

2022 LiveLaw (SC) 312

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

M.R. SHAH; B.V. NAGARATHNA, JJ.

MARCH 24, 2022

Gaurav Kumar Bansal *Versus* Union of India & Ors.

COVID Death Compensation Claims - Apprehension about Fake Claims - Nobody can be permitted to avail the ex-gratia compensation by making a false claim and/or submitting the false certificate- National Disaster Management Authority /Union of India, through Ministry of Health and Family Welfare, permitted to carry out the random scrutiny of 5% of the claim applications by the States of Andhra Pradesh, Gujarat, Kerala and Maharashtra at the first instance - The concerned States directed to assist in carrying out the scrutiny of the claim applications as ordered above and submit all the necessary particulars of the respective claims that have been attended/processed to the Ministry of Health and Family Welfare, who shall carry out the scrutiny within a period of three months from today and submit the report before this Court. If it is found that anybody has made a fake claim, the same shall be considered under Section 52 of the Disaster Management Act, 2005 and liable to be punished accordingly. (Para 6, 6.1)

COVID Death Compensation Claims - Fixed outer limit of sixty days from today to file the claims for compensation in case the death occurred due to COVID-19 prior to 20.03.2022 - For future deaths, ninety days' time is provided from the date of death due to COVID-19 to file the claim for compensation. The earlier order to process the claims and to make the actual payment of compensation within a period of thirty days from the date of receipt of claim is ordered to be continued - In case of extreme hardship any claimant could not make an application within the time prescribed, it will be open for the claimant to approach the Grievance Redressal Committee and make the claim through Grievance Redressal Committee which shall be considered by the Grievance Redressal Committee on case to case basis and if it is found by the Grievance Redressal Committee that a particular claimant could not make the claim within the stipulated time which was beyond their control his/her case may be considered on merits - Ministry of Health and Family Welfare and Ministry of Home Affairs – Union of India and all the concerned States are directed to give wide publicity to the present order through print and electronic media so that the claimants can know the time limit fixed by this Court for making claims. (Para 3-5)

INTERLOCUTORY APPLICATION NO. 40111 OF 2022 (APPLICATION FOR DIRECTIONS) IN MISCELLANEOUS APPLICATION NO. 1805 OF 2021 IN WRIT PETITION (C) NO. 539 OF 2021

(Arising out of impugned final judgment and order dated 30-06-2021 in W.P.(C) No. No. 539/2021 passed by the Supreme Court of India)

For Petitioner(s) Petitioner-in-person Mr. Aditya Jain-1, AOR; For Respondent(s) Mr. Arvind Kr. Sharma, AOR Mr. G.S. Makker, AOR Mr. B. V. Balaram Das, AOR Ms. Deepanwita Priyanka, AOR Mr. Mahfooz Ahsan Nazki, AOR Mr. Polanki Gowtham, Adv. Mr. Shaik Mohamad Haneef, Adv. Mr. T. Vijaya Bhaskar Reddy, Adv. Mr. K.V. Girish Chowdary, Adv. Ms. Rajeswari Mukherjee, Adv. Ms. Diksha Rai, AOR Mr. Ankit Agarwal, Adv. Ms. Ragini Pandey Adv. Ms. Mukti Chowdhary, AOR Mr. Anil Grover, AAG Dr. Monika Gusain, AOR Ms. Taruna Ardhendumauli Prasad, AOR Mr. Sunny Choudhary, AOR Mr. Sachin Patil, AOR Mr. Siddhesh Kotwal, Adv Ms. Bansuri Swaraj, Adv. Ms. Ana Upadhyay, Adv Ms. Manya Hasija, Adv Mr. Akash Singh, Adv Mr. Nirnimish Dube, AOR Mr. Joby P. Varghese, AOR Ms. Ranjeeta Rohatgi, AOR Mr. Sandeep Kumar Jha, AOR Mr. Ardhendumauli Kumar Prasad, AAG Mr. Tanmaya Agarwal, AOR Mr. Wrick Chatterjee, Adv. Mr. Rahul Verma, AAG Mr. Vishwa Pal Singh, AOR Mr. Surjeet Singh, Adv. Mr. Suhaan Mukerji, Adv. Mr. Nikhil Parikshith, Adv. Mr. Vishal Prasad, Adv. Mr. Abhishek Manchanda, Adv. Mr. Sayandeep Pahari, Adv. Mr. Tanmay Sinha, Adv M/s. PLR Chambers And Co., AOR Mr. Shubham Bhalla, AOR Mr. Aravindh S., AOR Ms. C. Rubavathi, Adv. Mr. Sumeer Sodhi, AOR Mr. S. Udaya Kumar Sagar, AOR Ms. Sweena Nair, Adv. Mr. P. Mohith Rao, Adv. Ms. Pragya Baghel, Adv. Ms. Tulika Mukherjee, AOR Mr. Abhishek Roy, Adv. Mr. Zain A. Khan, Adv. Ms. Aastha Shrestha, Adv. Mr. Avijit Mani Tripathi, AOR Mr. T.K. Nayak, Adv. Mr. Daniel Stone Lyngdoh, Adv. Mr. D. Kumanan, AOR Mr. Chirag M. Shroff, AOR Mr. Amandeep Mehta, Adv. Mr. Vivek Kohli, Adv. Gen. Mr. Sameer Abhyankar, AOR Ms. Yeshi Rinchhen, Adv. Mr. Abhinav Mishra, Adv. Ms. Nishi Sangatani, Adv. Mr. Sunil Saraogi, Adv. Mr. Abhinav Mukerji, AOR Mr. Nishe Rajan Shonker, AOR Mr. Abhimanyu Tewari, AOR Ms. Eliza Bar, Adv. Mr. Pukhrambam Ramesh Kumar, AOR Mr. V.N. Raghupathy, AOR Mrs. K. Enatoli Sema, AOR M/s VMZ Chambers, AOR Mr. Shuvodeep Roy, AOR Mr. D. K. Devesh, AOR

ORDER

M.R. SHAH, J.

1. Present application is preferred by the Union of India- Ministry of Home Affairs with the following prayers:-

“(a) Modify the order dated 30.06.2021 and other subsequent orders passed by this Hon’ble Court in the captioned matter permitting any central agency to undertake a sample scrutiny to verify the claimed documents processed by respective State Governments for grant of ex gratia payment and take steps thereafter in accordance with the law.

(b) Modify the order dated 30.06.2021 and other subsequent orders passed by this Hon’ble Court in the captioned matter to the extent of declaring time limit of four weeks, from the date of order passed by this Hon’ble Court in the instant application, as an outer limit for the existing eligible claimants to lodge their claims with the authorities for seeking grant of ex gratia payment under the orders of this Hon’ble Court dated 30.06.2021 and a time of four weeks for claimants who might become eligible in the future;”

2. Shri Tushar Mehta, learned Solicitor General has submitted that after the order was passed by this Court dated 30.06.2021 and other subsequent orders, the concerned States have received approximately 7,38,610 claims claiming ex-gratia compensation on the death of their family members, who are entitled to the same pursuant to the order passed by this Court dated 30.06.2021 and the subsequent orders. It is submitted that since the COVID-19 pandemic in the country has now subsided over the period of time since this Hon’ble Court passed the order dated 30.06.2021 and the subsequent order dated 29.11.2021, by now, all genuine claimants must have approached the authorities by establishing their claims. It is submitted that therefore it is not desirable to continue

the process of submitting/receiving the claims without any outer time limit. It is submitted that if no outer limit of time is fixed, in that case, there is a greater possibility of making false claims. Therefore, it is prayed to determine the deadline before which the claimants of persons who died due to COVID-19 can approach the authority making their claims.

Shri Mehta, learned Solicitor General has suggested fixing the deadline of four weeks to claim the ex gratia payment from the authorities in case of death due to COVID-19.

2.1 Shri Mehta, learned Solicitor General has further submitted that there are genuine apprehensions of submitting fake claims in some of the States. Therefore, it is prayed that there should be an audit and/or at-least random scrutiny of the claim applications filed in the respective States. Shri Mehta, learned Solicitor General has submitted that receiving the ex-gratia compensation by making a false claim or submitting fake/false certificate is a very serious matter. It is submitted that even as per Section 52 of the Disaster Management Act, 2005 (hereinafter referred to as "Act, 2005"), making a false claim for obtaining any relief under the Act, 2005 is a punishable offence. It is brought to our notice that as of now approximately 7,38,610 claims are received and, therefore, it may be very difficult to verify each and every claim. It is submitted that therefore let there be a random sample scrutiny.

2.1.1 Shri R. Basant, learned Senior Advocate appearing on behalf of the State of Kerala and Andhra Pradesh, Shri Rahul Chitnis, learned counsel appearing on behalf of the State of Maharashtra have also supported Shri Tushar Mehta, learned Solicitor General and have welcomed the sample scrutiny to find out the persons, who have made false claims.

3. Having heard Shri Mehta, learned Solicitor General on the request and the prayer made in the application and considering the fact that more than nine months have passed after the first judgment and order and thereafter four months have passed after the subsequent judgment and order dated 29.11.2021 passed by this Court and by now approximately 7,38,610 claims have been received by the concerned States, Shri Mehta, learned Solicitor General is right in submitting that by now all genuine claimants must have approached the authorities by establishing their claims. He is also right in apprehending that if there is no outer time limit fixed, then the process of receiving the claims would go endless and, in that case, there is all possibility of submitting false claims. However, at the same time, four weeks' time suggested by Shri Mehta, learned Solicitor General is too short. The family would need some reasonable time to recover from the death and sorrow and filing the claim. Therefore, we deem it appropriate to fix the outer limit of sixty days from today to file the claims for compensation in case the death occurred due to COVID-19 prior to 20.03.2022. For future deaths, ninety days' time is provided from the date of death due to COVID-19 to file the claim for compensation. The earlier order to process the claims and to make the actual payment of compensation within a period of thirty days from the date of receipt of claim is ordered to be continued.

4. However it is clarified that in case of extreme hardship any claimant could not make an application within the time prescribed, it will be open for the claimant to approach the Grievance Redressal Committee and make the claim through Grievance Redressal

Committee which shall be considered by the Grievance Redressal Committee on case to case basis and if it is found by the Grievance Redressal Committee that a particular claimant could not make the claim within the stipulated time which was beyond their control his/her case may be considered on merits.

5. Ministry of Health and Family Welfare and Ministry of Home Affairs – Union of India and all the concerned States are directed to give wide publicity to the present order through print and electronic media so that the claimants can know the time limit fixed by this Court for making claims. Such advertisement shall be published fortnightly for a period of six weeks from today.

6. Now, so far as the allegation of submitting fake claims on submitting false certificates or obtaining the compensation on submitting the false claim is concerned, it is required to be noted that making a false claim and obtaining any relief on that basis is a punishable offence under Section 52 of the Act, 2005, which reads as under:-

“52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.”

6.1 Nobody can be permitted to avail the ex-gratia compensation by making a false claim and/or submitting the false certificate. A claimant is entitled to the ex-gratia of Rs.50,000/- being a kin/family member of those, who died due to COVID-19. Earlier, this Court passed the order directing the Union of India/NDMA/concerned States to pay ex-gratia amount keeping in mind the humanity and keeping in mind the sufferings of the family members who lost one of their family members due to COVID-19. Therefore, nobody can be permitted to misuse the same and it is also against morality and is unethical, which can never be accepted. Therefore, to start with a random scrutiny of the 5% of the claim applications filed in the States of Andhra Pradesh, Gujarat, Kerala and Maharashtra shall be made at the first instance. We permit the NDMA/Union of India, through Ministry of Health and Family Welfare, to carry out the random scrutiny of 5% of the claim applications by the States of Andhra Pradesh, Gujarat, Kerala and Maharashtra at the first instance. The concerned States are directed to assist in carrying out the scrutiny of the claim applications as ordered above and submit all the necessary particulars of the respective claims that have been attended/processed to the Ministry of Health and Family Welfare, who shall carry out the scrutiny within a period of three months from today and submit the report before this Court. If it is found that anybody has made a fake claim, the same shall be considered under Section 52 of the Act, 2005 and liable to be punished accordingly.

Present application is accordingly disposed of in terms of the above directions.