08.2021

None Present

The notice which was issued through Superintendent Tihar Jail through a process server. The said notice is said to be received by Sh. Pankaj Garg and original receipt alongwith LTI dated 18.08.2021 is received back in this office. Despite service of notice for appearance none appeared on behalf of employer M/s Apeksha International and therefore proceedings are concluded for passing suitable order in this regard. Even if, the proprietor is in judicial custody, he should have deployed his family members/authorized representative/an advocate/pleader to file suitable comments, which he failed to do so. The 3rd notice was issued to employer on 04.08.2021, which was received by the wife of the proprietor on 09.08.2021. The last notice dated 17.08.2021 was received by Sh. Pankaj Garg on 18.08.2021. Despite receipt of 02 notices, there is no response from the employer side therefore it is deemed that the employer has nothing to say under section 10A(2) and 10A(3) of the Act, which makes them deemed to be liable for compensation.

Sharma
31/08/2021
CEC

03/09/2021

order passed. let this copy of order be sent to parties and further action may be initiated by this office

Sharma
03/09/2021
UKSINHA/CEC

ExHaeofy.



IN THE COURT OF COMMISSIONER EMPLOYEES COMPENSATION
(UNDER EMPLOYEES COMPENSATION ACT, 1923)
OFFICE OF THE JOINT LABOUR COMMISSIONER
LABOUR WELFARE CENTRE, DISTRICT - WEST, F-BLOCK:
KARAMPURA, NEW DELHI - 15

No. CEC/D/43-48/WD/21/8737-8744

Dated:- 03/09/2024

In the matter of:-

- 1.Sh. Shamsheed S/o Sh. Sirajuddin
R/o C-144, Bhim Nagar, Delhi-110041
- 2.Sh. Sonu S/o Sh. Ramesh Chand
R/o B-19, Nihal Vihar, New Delhi-110041
- 3.Sh. Vikram S/o Sh. Ramesh Chand
R/o B-19, Nihal Vihar, New Delhi-110041
- 4.Sh. Abhishek S/o Sh. Brij Kishore
R/o Nihal Vihar, New Delhi-110041
- 5.Sh. Ajay Shukla S/o Late Sh. Santosh Shukla
R/o F-230, Karampura, New Delhi-110015
- 6.Sh. Neeraj S/o Sh. Subhash Chand
R/o K-337, Prem Nagar-2
Kirari, Nangloi, New Delhi-110041

... deceased workmen

VERSUS

- 1.M/s Apeksha International
Through its Owner Sh. Pankaj Garg
J-5, Udyog nagar, Peeragarhi
New Delhi-110063
- 2.Sh. Pankaj Garg S/o Sh. Vinod Garg
R/o 88, Rajdhani Enclave, Pitampura
New Delhi-110034

..... Employer/owner

ORDER

1. This order shall dispose of the notice dated 16.07.2021 and subsequent notices issued under section 10A(1) of the Employees Compensation Act, 1923 (hereinafter referred to as the Act) making deceased family members and employer M/s Apeksha International parties to it.
2. The brief background of the case is that on 21.06.2021, as per the media report fire broke out in a factory located at J-5, Udyog Nagar, Peeragarhi, New Delhi. On receiving information, team of inspectorate staff was deployed to visit the accident spot and to collect desired information regarding loss of property/life,

if any. During the visit, it was found that shoe manufacturing company/its warehouse which is owned by Sh. Pankaj Garg caught fire and DDMA team was deployed to control the fire. The exact number of person trapped inside the building could not be ascertained as the fire was still not under control. On 22.06.2021, copy of FIR was collected from Paschim Vihar Police station bearing No.0467/2021 dated 21.06.2021. The FIR named 06 persons named above who were found to be missing and reportedly trapped inside the premises engulfed with fire. Since there was no reported case of injury/death notice under Employee's Compensation Act, 1923 could not be issued. Since the premise was sealed by the Crime Branch Delhi Police, therefore inspection of records/personnel was not possible.

3. Taking cognizance of a PGMS No. 2021069537 filed by unknown demanding punishment of owners, compensation to deceased family and safety of factories, a notice dated 16.07.2021 was issued directing the management to appear before the CEC accepting/disclaiming his liability on injury/death of any of the employees working at M/s Apeksha International. The said notice was also sent through the P.S. Paschim Vihar (West) and P.S. Pitampura directing the SHO concerned for service of this summon for the hearing scheduled to be held on 02.08.2021. On this date, none appeared and another notice for 19.08.2021 was issued through the same channel.
4. That the Hon'ble NGT taking cognizance of the accident issued notice dated 14.07.2021 to the concerned Govt. Departments and raised some query inter alia regarding status of compensation paid to the deceased and/or injured workers. The committee constituted under the Chairmanship of worthy District Magistrate, West Delhi in its meeting issued directions for speedy action in the matter of compensation and therefore the date of hearing was pre-poned from 19.08.2021 to 09.08.2021 and fresh notice was issued directly to the management as-well-as through both the concerned P.S. A report was filed by the P.S. Subhash Place stating that the said notice was received by Ms. Surbhi w/o Sh. Pankaj Garg further informing that Sh. Pankaj Garg is inside Tihar Jail since 16.07.2021 and bail has not yet been granted, accordingly requesting for next date.
5. On 11.08.2021, the P.S. Paschim Vihar, West filed an interim report giving the brief of relative/family members of victims of fire incident at J-5, Udyog Nagar M/s Apeksha International. Further stated that one of the accused Ms. Surbhi Garg is on bail whereas another accused Sh. Pankaj Garg is in a judicial custody.
6. Accordingly another notice dated 13.08.2021 was issued through P.S Paschim Vihar (West) and Pitampura. The worthy DM office further issue directions to the Labour Department to issue notice to the employer through the Superintendent Tihar Jail and accordingly this notice was also served through the Superintendent of Jail No.2 Tihar. The service report of delivery of the said notice was received on 18.08.2021 by the Labour Department.

7. Despite service of notice for appearance none appeared on behalf of employer M/s Apeksha International and therefore proceedings were concluded for passing suitable order in this regard. Even if, the proprietor is in judicial custody, he should have deployed his family members/authorized representative/an advocate/pleader to file suitable comments, which he failed to do so. The 3rd notice was issued to employer on 04.08.2021, which was received by the wife of the proprietor on 09.08.2021. The last notice dated 17.08.2021 was received by Sh. Pankaj Garg on 18.08.2021. Despite receipt of 02 notices, there is no response from the employer side therefore it is deemed that the employer has nothing to say under section 10A(2) and 10A(3) of the Act, which makes them deemed to be liable for compensation.

8. Under section 3 of the EC Act, employer is liable to pay compensation amount in accordance with calculation as mentioned in section 4. After considering the documents on record, facts and circumstance of the case the CEC is of the considered view that dependents of deceased namely

- I. Late Sh. Shamshed S/o Sh. Sirajuddin
- II. Late Sh. Sonu S/o Sh. Ramesh Chand
- III. Late Sh. Vikram S/o Sh. Ramesh Chand
- IV. Late Abhishek S/o Sh. Brij Kishore
- V. Sh. Ajay Shukla S/o Late Sh. Santosh Shukla
- VI. Sh. Neeraj S/o Sh. Subhash Chand

are found to be entitled for death compensation and funeral benefit as per the provisions laid down under the Act.

9. Also there is no reported case of coverage of the said establishment under Employees State Insurance Act, 1948. There is no information as to whether the employer has filed accident report with the office of the ESIC and whether any action is initiated by ESIC towards processing compensation/pension/ex-gratia to the injured workmen/deceased family.

10. The death compensation has been calculated on the basis of age and relevant factor of the deceased employees and 50% monthly wages of the employees Rs.15,000/- is restricted under the Act. In this case, no salary record of six deceased are available in case file, the same shall be restricted to Rs.15,000/- as per the maximum limit notified under the Act.

Copy
a. Calculation of Principal Amount in respect of deceased Late Shri Shamshed :-

The age of the deceased is taken as 19 years on the basis of report of Police Department and the age factor of 19 years comes to 225.22.

As per Section 4(1)(a) of the Act in this case death of an employee, Claim amount is calculated as under:-

50% of monthly wages x age factor

$$= 50/100 \times 15000 \times 225.22 = \text{Rs.}16,89,150/-$$

plus
Funeral benefit- Rs. 5000/-

Calculation of Interest :-

Apart from above, since the employer has failed to release the entitled death compensation amount within specify period in the Act i.e. within one month date of accident i.e. 21.06.2021. Therefore the respondent is also liable to pay interest @ 12% of the principal amount of Rs.16,89,150/- w.e.f. 21.07.2021 till the date of realization as per section 4A(3)(a) of the Act.

b. Calculation of Principal Amount in respect of deceased Late Sh. Sonu:-

The age of the deceased is taken as 22 years on the basis of report of Police Department and the age factor of 22 years comes to 221.37.

As per Section 4(1)(a) of the Act in this case death of an employee, Claim amount is calculated as under:-

$$50\% \text{ of monthly wages } \times \text{ age factor}$$
$$= 50/100 \times 15000 \times 221.37 = \text{Rs.}16,60,275/-$$

plus
Funeral benefit- Rs. 5000/-

Calculation of Interest :-

Apart from above, since the employer has failed to release the entitled death compensation amount within specify period in the Act i.e. within one month date of accident i.e. 21.06.2021. Therefore the respondent is also liable to pay interest @ 12% of the principal amount of Rs. 16,60,275/- w.e.f. 21.07.2021 till the date of realisation as per section 4A(3)(a) of the Act.

c. Calculation of Principal Amount in respect of deceased Late Sh. Vikram:-

The age of the deceased is taken as 21 years on the basis of report of Police Department and the age factor of 21 years comes to 222.71.

Om
As per Section 4(1)(a) of the Act in this case death of an employee, Claim amount is calculated as under:-

$$50\% \text{ of monthly wages } \times \text{ age factor}$$
$$= 50/100 \times 15000 \times 222.71 = \text{Rs.}16,70,325/-$$

plus
Funeral benefit- Rs. 5000/-

Calculation of Interest :-

Apart from above, since the employer has failed to release the entitled death compensation amount within specify period in the Act i.e. within one month date of accident i.e. 21.06.2021. Therefore the respondent is also liable to pay interest @ 12% of the principal amount of Rs.16,70,325/- w.e.f. 21.07.2021 till the date of realization as per section 4A(3)(a) of the Act.

d. Calculation of Principal Amount in respect of deceased Late Sh. Abhishek:-

The age of the deceased Late Sh. Abhishek is not on record and therefore in the absence of age factor compensation amount cannot be calculated at this stage. The deceased family has been requested to file necessary documents pertaining to the age of Late Sh. Vikram.

e. Calculation of Principal Amount in respect of deceased Late Sh. Ajay Shukla:-

The age of the deceased is taken as 22 years on the basis of report of Police Department and the age factor of 22 years comes to 221.37.

As per Section 4(1)(a) of the Act in this case death of an employee, Claim amount is calculated as under:-

50% of monthly wages x age factor

= $50/100 \times 15000 \times 221.37 = \text{Rs.}16,60,275/-$

plus

Funeral benefit- Rs. 5000/-

Calculation of Interest :-

Apart from above, since the employer has failed to release the entitled death compensation amount within specify period in the Act i.e. within one month date of accident i.e. 21.06.2021. Therefore the respondent is also liable to pay interest @ 12% of the principal amount of Rs.16,60,275/- w.e.f. 21.07.2021 till the date of realization as per section 4A(3)(a) of the Act.

only

f. Calculation of Principal Amount in respect of deceased Late Sh. Neeral:-

The age of the deceased is taken as 21 years on the basis of report of Police Department and the age factor of 21 years comes to 222.71.

As per Section 4(1)(a) of the Act in this case death of an employee, Claim amount is calculated as under:-

50% of monthly wages x age factor

= 50/100x15000x222.71= Rs.16,70,325/-

plus

Funeral benefit- Rs. 5000/-

Calculation of Interest :-

Apart from above, since the employer has failed to release the entitled death compensation amount within specify period in the Act i.e. within one month date of accident i.e. 21.06.2021. Therefore the respondent is also liable to pay interest @ 12% of the principal amount of Rs.16,70,325/- w.e.f. 21.07.2021 till the date of realization as per section 4A(3)(a) of the Act.

As regards calculation and payment of injury compensation, none of the workmen have approached the CEC for claiming injury compensation/medical expenses half monthly payment. It is open to any of the survivor of the fire accident to approach office of the CEC, West District Karampura and file his injury compensation within the limitation period.

11. In exercise of power conferred under the Act, the CEC directs the employer M/s Apeksha International through its Owner Sh. Pankaj Garg to deposit in the court of CEC, compensation amount as calculated and ordered above at para no 10 by way of 05 separate demand drafts in favour of Commissioner Employees Compensation-IX failing which the same shall be recovered as arrear of land revenue under section 31 of the Act.
12. As regards imposing penalty, the employer M/s Apeksha International is hereby given show cause notice as to why penalty @ 50% be not imposed upon them u/s 4A (3)(b) to the extent of 50% of awarded amount and reply for the same has to be filed on 04th October, 2021 at 10.30 a.m. After considering the reply the further action shall be initiated as per law.

Given under my hand and seal on the day of 03rd day of September, 2021.

U.K. Sinha
03/09/2021

(U.K.SINHA)

Commissioner Employees Compensation/
District Incharge
District West



extra copy.

OFFICE OF THE JOINT LABOUR COMMISSIONER, WEST DISTRICT
LABOUR DEPARTMENT, GOVT. OF NCT OF DELHI,
LABOUR WELFARE CENTRE, F-BLOCK, KARAMPURA, NEW DELHI - 110015

No. CEC/D/43-48/WD/21/8745-8746

Dated: 03/09/2021

To

1. Late Sh. Abhishek S/o Sh. Brij Kishore
R/o Nihal Vihar, New Delhi
Through the Police Station, Nihal Vihar
New Delhi-110041

2. Late Sh. Abhishek S/o Sh. Brij Kishore
R/o Nihal Vihar, New Delhi
Through the Police Station Paschim Vihar, West
New Delhi-110063

Subject: Request to provide the complete address, ID proof and age proof documents in respect of Late Sh. Abhishek who died during and in the course of employment at J-5, Udyog Nagar, New Delhi on 21.06.2021

Sir/Madam,

In a fire accident which took place on 21.06.2021 at J-5, Udyog Nagar M/s Apeksha International, as per the FIR No.0467 dated 21.06.2021 and an interim report of P.S. Paschim Vihar West received in this office on 11.08.2021, it is reported that Sh. Abhishek lost his life alongwith 05 others while trapped inside the said building during and in the course of employment.

In order to calculate the death compensation under section 4 of the Employees Compensation Act, 1923, the age is required as per schedule IV of the Act. In case of Late Sh. Abhishek neither the complete address is available nor the age has been mentioned by the Investigating Officer.

In view of above, the deceased family is advised through the P.S Nihal Vihar and P.S. Paschim Vihar to file their complete address, ID proof and date of birth proof in respect of Late Sh. Abhishek within 15 days of issue of this letter to enable this office to calculate death compensation amount.

The same may be treated as most urgent.

Thanking you.

Yours faithfully

(U.K Sinha)

Commissioner Employee's Compensation/
Dy. Labour Commissioner
District I/C
West District