

OFFICE MEMORANDUM

Subject: Adoption of the guidelines framed by DOT to grant compensation to the families of the victims dying at public places due to the negligence and/or unforeseen causes.

The undersigned is directed to convey the approval of CEO, NITI Aayog for the adoption of Guidelines framed by Department of Telecommunications (copy enclosed) mutatis mutandis regarding the settlement of claims for compensation to the families of the victims dying at public places due to the negligence and/or unforeseen causes for implementation in NITI Aayog and in the offices functioning under its administrative control i.e. DMEO & NILERD for information and compliance.

2. This issues with the concurrence of AS&FA, NITI Aayog vide note dated 08.06.2018.



(Dinesh Kochher)

Under Secretary to Govt. of India

Copy for information and compliance to:

1. NITI Aayog and offices functioning under its Administrative Control i.e DMEO & NILERD

Copy for information to:

1. Cabinet Secretariat,
(Sh. Alok Tiwari, Deputy Secretary)
Rashtrapati Bhawan, New Delhi.



(Dinesh Kochher)

Under Secretary to Govt. of India

Annexure - c

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

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

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.

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.
 - i) **Permanent Disablement:** A disablement that is classified as a permanent total disablement under the proviso to Section 2 (l) of The Employee's Compensation Act, 1923.

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

- i. 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.

9. **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 the 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

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|-----|-----------------------------------------------------------------------------------------------------------------------|--|
| 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 | |

PART- II - IMPACT OF THE ACCIDENT ON THE VICTIMS

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|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1. | Death Cases :- 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. | Injury Cases (permanent disablement) 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> | |

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|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| | <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) MLC</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. | Any other relevant information. | |

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 SARLA 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.842/2009 RAJESH TYAGI & ORS. versus RAMESH CHANDRA GUPTA & ANR.

(S.R. Mishra)
JS&LA,
Deptt. 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