

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

Judgment Reserved On: 26.05.2023
Judgment Pronounced On: 18.08.2023

202	CWP-22904-2016
RAJWINDER KAUR AND ANR.	...Petitioners
VERSUS	
STATE OF HARYANA AND ORS.	... Respondents
KAMAR JAHAN AND ORS	CWP-11228-2020
VERSUS	Petitioners
STATE OF HARYANA AND ANR	...Respondents
YOGITA	CWP-11253-2018
VERSUS	...Petitioner
STATE OF HARYANA AND OTHERS	...Respondents
BIMLA AND ORS	CWP-12192-2020
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents
NEELAM RANI AND OTHERS	CWP-12463-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	Respondents

		CWP-1386-2020
AARTI SHARMA AND ORS		...Petitioners
	VERSUS	
STATE OF PUNJAB AND ORS		...Respondents
		CWP-14749-2022
CHHINDA SINGH AND ORS.		...Petitioners
	VERSUS	
STATE OF HARYANA AND OTHERS		...Respondents
		CWP-14884-2022
POONAM AND ORS.		...Petitioners
	VERSUS	
STATE OF HARYANA AND OTHERS		...Respondents
		CWP-15056-2020
RAJ KUMAR AND ORS		...Petitioners
	VERSUS	
STATE OF HARYANA AND ANR		...Respondents
		CWP-15493-2020
RADHA AND OTHERS		...Petitioners
	VERSUS	
STATE OF HARYANA AND OTHERS		...Respondents
		CWP-16196-2018
SUKHWINDER		...Petitioner
	VERSUS	
STATE OF PUNJAB AND ORS		...Respondents
		CWP-16223-2021
KANTA DEVI AND OTHERS		...Petitioners
	VERSUS	
STATE OF HARYANA AND OTHERS		...Respondents

SARASWATI AND OTHERS	CWP-18097-2021
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents
CHARANJIT KAUR	CWP-1893-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND ANOTHER	...Respondents
NEERU	CWP-19950-2017
VERSUS	...Petitioner
STATE OF HARYANA AND ORS.	...Respondents
BIMLA DEVI AND ORS	CWP-20445-2022
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents
SAJITA DEVI AND ANR	CWP-21170-2020
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents
BALWANT SINGH AND ANR	CWP-21437-2021
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents

CWP-21749-2021

HEMA RAM

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioner

...Respondents

CWP-22613-2022

RANI KAUR AND ORS

VERSUS

STATE OF PUNJAB AND OTHERS

...Petitioners

...Respondents

CWP-22639-2022

GURTEJ SINGH AND OTHERS

VERSUS

STATE OF PUNJAB AND OTHERS

...Petitioners

...Respondents

CWP-23164-2021

GURWINDER KAUR AND ORS

VERSUS

STATE OF PUNJAB AND ORS

...Petitioners

...Respondents

CWP-23462-2022

RANJEET KAUR AND OTHERS

VERSUS

STATE OF PUNJAB AND OTHERS

...Petitioners

...Respondents

CWP-23691-2022

HARIKESH AND ANR

VERSUS

STATE OF HARYANA AND OTHERS

...Petitioners

...Respondents

		CWP-23795-2021
BABLI AND ORS		...Petitioners
VERSUS		
STATE OF PUNJAB AND OTHERS		...Respondents
		CWP-24844-2018
BHOLI KAUR AND ANR		...Petitioners
VERSUS		
STATE OF HARYANA AND ORS		...Respondents
		CWP-25387-2022
SANTOSH RANI AND ORS.		...Petitioners
VERSUS		
STATE OF PUNJAB AND OTHERS		...Respondents
		CWP-25528-2021
RAVINDER SINGH AND OTHERS		...Petitioners
VERSUS		
STATE OF HARYANA AND OTHERS		...Respondents
		CWP-25932-2019
RAJINDER KAUR AND ANR		...Petitioners
VERSUS		
STATE OF HARYANA AND ORS		...Respondents
		CWP-26364-2021
MANREET KAUR		...Petitioner
VERSUS		
PUNJAB MUNICIPAL CORPORATION THROUGH ITS MUNICIPAL COMMISSIONER		...Respondents

RAVINDER SINGH AND OTHERS		CWP-26590-2021
VERSUS		...Petitioners
STATE OF HARYANA AND OTHERS		...Respondents
HAKAM SINGH		CWP-26758-2018
VERSUS		...Petitioner
STATE OF PUNJAB AND ORS		...Respondents
BHUPINDER KAUR AND ORS		CWP-10167-2017
VERSUS		...Petitioners
STATE OF PUNJAB AND ORS		...Respondents
BHUPINDER KAUR		CWP-10768-2019
VERSUS		...Petitioner
STATE OF PUNJAB AND OTHERS		...Respondents
PARAMJIT SINGH		CWP-11825-2022
VERSUS		...Petitioner
STATE OF PUNJAB AND OTHERS		...Respondents
MEWA SINGH		CWP-11981-2022
VERSUS		...Petitioner
STATE OF PUNJAB AND OTHERS		...Respondents

SARABJIT KAUR AND ANOTHER	CWP-12144-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
RADHA	CWP-12359-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
PARVEEN KAUR AND OTHERS	CWP-13085-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
PUSHPA DEVI AND OTHERS	CWP-13173-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
SARABJIT KAUR AND ANR	CWP-13232-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
CHARANJEET KAUR AND ORS	CWP-14271-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
BABITA AND ORS.	CWP-14610-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND ANOTHER	...Respondents

USHA KIRAN		CWP-14795-2018
	VERSUS	...Petitioner
STATE OF PUNJAB AND ORS		...Respondents
SUKHDEEP KAUR AND ORS		CWP-14835-2022
	VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS		...Respondents
MAMTA DEVI AND ANOTHER		CWP-15848-2022
	VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS		...Respondents
ANITA RANI		CWP-1585-2020
	VERSUS	...Petitioner
STATE OF PUNJAB AND ORS		...Respondents
GURMEET KAUR		CWP-16058-2021
	VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS		...Respondents
NIRMAL KAUR		CWP-16366-2018
	VERSUS	...Petitioner
STATE OF PUNJAB AND ORS		...Respondents

KAUSHLYA DEVI	CWP-16645-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
KULDEEP SINGH	CWP-16678-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND ORS	...Respondents
MANPREET KAUR AND ORS	CWP-16681-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND ANR	...Respondents
MANJIT SINGH	CWP-16686-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND ORS	...Respondents
ASHA DEVI	CWP-16693-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
SONIA AND ORS	CWP-16954-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

AVTAR SINGH	CWP-1720-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
JASWANT KAUR	CWP-1745-2019 (O&M)
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
GURJANT SINGH	CWP-1749-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
HARPREET KAUR AND ANR	CWP-1761-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
MANPREET SINGH	CWP-1767-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
NEELAM JOSHI AND ANR	CWP-17213-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents

HARPREET KAUR	CWP-17413-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND ANOTHER	...Respondents
MANDEEP KAUR AND ORS	CWP-17486-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
LACHHMAN DASS	CWP-17620-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
ARTI AND ORS	CWP-1771-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
SURJIT KAUR AND OTHERS	CWP-19173-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
SURINDER PAL AND ANR.	CWP-601-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

NEERU GOYAL	CWP-1928-2021
	...Petitioner
VERSUS	
STATE OF PUNJAB AND ORS	...Respondents
BALJIT KAUR	CWP-19884-2021
	...Petitioner
VERSUS	
STATE OF PUNJAB AND OTHERS	...Respondents
MOHINDER PAL SINGH	CWP-20615-2021 (O&M)
	...Petitioner
VERSUS	
STATE OF PUNJAB AND ORS.	...Respondents
VIPAN KUMAR	CWP-21482-2018
	...Petitioner
VERSUS	
STATE OF PUNJAB AND ORS	...Respondents
GURJEET SINGH AND ORS	CWP-22083-2022
	...Petitioners
VERSUS	
STATE OF PUNJAB AND OTHERS	...Respondents
NIRMAL KAUR AND ANR	CWP-22132-2020
	...Petitioners
VERSUS	
STATE OF PUNJAB AND OTHERS	...Respondents
PARAMJIT SINGH	CWP-22214-2019
	...Petitioner
VERSUS	

UNION OF INDIA AND OTHERS	...Respondents
SUBH LATA AND ANOTHER	CWP-22343-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
MADHU JOSHI	CWP-22558-2018
VERSUS	...Petitioner
STATE OF PUNJAB & OTHERS	...Respondents
POOJA SOOD AND ORS	CWP-2334-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
ASHOK KUMAR KAURA AND ANOTHER	CWP-23884-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
KULVIR KAUR AND OTHERS	CWP-24402-2018
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
JASPREET KAUR AND ANOTHER	CWP-24921-2019
VERSUS	...Petitioners

STATE OF PUNJAB AND OTHERS	...Respondents
SURINDER SINGH	CWP-25223-2019
	...Petitioner
VERSUS	
STATE OF PUNJAB AND OTHERS	...Respondents
GURPREET KAUR	CWP-25742-2018
	...Petitioner
VERSUS	
STATE OF PUNJAB AND ORS	...Respondents
JASPREET KAUR AND OTHERS	CWP-2610-2022
	...Petitioners
VERSUS	
STATE OF PUNJAB AND OTHERS	...Respondents
GURDEEP KAUR	CWP-26317-2018
	...Petitioner
VERSUS	
STATE OF PUNJAB AND ORS	...Respondents
PREM CHAND	CWP-26522-2021
	...Petitioner
VERSUS	
UT CHANDIGARH AND ORS	...Respondents
SALOCHNA RANI	CWP-26786-2018
	...Petitioner
VERSUS	
STATE OF PUNJAB AND ORS	...Respondents

KULDEEP KAUR	CWP-26811-2018 (O&M)
VERSUS	...Petitioner
STATE OF PUNJAB AND ORS	...Respondents
JASPAL KAUR	CWP-2769-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
JARNAIL SINGH	CWP-2783-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
BALWINDER SINGH	CWP-2811-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
SARBJEET KAUR	CWP-2832-2019
VERSUS	...Petitioner
STATE OF PUNJAB AND ORS	...Respondents
RANJIT KAUR AND ORS	CWP-28350-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

SUKHWINDER KAUR		CWP-2849-2019
		...Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents
CHARANJEET KAUR		CWP-30880-2018
		...Petitioner
	VERSUS	
STATE OF PUNJAB AND ORS		...Respondents
JASPREET KAUR		CWP-30901-2018
		...Petitioner
	VERSUS	
STATE OF PUNJAB & OTHERS		...Respondents
HARDEEP KAUR AND ANR		CWP-30910-2018 (O&M)
		...Petitioners
	VERSUS	
STATE OF PUNJAB AND ORS		...Respondents
SANJEEV KUAMR DHINGRA		CWP-30941-2018
		...Petitioner
	VERSUS	
STATE OF PUNJAB AND ORS		...Respondents
KAMALJIT KAUR		CWP-3149-2019
		...Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents

SAMTA GARG AND OTHERS	CWP-33731-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
MEENA KUMARI AND ORS	CWP-34051-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
BHUPINDER SINGH	CWP-359-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
SATWINDER KAUR AND ORS	CWP-3621-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
KALA SINGH	CWP-3626-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
SUKHWINDER KAUR AND OTHERS	CWP-37085-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

BAKSHISH SINGH AND ANR		CWP-37284-2019 (O&M)
	VERSUS	...Petitioners
STATE OF PUNJAB AND ANR		...Respondents
		CWP-3914-2022
VIMAL AND ANOTHER		...Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents
		CWP-4784-2020
HARPREET KAUR AND ORS		...Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents
		CWP-4831-2020
RAJNI AND ANOTHER		...Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents
		CWP-5075-2022
SUKHPAL KAUR AND OTHER		...Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents
		CWP-5137-2022
SUKHPAL SINGH @ MALI AND ANOTHER		...Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		...Respondents

PARKASH SINGH	CWP-5287-2020
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
SUKHDEV SINGH AND OTHERS	CWP-5498-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
AMARJIT SINGH AND ANOTHER	CWP-5864-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
SURINDER KAUR AND ORS	CWP-6371-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
BALVIR KAUR AND ORS	CWP-6602-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
CHARANJEET KAUR AND OTHERS	CWP-6649-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

SUNITA RANI	CWP-6773-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND ANOTHER	...Respondents
GURMIT KAUR AND OTHERS	CWP-7443-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
SUNITA AND ORS	CWP-15371-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
JASPREET SINGH AND ANOTHER	CWP-15753-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
PARMJEET KAUR AND ORS	CWP-18167-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
MAHINDER KAUR AND ANOTHER	CWP-18570-2020
VERSUS	...Petitioners
STATE OF PUNJAB CIVIL SECRETARIAT, AND OTHERS	...Respondents
GURJEETINDER SINGH GILL AND ANOTHER	CWP-22277-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

SUKHVINDER KAUR AND ANOTHER	CWP-22620-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
NIRMALJIT KAUR	CWP-7689-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
DHRITI DHAWAN AND ORS	CWP-810-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND ORS	...Respondents
GURDEEP SINGH THROUGH HARJINDER SINGH	CWP-9395-2021
VERSUS	...Petitioner
STATE OF PUNJAB AND ORS	...Respondents
RAM DULARI & ORS	CWP-9763-2017
VERSUS	...Petitioners
UT OF CHANDIGARH & ANR	...Respondents
MEENA RANI AND OTHERS	CWP-9876-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
MAJOR SINGH AND OTHERS	CWP-27081-2019
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents

JAPNINDER KAUR	CWP-27178-2019
	...Petitioner
VERSUS	
STATE OF PUNJAB AND OTHERS	...Respondents
CHARANJEET KAUR	CWP-34631-2019
	...Petitioner
VERSUS	
STATE OF HARYANA AND OTHERS	...Respondents
PAMI AND ANOTHER	CWP-34715-2019
	...Petitioners
VERSUS	
STATE OF HARYANA AND OTHERS	...Respondents
JAGDISH KUMAR @ JAGDISH DUBEY AND ANOTHER	CWP-34943-2019
	...Petitioners
VERSUS	
STATE OF HARYANA AND OTHERS	...Respondents
NIRMALA AND OTHERS	CWP-3532-2022
	...Petitioners
VERSUS	
STATE OF HARYANA AND OTHERS	...Respondents
RENU AND ORS.	CWP-38213-2018
	...Petitioners
VERSUS	
STATE OF HARYANA AND ORS.	...Respondents

BHATERI DEVI AND ORS.		CWP-3986-2020
VERSUS		...Petitioners
STATE OF HARYANA AND OTHERS		...Respondents
VIMAL AND ANOTHER		CWP-4407-2022
VERSUS		...Petitioners
STATE OF HARYANA AND OTHERS		...Respondents
DELJEET KAUR AND ORS		CWP-4625-2021
VERSUS		...Petitioners
STATE OF HARYANA AND ANOTHER		...Respondents
PRAVEEN KUMAR		CWP-5641-2021
VERSUS		...Petitioner
STATE OF HARYANA AND OTHERS		...Respondents
MONIA AND ORS		CWP-5945-2017
VERSUS		...Petitioners
STATE OF HARYANA AND ORS		...Respondents
RAJ KUMAR MITTAL		CWP-6554-2022
VERSUS		...Petitioner
STATE OF HARYANA AND OTHERS		...Respondents
VIJAY KUMAR		CWP-9762-2022
VERSUS		...Petitioner
STATE OF HARYANA AND OTHERS		...Respondents

UTTAM SINGH	CWP-17887-2022
VERSUS	...Petitioner
STATE OF HARYANA AND OTHER	...Respondents
MANJU AND OTHERS	CWP-21307-2020
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents
JARNAIL SINGH	CWP-26011-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
DHANN SINGH	CWP-26480-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
MANJEET KAUR AND OTHERS	CWP-26564-2022
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents
GURPREET KAUR AND OTHERS	CWP-26774-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
BANTI AND ORS	CWP-27143-2022
VERSUS	...Petitioners
STATE OF HARYANA AND OTHERS	...Respondents

BALJIT KAUR AND OTHERS	CWP-27656-2022
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
RAMANDEEP KAUR	CWP-27893-2022
VERSUS	...Petitioner
STATE OF PUNJAB AND OTHERS	...Respondents
VEERO DEVI	CWP-28997-2018
VERSUS	...Petitioner
STATE OF PUNJAB AND ORS	...Respondents
JASVIR KAUR	CWP-3264-2017
VERSUS	...Petitioner
STATE OF PUNJAB & ORS	...Respondents
JASBIR KAUR AND ANOTHER	CWP-37145-2019
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
BHUPINDER KAUR AND OTHERS	CWP-7134-2020
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents

MANPREET KAUR AND OTHERS	CWP-7872-2021
VERSUS	...Petitioners
STATE OF PUNJAB AND OTHERS	...Respondents
110	CWP-11381-2023
KAVITA RANI AND OTHERS	... Petitioners
VERSUS	
STATE OF PUNJAB AND OTHERS	... Respondents
205	CWP-20800-2017
SATPAL AND ANR	... Petitioners
VERSUS	
STATE OF PUNJAB AND ANR	... Respondents
208	CWP-10906-2018
KAJAL RANI AND ANR	... Petitioners
VERSUS	
STATE OF PUNJAB AND ORS	... Respondents
209(1-2)	CWP-19532-2018
NIRMALA DEVI AND ANR	IOIN-CWP-19532-2018
VERSUS	... Petitioners
CHANDIGARH ADMINISTRATION AND ANR	... Respondents
209(3)	CWP-30979-2018
BHUPINDER KAUR AND ANOTHER	... Petitioners
VERSUS	
UT OF CHANDIGARH AND OTHERS	... Respondents

210		CWP-23223-2018
SMT. SUDHA & ORS.		... Petitioners
	VERSUS	
STATE OF HARYANA AND ORS.		... Respondents
213		CWP-129-2019
GURPREET KAUR		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
214		CWP-2423-2019
POONAM DESWAL AND ANOTHER		... Petitioners
	VERSUS	
STATE OF HARYANA AND OTHERS		... Respondents
215		CWP-7490-2019
GURTEJ SINGH AND ANOTHER		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
216		CWP-7653-2019
HARPREET KAUR AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
217		CWP-10406-2019
KUSHALAYA DEVI AND ANR		... Petitioners
	VERSUS	
STATE OF PUNJAB AND ORS		... Respondents

218		CWP-12388-2019
AMRINDER SINGH AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
224		CWP-31157-2019
ANJALI		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
227		CWP-2728-2020
SARABJIT KAUR AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
228		CWP-4559-2020
PARAMJIT KAUR AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
229		CWP-6655-2020
SUNITA RANI AND ANR		... Petitioners
	VERSUS	
STATE OF PUNJAB AND ORS		... Respondents
232		CWP-22627-2020
VITOLY AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents

233	CWP-790-2021
SARABJIT KAUR	... Petitioner
VERSUS	
STATE OF PUNJAB AND ORS	... Respondents
234	CWP-2381-2021
RAMESH LAL AND ORS	... Petitioners
VERSUS	
STATE OF PUNJAB AND OTHERS	... Respondents
235	CWP-14923-2021
LAKHWINDER SINGH AND ANR	... Petitioners
VERSUS	
STATE OF HARYANA AND ANOTHER	... Respondents
237	CWP-19225-2021
LOVEPREET KAUR AND ORS	... Petitioners
VERSUS	
STATE OF PUNJAB AND ORS	... Respondents
238	CWP-20526-2021
KIRANPAL KAUR AND OTHERS	... Petitioners
VERSUS	
STATE OF PUNJAB AND OTHERS	... Respondents

239		CWP-22224-2021
GURJEET KAUR		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
243		CWP-26961-2021
SANTOSH RANI AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
244		CWP-189-2022
MONIKA AND OTHERS		... Petitioners
	VERSUS	
STATE OF HARYANA AND OTHERS		... Respondents
245		CWP-5341-2022
VEERPAL KAUR		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
101+251		CWP-17095-2022
SUNITA RANI AND OTHERS		... Petitioners
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
252		CWP-18262-2022
SUKHJEET KAUR		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents

257		CWP-1349-2023
KALA SINGH		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
258		CWP-2001-2023
SUKHPAL KAUR		... Petitioner
	VERSUS	
STATE OF PUNJAB AND ORS		... Respondents
261		CWP-2830-2023
VIDHA DEVI		... Petitioner
	VERSUS	
STATE OF HARYANA AND OTHERS		... Respondents
262		CWP-3142-2023
SURJIT SINGH		... Petitioner
	VERSUS	
STATE OF PUNJAB AND OTHERS		... Respondents
264		CWP-3411-2023
SANDEEP KAUR AND OTHERS		... Petitioners
	VERSUS	
UNION OF INDIA AND OTHERS		... Respondents
271		CWP-5643-2023
VEENA RANI AND ANOTHER		... Petitioners
	VERSUS	

STATE OF PUNJAB AND OTHERS

... Respondents

273

CWP-8169-2023

HARJIT KAUR AND ANR

... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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CWP-10331-2023

JAMEELA AND ANOTHER

... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON’BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:

Mr. Amaninder Singh, Advocate
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CWP-27081-2019.

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Ms. Tejaswini, Advocate for the petitioner
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Mr. Vivek Singla, Advocate
for the petitioner in CWP-8169-2023.

Mr. Varun Mittal, Advocate
for the petitioner in CWP-11381-2023.

Mr. Judgepreet Singh Warring, Advocate
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CWP-12192-2020.
Mr. Yagyaang Ajay, Advocate
for the petitioner in CWP-4625 of 2021.

Mr. J.P.S. Sidhu, Advocate
for the petitioner in CWP-24844-2018.

Mr. Vinod Kumar Polist, Advocate for
Mr. Amit Khatkar, Advocate

for the petitioner in CWP-16223-2021.

Mr. Kuldeep Sheoran, Advocate
for petitioner in CWP-20445-2022.

Mr. R.S. Sidhu, Advocate
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in CWP-5341-2022.

Mr. Johan Kumar, Advocate and
Mr. Gaurav Aggarwal, Advocate
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Mr. Rahul Sahrma, Advocate for
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CWP-33731-2019.

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CWP-3914-2022 and for the respondents in CWP-23295-2021,
CWP-9876-2022.

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CWP-15493-2020 & CWP-23223-2018.

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Mr. Amit Kumar Saini, Advocate
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Mr. Pawan Attri, Advocate
for petitioner in CWP-19950-2017.

Mr. Kuldeep Khandewal, Advocate
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CWP-5945-2017.

Mr. Gourav Goel, Advocate
for petitioner in CWP-1771-2022.

Mr. Pranav Chadha, Advocate
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for respondent No.3 in CWP-2001-2023.

Mr. Ankush Rampal, Advocate
for the petitioner in CWP-6773-2022.

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Mr. Amit Rana, Advocate for Mr. G.S. Nahel,
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CWP-22613-2022, CWP-22639-2022 &
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6655 and 4841 of 2020.

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Mr. Shamsheer Singh Gill, Advocate
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Mr. Anish Verma, Advocate for
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Mr. Ishita Jain, Advocate
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Mr. BS Jatana, Advocate for the petitioner in
CWP-11981-2022.

Mr. Anmol Singh Virk, Advocate &
Mr. Jagdeep Singh Virk, Advocate
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Mr. P.S. Dhaliwal, Advocate
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Mr. Akshay Kumar, Advocate for
Mr. Sherry K. Singla, Advocate
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CWP-12388-2019.

Mr. Niharika Gupta, Advocate
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Mr. Abhishek Singla, Advocate for
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Mr. Sanjiv Goyal, Advocate
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Mr. Sukhmeet Singh, Advocate
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CWP-22277-2021, CWP-5864-2019 & CWP-6649-2021.

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CWP-30491-2018, CWP-1749-2019, CWP-2767-2019,
CWP-2783-2019, CWP-3149-2019, CWP-1745-2018,
CWP-359-2022, CWP-2849-2019, CWP-30910-2018,
CWP-26786-2018, CWP-1767-2019, CWP-1761-2019,
CWP-22558-2018, CWP-25742-2018, CWP-30880-2018
CWP-1720-2018, CWP-31157-2019, CWP-601-2022,
CWP-19173-2021, CWP-3621-2020, CWP-37145-2019,
CWP-30941-2018, CWP-19884-2021, CWP-26317-2018,

CWP-2769-2019, CWP-27178-2019 and CWP-25932-2019.

Mr. HPS Ghuman, Advocate for the petitioner in
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CWP-28997-2018.

Mr. Rajwinder Singh, Advocate for the petitioner in
CWP-27656-2022.

Mr. Virender Kumar, Advocate for the petitioner in
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for respondent No.3 CWP-1771-2022,
CWP-3626-2022 and CWP-13282-2022.

Mr. Ishan Thakur, Advocate
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Mr. Ajit Singh Sodhi, Advocate
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Ms. Promila Nain, Advocate for respondent No.4 -
Punjab Gau Seva Commission in CWP-26758-2018,
CWP-30880-2018, CWP-27178-2019, CWP-3149-2018,
CWP-25742-2018, CWP-24921-2019, CWP-6649-2021,
CWP-1928-2011, CWP-10406-2019, CWP-37145-2019,
CWP-26786-2018, CWP-30901-2018, CWP-26317-2018
CWP-31157-2019 & CWP-7872-2021 and
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Mr. Munish Garg, Advocate
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CWP-7490-2019.

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Mr. Rajesh Bhatheja, Advocate
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CWP-7689-2021.

Mr. Sahil Soi, Advocate
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CWP-22132-2020 & CWP-22122-2020.

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CWP-2334-2021 and CWP-2381-2021.

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CWP-16645-2021, CWP-16693-2021 and
CWP-22904-2016.

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Mr. Raj K. Narang, Advocate
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CWP-10906-2018.

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Mr. R.K. Chauhan, Advocate
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CWP-1349-2023 and CWP-5643-2023.

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Mr. Amardeep Singh Mann, Advocate
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Mr. Gaurav Goel, Advocate
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Mr. Sandeep Suri, Advocate
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Mr. Sharad Chaudhary, Advocate
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Mr. Mohan Singh Rana, Advocate
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Mr. Varun Sharma, Advocate
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Ms. Ginnijet Malhotra, Advocate
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26590-2021 and 14749-2022.

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CWP-26522 of 2021.

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Mr. Harsh Aggarwal, Advocate
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Mr. Harsh Chopra, Advocate
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Mr. Saurav Verma, Addl. A.G., Punjab with
Ms. Niharika Sharma, AAG, Punjab.

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Mr. Sawarn Singh, Advocate
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CWP-16954-2022.

Ms. Anu Chatrath, Sr. Advocate with
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Mr. K.S. Sidhu, Sr. Advocate with
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CWP-39901-2018.

Ms. Manveer Kaur, Advocate
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Mr. G.S. Chahal, Advocate
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Mr. R.P.S. Brar, Advocate
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for respondents No.4 and 5 in CWP-17213-2022 and
for respondent No.3 in CWP-13085-2022.

Mr. G.S. Bawa, Advocate
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Mr. Birinder Pal, Advocate for
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for respondent-Punjab Gau Sewa Commission in
CWPs-26811-2018, 30941-2018, 2769-2019, 2783-2019,
2849-2019, 5864-2019, 27700-2019, 17620-2020, 3621-2020
9395-2021, 23164-2021, 359-2022, 11981-2022.

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No.11253-2018, 11228-2020, 15056-2020,
9762-2022, 21749-2021, 23223-2018
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CWP-16223-2022.

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CWP-5643-2023.

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CWP-27656-2022 & CWP-7653-2019.

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Mr. Parminder Singh, Advocate
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CWP-22627-2020 & CWP-20526-2021 and
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CWP-16196-2018.

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CWP-23691-2022 and respondent No.4 in
CWP-2728-2020 & respondent No.4 & 5 in
CWP-20445-2022.

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CWP-25387-2022.

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CWP-19532-2018 and CWP-30979-2018.

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CWP-26408-2022 and CWP-26961-2021.

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CWP-7689-2021, CWP-7872-2021 and CWP-15753-2021.

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CWP-27178-2019.

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Mr. Raje Ram Kaushik, Advocate
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Ms. Gurpreet Kaur, Advocate
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for respondent No.2 in CWP-2830-2023.

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for respondent No.4 in CWP-22904-2016.

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CWP-28997-2018 and CWP-129-2019.

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Mr. Ashish Yadav, Advocate
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for respondent No.4 in CWP-21307-2020.

Mr. Ramesh Sharma, Advocate
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Mr. Arunjeet Singh Kakkar, Advocate
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CWP-22083-2022 & CWP-22613-2022 and
for respondent No.2 in CWP-2334-2021 &
for respondent No.3 in CWP-12144-2022 &
CWP-2381-2021.

Mr. Vishal Sauda, Advocate for
Mr. Jagdish Manchanda, Advocate and
Mr. Nishchal Manchanda, Advocate
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for respondent(s) in CWP-25528-2021, CWP-26590-2019,
CWP-34943-2019 and CWP-5641-2021

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for the petitioner in CWP-20800-2017.

VINOD S. BHARDWAJ. J.

A bunch of 193 cases is being decided by a common judgment, with the consent of counsel for the parties, as the counsel agree that controversy involved herein is identical.

The issue that arises in this batch of writ petitions relates to payment of compensation to the victims/ families of victims for the incidents/accidents that have taken place on public streets/ public roads on account of any of the following:-

- (i) Incidents/accidents resulting in death/injury caused due to stray/wild animal suddenly coming on road and/or in front of the vehicle (may be on account of preventive action taken by the driver/ rider), but without involvement of any other motor vehicle;
- (ii) Death/injury caused due to stray/wild animal colliding or impacting with the vehicle;
- (iii) Death/injury caused as a result of the vehicles hitting into any other vehicle because of stray/wild animal coming in front of the vehicle;

Ancillary points that arise for the consideration of this court for adjudication of the present bunch of writ petitions are as to whether:

- (i) Whether doctrine of strict liability would apply on incidents/accidents due to stray/wild animals on roads and public streets fastening the liability on the State?

- (ii) Whether claim for compensation/financial assistance can be made only by way of a writ petition in the absence of any statutory regulations or there is alternative mechanism?
- (iii) Which agency or authority ought to be held liable for compensation and the procedure required to be followed for computation of compensation?

A large number of cases are being filed, drawing the concern and attention of the Court, where injured/heirs of deceased have approached the High Court under Articles 226/227 of the Constitution of India for seeking compensation for accidents resulting in death/injuries (fatal/non-fatal) either directly due to collision with stray/wild animal and/or indirectly as a result of the incidents/accidents occurring due to stray/wild animal.

While responding to the query as to why the claimants approach the High Court and not file a claim petition before the civil courts, the claimants have cited the following reasons:

- (a) The absence of statutory policy/frame work providing a uniform criterion for determination of compensation;
- (b) The common law /Civil Court remedy is perceived as inefficient; ineffective and incapable of delivering expeditious and reasonable compensation.
- (c) In the event of approaching the Civil Court, an *ad-valorem* Court fee is required to be paid by the claimant and many times, the families of the victims are not in a position to afford payment of *ad-valorem* Court fee. The application for filing the suit as a pauper is often delayed due to multiple conditions and restrictions

and delays in obtaining certificates from the administrative authorities.

- (d) The police usually do not conduct any inquiry regarding the incidents reporting injuries caused by accident due to stray/wild animal. Consequently no MLR is prepared by the Civil Hospitals for want of reference by the police. The claimant thus has to face numerous hardships in establishing that injuries (fatal/non-fatal) are on account of the incidents/accidents caused directly or indirectly due to stray/wild animal impairing the prospects of a fair compensation.

In order to overcome the above challenges, the claimants prefer approaching the High Court for seeking adequate compensation. The High Court is thus not only required to ascertain the factual aspects but also to determine compensation through summary proceedings exercising equitable jurisdiction. Even though there may not appear any illegality in a claimant approaching the High Court for seeking compensation, however, the same usually delays delivery of justice to the claimant as in large number of such cases, disputed questions of fact arise which cannot be determined by High Court. The said process causes clogging of the court process with litigation that should have otherwise been instituted before the proper court. The claimant thus is not only burdened with non-productive litigation but may also be allured to institute cases that are of no help to them and only delays their relief.

It is further noticed from the judgments cited before this court that even in cases where the compensation has been awarded, there is a huge disparity, which such disparity is perceived by the layman/ litigant as arbitrary and discriminatory.

The cases pertain to the incidents that have occurred in the States of Punjab, Haryana as well as UT, Chandigarh and about the accidents that have occurred on the State/ National Highways; municipal streets/roads as well as the streets/roads outside the Municipalities. Involvement of different State agencies, on whom the duty may be cast, itself creates a confusion to the victims as they are often clueless about the Authority they should approach for grant of compensation. Further, even if the state has any policy, the same are not made known to a litigant and even the financial assistance is petty.

In view of the above, it has become imperative for this Court to examine the said issues together and to assess the viability different options available to a litigant and to issue appropriate guidelines/directions for expeditious adjudication of such cases on uniform criteria and guidelines known to all the stake holders, at the doorstep of the claimant.

Even though the facts in these matters are inconsequential, however, the facts from one petition each relating to the stray/wild animal and for the respective States/NHAI are being referred to for the facility of reference.

LEAD CASE FOR THE STATE OF HARYANA

The facts in matters pertaining to State of Haryana regarding the incidents due to stray/wild animal are culled out from CWP No.22904 of 2016 titled as 'Rajwinder Kaur and another Vs. State of Haryana and others'. The petitioners in the said case have claimed compensation to the tune of Rs.50,00,000/- on account of death of Satwant Singh- husband of petitioner No.1 and father of petitioner No.2 failure on due to the part of the Municipal Authorities to keep roads within its limits free from stray cattle. It is averred that deceased Satwant Singh (Belt No.E/2925 PTL) was employed as a constable in Punjab Police Lines, Patiala and was aged 32 years. On

03.08.2016, the deceased Satwant Singh had come to Sirsa to take the petitioners and also to meet his sister residing there. The deceased started on his motorcycle bearing registration No.PB-11BJ-0729 at around 11.00 A.M. for going to Village Vaidwala, Tehsil and District Sirsa. When he reached near Govt. School near village Khairpur on Sirsa-Hisar road (within the MC limits of Sirsa) a stray animal suddenly came from the side street and struck against the motorcycle of the deceased. Resultantly, he fell down on the road and received serious head injuries. He was brought to the Civil Hospital where he succumbed to the injuries received by him. A postmortem of the deceased was conducted and the information furnished by the police was that the injuries on the head were as a result of falling from the motorcycle. The said injuries are stated to be sufficient to cause death in the ordinary course of nature. A DDR No.15 dated 03.08.2016 (wrongly mentioned as 03.08.2015) was also recorded by the police and inquest report under Section 174 Cr.P.C. alongwith statements of witnesses, was subsequently prepared. It has been recorded in the above said DDR that the apparent cause of death was due to injuries caused by collision of stray animal with the motorcycle. It is pleaded that the residents of the city had been repeatedly demanding removal of stray animals from streets and had been repeatedly requesting for the same to the Municipal Authorities as well as the office bearers. However, no substantive efforts were made by the Local Authorities, despite being obligated to ensure removal of such stray/wild animal/cattle from the streets reflecting disregard to human life.

It is further averred that the Haryana Municipal Act, 1973 imposes duty on the Local Bodies/Authorities to keep the municipal limits free from stray/wild animal/cattle and any other kind of nuisance arising therefrom. However, the Authorities have neglected to ensure discharge of their

obligations and in the said lapse, innocent lives are lost every now and then. It is claimed that the deceased was only 32 years of age as on the date of his death and was employed as Constable with Punjab Police and was drawing the salary of Rs.35,000/- per month. He had high future prospects while in Govt. Job and had a subsisting service of more than 28 years as on the date of the incident. A notice under Section 80 of the C.P.C., 1908 claiming compensation had also been sent on behalf of the petitioners, however, no action has been taken thereupon. Writ petition was accordingly filed by the petitioners.

A short reply by Kamal Kumar, Chief Town Planner of Haryana had been filed on behalf of respondents No.1 and 3, wherein the department of Town and Country Planning submitted that the work of removal/taking care of stray animals falls under the jurisdiction of the concerned Municipal Authority and that various Gaushalas and Nandishalas have been constructed by the Municipal Authorities for checking the menace of stray animal. The prayer for grant of compensation on the account of death of Satwant Singh is thus required to be responded by the Municipal Authority-cum-Secretary, Urban Development, Haryana.

A separate written statement on behalf of respondent No.4- Municipal Council, Sirsa had also been filed through its Executive Officer, wherein an objection has been raised that the issue about the cause of death and the compensation is required to be determined by leading substantial evidence and the same cannot be adjudicated in writ proceedings, as it involves disputed questions of fact. It being case of civil wrong at best, litigation under the Law of Torts can be instituted. Only after a trial, can it be determined as to whether the alleged incident was caused due to fault on the part of the deceased or in the

manner as alleged. No lapse can be presumed to have been committed by the Municipal Council. Prayer was thus made for dismissal of the writ petition.

LEAD CASE FOR THE STATE OF PUNJAB

In relation to the cases instituted for the accidents/incidents that have taken place in the State of Punjab, the facts are referred to from CWP-26758-2018 titled as 'Hakam Singh Versus State of Punjab and others'.

The petitioner in the above case has claimed compensation of Rs.30,00,000/- due to the injuries suffered by 25 years old Harinder Singh son of the petitioner in an accident of his motorcycle due to stray animal, on the outskirts of Samana and falling in the close vicinity of Municipal Corporation Samana. As a result of head injury sustained by petitioner's son, he lost his memory and has to be kept in constant care and protection. It is averred that Punjab Gau Sewa Commission, amongst others, is also under legal obligation to take care of stray animals and having failed to fulfill its obligation, the said Commission is also liable to compensate the petitioner along with the other departments. It has been averred that the Punjab Gau Sewa Commission collects cow cess on various items/services and when such cess/charge is being collected to look after stray cattle, the obligation/ responsibility for lapse is also to be borne jointly and severally by the said Commission as well.

The incident in question is stated to have taken place on 15.09.2017 when Harinder Singh, who was unmarried and a qualified electrician in a private employment, was riding his motorcycle bearing Registration No.PB-11BQ-8085. When he reached between Toll Plaza and Premier School on the Samana-to-Patiala Road at about 07.45 P.M. on the fateful day, some stray animal/cows came in front of his motorcycle. Harinder Singh fell on the road as a result of such sudden appearance of the stray animal

on road and suffered serious injuries on the head. He was taken to Rajendra Hospital, Patiala on 15.09.2017 itself, from where, he was referred to PGI, Chandigarh and is under treatment in the department of Neurosurgery. An operation was conducted by the PGI Chandigarh on 16.09.2017 and he was discharged on 18.09.2017. Surgery on Harinder Singh was conducted again on 26.02.2018. Despite having spent more than two lacs in the said medical treatment, there is no improvement in the condition of Harinder Singh and he lost his memory in the above accident and as per medical advice, there is no scope of any further improvement. Hence, instead of becoming of bread winner, he has become liability for the family. A DDR No.20 dated 17.09.2017 qua the incident was registered at Police Station Samana and the discharge summary of the PGI Chandigarh has also been attached. Reference was also made to the another incident of 01.02.2014 in which one Vidya Bhushan had died as a result of being hit by stray animal at Mandi Gobindgarh and his widow Sushma Rani filed CWP No.23932 of 2015 which was decided by the High Court awarding compensation of Rs.10,00,000/- to the petitioner and the State of Punjab was also directed to at least frame a policy for compensating the persons who suffered injuries by the stray animals roaming around the streets so that such claim cases can be decided expeditiously and the hardships of the claimants can be mitigated. No policy was, however, framed despite the recommendation. A legal notice dated 25.08.2018 was also sent to the respondent and as no action was taken thereupon. Hence, the writ petition was filed.

A reply by way of an affidavit of Director, Animal Husbandry and Member of Punjab Gau Sewa Commission has been filed on behalf of respondent No.4, wherein it is stated that the Punjab Gau Sewa Commission is not duty bound to control the stray animal(s) and that the scope of the activities

and the duties to be performed by the Gau Sewa Commission are restricted to the animals that are lodged in the institutions such as gaushalas/cattle ponds. The Gau Sewa Commission is obligated to ensure the welfare i.e. the management and care of the infirm, aged, abandoned cattle/animals that are caught by the law enforcement agencies and brought to different cattle ponds/guashalas constructed/maintained in the State of Punjab. It is averred that as per the Punjab Municipal Act, 1911, the Punjab Municipal Corporation Act, 1976 and Punjab Panchayati Raj Act, 1994, it was the duty of the Local Govt. and Rural Development and Panchayat Department to construct and maintain cattle ponds and to shift stray animals there - for redressing the problem of stray animals in the respective areas under their jurisdiction. There is, thus, no lapse on the part of the respondent-Department.

It was further averred that the Cow Cess imposed in many Municipal Corporations, Panchayats, Councils, Nagar Panchayats is collected by different local departments, Excise and Taxation, PSPCL (Electricity) etc and is thereafter transferred to the concerned Corporation/Council and that no amount is directly transferred in favour of the Gau Sewa Commission. The responsibility, if any, is to be discharged by the concerned Local Authority or the Department of Rural Development and Panchayat. Reference was made to Section 15 of the Punjab Gau Sewa Commission Act, 2014 to refer to the functions of the Commission and that it was under no obligation to remove stray cattle from the public places. (However, it is also noticed by this Court that Section 15 (k) of the said Act imposes the functions of the Commission to appoint a Cow Welfare Officer, who shall work for the implementation of the Act and to take action including detention and search of cow vehicles, seizure of cows and to take the cows in custody and initiate prosecution). It is also

prescribed that after taking custody of the cows seized, the Commission is required to entrust them to the nearest Gaushala, Cow Sadan or any other Cow Protection Institution.

A separate written statement on behalf of the respondent No.5 i.e. Post Graduate Institute of Medical Education and Research, Chandigarh has also been filed which gives the details of the treatment extended to the patient and the response corroborated the admission of Harinder Singh (son of the petitioner) in the PGI Trauma Centre and the subsequent treatment/surgery undertaken by the PGI and the medical status of the injured.

Written statement had also been filed on behalf of the State of Punjab as well as Director, Local Government through the Joint Director. In the said response, the department has averred that the incident/accident in question took place outside the limits of Municipal Corporation, Samana and the road comes under the jurisdiction and purview of the Public Works Department, Punjab, which is maintained by the M/s Rohan Rajdeep Tollways and as they are collecting the toll on this road, they are bound to maintain the safety of road. It has also been averred that the Department of Rural Development and Panchayat is also a necessary party and as such, the petition deserves to be dismissed for non-joinder of necessary parties.

Surprisingly, the above said objection had been taken notwithstanding that respondent No.1 was the State of Punjab through its Chief Secretary itself and once the Chief Secretary had been impleaded, all departments would be deemed to be represented by necessary application. Hence, the abovesaid reply filed on behalf of the Chief Secretary admits that it was the obligation of Department of Public Works, Punjab to keep the road safe

and as the said function was being discharged by the Maintenance Company and that the liability was to be discharged by them. Additionally, Department of Rural Development and Panchayat was also deemed to be responsible for compensating the victim when the accident took place outside the jurisdiction of Municipal Area. An objection was also taken that the disputed questions of facts would be involved and that the same can only be adjudicated by the Civil Courts as has been held in CWP-2765 of 2019 wherein liberty was given to the petitioner therein to avail his civil remedies vide order dated 01.02.2019. It was also noticed that an order was passed on 06.12.2018 whereby draft bye-laws have been framed under Section 188 and 240 of the Punjab Municipal Act, 1911 and Section 399 of the Punjab Municipal Corporation Act, 1976 which are under consideration. It was submitted that even though the draft bye-laws had been issued on 29.09.2017, many Corporations are working for implementation of the said draft bye-laws and that the said bye-laws contain all provisions for maintenance and care of stray animals and also have provisions for compensation for the victims of animal attack within the jurisdiction of Urban Local Bodies. It is contended that as the accident in question took place outside the Municipal limits, hence, the Department has no concern or legal liability. The question of liability was to be examined by the Department of Rural Development and Panchayat, Department of Public Works and the Toll Operator.

An additional affidavit was also filed on behalf of the respondents No.1 to 3 by the Joint Secretary to the Government of Punjab in compliance of the order dated 06.12.2019 and it was averred that the State had initially framed the draft "The Punjab Municipal Corporation and Municipal (Registration, proper control of stray animals and compensation to the victim of

animal attack) Bye laws, 2017 dated 29.09.2017 wherein the amount of compensation for death or injury on account of stray animal was fixed at Rs.1,00,000/-. The said draft bye laws were circulated to all the Urban Local Bodies in the State of Punjab, however, the Urban Local Bodies failed to give finality to the notification dated 29.09.2017 resulting in the department using the powers provided under Section 399 (2) of the Punjab Municipal Corporation Act, 1976 and Section 201(1) of the Punjab Municipal Act, 1911 to notify the Model Punjab Municipal (Registration, Proper Control of Stray Animals and Compensation to the Victim of Animal Attack) Bye Laws, 2020 on 12.10.2020 to control the stray animals and award compensation to the victim vide notification No.5/13/2020-1LG4/1877 dated 12.10.2020. It was averred that the Urban Local Bodies are putting their best efforts to control the menace of stray animals. To avoid the litigation for the larger public interest, all the Urban Local Bodies are to consider the cases under this policy irrespective whether the incident happened before or after coming into force of the Model Bye Laws, 2020 and the draft Bye Laws dated 29.09.2017. Reference was also made to the judgment of this Court dated 01.02.2018 passed in CWP-2765 of 2019 titled as 'Naginder Singh Versus State of Punjab and others', wherein which such claim was dismissed as it involved disputed questions of facts; as well as the judgment of Hon'ble the Supreme Court, 'Chairman, Grid Corporation of Orissa Ltd. Versus Sukamani Dass' reported as (1999) 7 SCC 298 for the similar reasons.

LEAD CASE FOR THE STATE OF U.T. CHANDIGARH

Insofar as the issue relating to U.T. Chandigarh is concerned, the facts are being extracted from CWP-9763-2017 titled as 'Ram Dulari and others Versus Union Territory, Chandigarh and another'.

The petitioners have sought compensation of Rs.30,00,000/- on account of death of Shiv Shankar – husband of petitioner No.1 and father of the remaining petitioners, who died due to stray dog bite. The deceased was 36 years old and was residing in Farm No.4, Khuda Ali Sher, Chandigarh and was employed as labourer. On 16.08.2016, the deceased was going on his bicycle from the Farm No.4 to sector 10 to meet his brother Ram Aasre. When he reached near the parking of Punjab & Haryana Main Civil Secretariat, near CRPF Camp, Chandigarh, he was bit by a stray dog, due to which he fell from the bicycle. He sustained severe injuries as a result of dog bite. He was saved by some passersby and was given primary treatment at home, while the search for the stray dog was made. The condition of the deceased deteriorated and he was taken to GMSH, Sector 16, Chandigarh, where he was admitted. Finding no improvement in his health, he was shifted to PGI, Chandigarh on 12.09.2016, where he was diagnosed with Rabies and encephalitis and could not be saved. Postmortem of the deceased was conducted and statements of the witnesses were recorded by the police. A DDR No.07 dated 13.09.2016 was also recorded at Police Station Sector 11, Chandigarh. Inquest Report under Section 174 Cr.P.C. was also prepared. The death of Shiv Shankar occurred due to the injuries sustained in a stray dog bite and compensation was claimed. It was also submitted that the problem of stray dog menace earlier came to the notice of this High Court in CWP No.9902 of 2012 titled as ‘Kuljiit Singh Bedi Versus State of Punjab and others’. Vide order dated 31.10.2012, this High Court had directed the U.T. Administration to make comprehensive scheme within a period of two months from the date of issuance of directions, however, the said directions had not been complied with. The deceased was stated to be earning Rs.15,000/- per month besides over-time and was 36 years of age at the time of

his death. A legal notice was also sent to the respondents, however, no action was taken. Reference was made to the judgment of this Court in CWP-4847 of 2012 titled as 'Parminderjit Kaur and another Versus State of Punjab and others' wherein compensation of Rs.10,00,000/- had been awarded to the petitioner on account of death of her husband by a raging bull vide judgment dated 09.01.2015 and LPA No.779 of 2015 against the said judgment was dismissed vide judgment dated 11.08.2016.

A short reply on behalf of respondent No.2 i.e. Municipal Corporation, Chandigarh had been filed wherein it was averred that the issue pertaining to menace of stray dogs is pending before the Division Bench of this Court in CWP-14188 of 2017 titled as "**Ram Kumar Vs. State of Punjab and others**". It is further averred that a scheme for management of stray dogs in the Union Territory, Chandigarh- 2012 was framed with a view to balance the Animal Welfare Activities and to safeguard the interest of general public within the framework of humane approach as prescribed by the Animal Welfare Board of India. The said scheme had been framed in view of the order dated 31.10.2012 passed by this Court in CWP-9902 of 2012 wherein it was observed that there is a need to evolve more effective result oriented guidelines for dog control and management and thus comprehensive guidelines for dog control and management were being framed with a view to balance the animal welfare activities within available infrastructure, techniques and technology. It has been averred that the M.C. Chandigarh has been engaging the services for sterilization of dogs as also their offsprings and efforts are being made to provide best hygienic and sanitary environment during and after surgery. It has 10 trained dog catchers, one multipurpose worker and 2 drivers. Three dog catching vans have been purchased and one dog van is handed over to the

agency. Details have also been given about 13995 dogs that had been sterilized from April 2015 till May 2019. It was also pointed out that as per the census done in the year 2012 by the Department of Animal Husbandry and Fisheries, Chandigarh, a tentative stray dog population was 7847. Reference was made to the initiatives taken by the M.C. Chandigarh to spread awareness about preventing dog bites and actions to be taken thereafter. Reference was also made to the proceeding pending before the Hon'ble Supreme in SLP (Civil) No.691 of 2009 and the order dated 18.11.2015 passed in the matter of **“Animal Welfare Board of India etc. Versus People for Elimination of Stray Troubles and others”**, wherein the High Court have been called upon not to pass any order relating to Animal Birth Control Rules, 2001 and the Prevention of Cruelty to Animals Act, 1960.

No reply had been filed by respondent No.1- Chandigarh Administration, even though it was duly represented and a period of nearly six years has already elapsed. Counsel for the U.T. Chandigarh also did not file any separate reply and has placed reliance on the reply already filed by the respondent No.2.

LEAD CASE PERTAINING TO INCIDENT DUE TO WILD ANIMALS

With regard to the case relating to wild animal, reference is being made from the petition bearing CWP No.15493 of 2020 titled as ‘Radha and others Versus State of Haryana and others’.

The petitioners in the said case have approached this court for claiming compensation on account of death of Jasmer Singh- husband of petitioner No.1 and father of petitioners No.2 to 4 who died in an incident due to blue buck/cow (Nilgai). It has been averred that on 11.09.2019, the deceased

Jasmer Singh, who was working as labourer, was going to his house at about 07.00 PM on his motorcycle bearing Registration No.HR-06-1253. When he reached 01 kilometer away to Dhuliwala road towards village Hassanpur, one Nilgai came in front of his motorcycle. The deceased lost his balance on his motorcycle and fell on the road in an attempt to avoid collision with the same. He suffered serious injuries and died as a result thereof. Proceedings under Section 174/175 Cr.P.C. were conducted by the police and statements of the witnesses were also recorded. Postmortem on the dead body of the deceased was conducted by the Medical Officer, General Hospital, Jind. A DDR (Annexure P-1) was also recorded on the same day at Police Station Alewa, District Jind. In the Postmortem report, the cause of death has been mentioned as hemorrhage and shock due to injuries sustained by the deceased which were sufficient to cause death in the ordinary course of nature. The deceased was 28 years of age and was earning approximately Rs.30,000/- per month. He lost his life due to failure of the respondent-Authorities to keep the public places/streets free from menace of stray/wild animals. Legal notice was also sent, however, no response was received. Hence, the petition was filed for seeking compensation from the respondents. Reliance was also placed on the judgment of 'Sukhbir Kaur and others Vs. State of Haryana and others' reported as **(2016) 4 PLR 14** to contend that Nilgai is classified as a wild animal and an injured would be entitled to claim compensation from the State for the injuries so sustained.

The respondents had appeared on 13.01.2021, however, no formal reply has been filed till date. Considering the inordinate delay and no valid explanation for the same, the issue is being examined on the legal aspect without further wait for reply. The parties have been heard on the merits of the

case and the liability to grant compensation. The State submitted that the department of Forests and wild Life Haryana already has issued a notification for grant of compensation.

LEAD CASE RELATING TO THE INCIDENTS/ACCIDENTS ON NATIONAL HIGHWAY

In relation to the cases pertaining to the National Highway Authority of India, the reference is being made to the facts arising out of petition bearing CWP No.21437 of 2021 titled as ‘Balwant Singh and another Versus State of Haryana and others’.

The petitioners in the above mentioned case are the husband and son of deceased Rajbala. It has been averred that petitioner No.2 Kuldeep Singh was travelling on 07.09.2019 along with his mother Rajbala (since deceased) from Hisar to Fatehabad on the motorcycle make Hero Deluxe. While the petitioner No.2 was driving, his mother was sitting on the pillion. When they reached near Landhari Toll Plaza on Hisar-Agroha road (National Highway No. 9) at about 12.00 PM, all of a sudden, a stray bull came in front of the motorcycle, which was being driven at a moderate speed. Although the petitioner No.2 made every effort to avoid an accident but still the stray bull hit into his motorcycle. They fell down on the road and sustained multiple injuries as a result thereof. They were brought to the MAMC and Hospital Agroha for treatment, however, as the injuries were serious and severe, Rajbala – mother of petitioner No.2 passed away during the treatment on the same day at about 5.20 P.M. Postmortem was not conducted and it was reported that the death had occurred as a result of injuries on the vital parts without adverting to the reason for such injuries and referring only to the immediate cause of death. The issue in question was reported at Police Station Agroha, District Hisar and after

recording the statement of the petitioner No.2, a DDR No.36 dated 07.09.2019 (wrongly mentioned as 07.09.2021 in the petition) was recorded. The petitioners thereafter approached the respondents to compensate for the accident that happened due to failure of the respondent-Authorities to maintain safety on the National Highway, however, the same was of no avail. A legal notice dated 21.01.2020 was also sent by the petitioners claiming compensation, where-after the present writ petition was filed.

It has been stated that it was the bounden duty of the respondents-National Highway Authority of India to maintain safe highways and to get rid of the menace of stray/wild animals, moreso when the commuter is required to pay the user fee. The hazard of stray/wild animals on the National Highways clearly shows that the respondents-Authorities have been negligent and careless in performing their part of obligation and in discharging their duties to commuters resulting in loss of precious human life. It was averred that insofar as the State area is concerned, the State Government had regulatory framework for payment of compensation to the victims or their families for the injuries sustained, however, no such provision has been made by the National Highway Authority of India. Reliance has been placed on the judgment of 'St. Stephen's College Versus University of Delhi' reported as (1992) 1 SCC 558 to contend that the equal protection of law has to be extended. Reference was also made to the judgments of Sushma Rani versus State of Punjab and others reported as (2016)2 RCR (Civil) 289 and Savitri Yadav Versus State of Haryana and others reported as (2020) 2 RCR (Civil) 57 whereby the State Government had been directed to pay compensation to the families of the victims who lost their lives at the hands of stray animals at public places.

The reply on behalf of the National Highway Authority of India had been filed through General Manager-cum-Project Director, National Highway Authority of India, wherein they admitted that they operate the aforesaid National Highway and they are responsible for the development and maintenance of the National Highways. It has, however, been averred that the affair of maintaining and controlling the stray animal on public road falls within the domain of Municipalities of the State for which the respective State bye-laws are applicable and that failure, if any, is on the part of the State and its instrumentalities. It was also averred that under Article 48-A of the Constitution, the State is required to protect and safeguard the forests and wild-life and bye-laws have been notified by the State for enforcement of such directive principles. It was, however, submitted that the DDR cannot be made the basis for determining the liability or to prove negligence on the part of National Highway Authority of India. Reliance in this regard has been placed on the judgment of '*Ranjita Versus State of Haryana*' reported as (2018) 2 PLR 283. Certain disputes qua the nature of injuries as to whether the death had actually resulted on account of the impact by the vehicular accident or not have also been raised. Learned Senior Counsel representing the National Highway Authority of India also assisted this Court in this regard during the course of hearing.

GENERAL DISCUSSION

Having noticed the facts and submissions of the respective parties, the issue in hand is being dealt with taking into consideration various Rules/Regulations/Public Laws notified by the respective States and the precedents regarding the just compensation.

The National Crime Records Bureau, Ministry of Home Affairs, New Delhi had published its report qua accidental deaths and suicide in India in the year 2021. In its abovesaid report, it was pointed out that the number of traffic/motor accidental deaths increased from 146354 in the year 2020 to 173860 in the year 2021. Hence, as many as 476 deaths per day were reported due to traffic accidents in year 2021, notwithstanding that the said years saw a much reduced traffic volume due to Covid-19. Despite the same, it is also reported that as many as 16% of such deaths are a result of miscellaneous causes, which has been explained to also include deaths on account of involvement of stray animals. This 16% thus works out to be more than 76 persons per day, being killed due to such miscellaneous reasons, including accidents involving animals. As per another table appended alongwith the aforesaid report, the number and share of accidental deaths due to forces of nature and other causes, the year 2020-21 indicate that 1305 persons died as a result of stray animals in the year 2020 while 1264 persons reportedly died in the year 2021. As per the report, out of the persons, who died as a result of injuries sustained due to animals, 50 of such victims were below 14 years of age, 38 were between 14 to 18 years, 185 were in the age group of above 18 years and below 30 years, 368 were in the age group of 30 to 45 years, 380 were in the age group of 45 to 60 while 243 were in the age group of 60 and above. It is also evident from the Table No.1.10, related to persons killed/injured by stray animals, that a total 20 cases were reported for the said year and all 20 were related to the incidents where the people had died in the State of Haryana, whereas 17 cases had been reported in the State of Punjab and all of them were in relation to deaths only. Surprisingly, the said data shows zero record of injured persons throughout all the States and Union Territories in

India. It would be hard to conceive that no person sustained any injury in any accident involving the stray animals and the only plausible conclusion deductible from the said data is that the State Instrumentalities had not been recording and reporting the incidents relating to persons sustaining injuries in the incidents involving stray animals, and/or that the agencies are not recording or reporting the incidents. It is incomprehensible that no victim/injured would have approached any of the law enforcing agencies to report the incidents, rather, the cases filed before the courts show that the police has been recording them as routine accidents and not reporting them unless some animal is also killed in the incident or the death is directly attributable to the animal. The balance thus tilts against the Agencies for not recording/reporting such events.

Further, as per the Bloom Berg report referenced by the Ministry of Road Transport and Highways, 09 lakh people died or suffered injuries as a result of accidents/incidents that took place on roads and as per the World Bank, the total loss due to the above said accidents/incidents is approximately Rs.12.80 lakh crores. It was also referred to in the extract of Bloom Berg report published in daily newspaper "Dainik Bhaskar" on 27.05.2023, while referring to the report of National Highway Authority of India that as per the statistics of 2019, there are nearly 50 lakh stray animals and 1.5 crore stray dogs which have become the major cause of accidents/incidents on roads. The Ministry of Road Transport and Highways has thus claimed to have framed a National Road Safety Policy. Preamble of the abovesaid policy declares that Government of India recognizes that road safety needs to be addressed on a holistic basis, regardless of jurisdiction, and that the State and the Central Governments have a joint responsibility in reducing the road accidents, injuries and fatalities. The said policy has been formulated after receiving a report from the Committee

constituted under the Chairmanship of Shri S. Sundar, Former Secretary, Ministry of Surface Transport in the year 2007. The Union Cabinet approved the National Road Safety Policy based on the recommendations of the Sundar Committee on 15.03.2010. The said policy outlines the initiatives to be framed/taken by the Governments at all levels to improve the road safety activities in the country. It is a form of the cardinal obligation of the State to implement measures; to review standards pertaining to safety on roads as also to ensure safety of vulnerable road users. It also prescribes that appropriate measures shall be taken by the Government to assist State and other Government(s) to strengthen and improve the quality of enforcement to ensure effective and uniform implementation of the Safety Laws in addition to providing medical services for the accident victims. The Government is also required to take appropriate measures to ensure that the required legal, institutional and financial environment for road safety is further strengthened and a mechanism for effective coordination of various stakeholders is put in place. A National Road Safety Fund to finance the road activities through allocation of certain percentage of cess on the Gasoline and Diesel was also decided to be established through dedicated agencies vis. The National Road Safety Board. Department also referred to the 317th report of the Parliamentary Standing Committee on Transport, Tourism and Culture submitted to the Rajya Sabha pertaining to Demands for Grants for the year 2022-23. The said Committee recommended that urgent steps be taken in coordination with Local Authorities to tackle the problem of stray cattle and other animals trespassing National Highways and posing tremendous security arrest to the passengers. Barriers may be erected to prevent stray cattle and other animals from coming onto the National Highway stretches where such problem is faced frequently

apart from looking into other possible solutions to minimize such incidents/accidents in order to ensure that the National Highways network in the country is safe and free flowing for all the passengers. The said recommendations of the Parliamentary committee in its above said 317th report presented to the Rajya Sabha on 14.03.2022 is extracted under:

“The Committee further recommends that urgent steps may be taken in coordination with concerned local authorities to tackle the problem of stray cattle and other animals trespassing National Highways posing tremendous security risk to the passengers, especially women, seniors and children, besides causing hindrance on the smooth flow of traffic on NHs. Barriers may be erected to prevent stray cattle and other animals from coming onto NHs in stretches where this problem is faced frequently. Other possible solutions may be looked into to minimize such incidents across the entire NH network in the country so as to make NH travel safer and free-flowing for all passengers.”

STATE OBLIGATION QUA ANIMALS/STRAY ANIMALS: LAW AND ANALYSIS

(A) CENTRAL GOVERNMENT ACTS/RULES QUA ANIMALS/STRAY ANIMALS.

(i) THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960

Notified on 26.12.1960

“2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “animal” means any living creature other than a human being;*
- (b) “Board” means the Board established under section 4, and as reconstituted from time to time under section 5A;]*
- (c) “captive animal” means any animal (not being a domestic animal) which is in captivity or confinement, whether permanent or temporary, or which is subjected to any appliance or contrivance for the purpose of hindering or preventing its escape from captivity*

or confinement or which is pinioned or which is or appears to be maimed;

- (d) *“domestic animal” means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tamed;*
- (e) *“local authority” means a municipal committee, district board or other authority for the time being invested by law with the control and administration of any matters within a specified local area;*
- (f) *“owner”, used with reference to an animal, includes not only the owner but also any other person for the time being in possession or custody of the animal, whether with or without the consent of the owner;*

3. XXXX XXXX XXXX

4. ***Establishment of Animals Welfare Board of India.—***

- (1) *For the promotion of animal welfare generally and for the purpose of protecting animals from being subjected to unnecessary pain or suffering, in particular, there shall be established by the Central Government, as soon as may be after the commencement of this Act, a Board to be called the Animal Welfare Board of India.*
- (2) *The Board shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by its name sue and be sued.*

5. XXXX XXXX XXXX XXXX

6. xxxxx xxxxx xxxxxxxx

7. XXXX XXXX XXXX XXXX

8. XXXX XXXX XXXX XXXX

9. ***Functions of the Board.—The functions of the Board shall be—***

a-e XXXX XXXX XXXX

(f) to take all such steps as the Board may think fit to ensure that unwanted animals are destroyed by local authorities, whenever it is necessary to do so, either instantaneously or after being rendered insensible to pain or suffering;

(g) to encourage, by the grant of financial assistance or otherwise 2 [the formation or establishment of pinjrapoles, rescue homes, animal shelters, sanctuaries and the like] where animals and birds may find a shelter when they have become old and useless or when they need protection;

h-l XXXX XXXX XXXX”

(ii) PREVENTION OF CRUELTY TO ANIMALS (CARE AND MAINTENANCE OF CASE PROPERTY ANIMALS) RULES 2016.

Notified on 23.05.2017 under Section 38(1) of the Prevention of Cruelty to Animals Act, 1960.

2. Definitions.—In these rules, unless the context otherwise requires,-

- (a) XXXXXXXXXXXXXXXX
- (b) XXXXXXXXXXXXXXXX
- (c) “cattle” means a bovine animal including bulls, cows, buffalos, steers, heifers and calves and includes camels;
- (d) “Society for Prevention of Cruelty to Animals (SPCA)” means a SPCA established under the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 made under the Act;
- (e) “State Board” means the State Animal Welfare Board constituted, in a State, by the State Government;
- (f) xxxxxx xxxxxx xxxxxx
- (g) XXXXXXXXXXXXXXXX.

3. Custody of animals pending litigation.— When an animal has been seized under the provision of the Act or the rules made thereunder—

(a) xxxxxxxx xxxxxxxx

(b) *the magistrate may direct the animal to be housed at an infirmary, pinjrapole, SPCA, Animal Welfare Organisation or Gaushala during the pendency of the litigation.*

4. Cost of care and keeping of animal pending litigation.—

(1) xxxxx xxxxxxx xxxxxxxx

(2) *The magistrate shall use the rates specified by the State Board as the minimum specified rates for transport, maintenance and treatment of the seized animals under sub-section (4) of section 35 of the Act.*

(3) xxxxx xxxxxxx xxxxxxxx xxxxx

5. XXXXXXXXXXXXXXXX

6. Abandoned animal.—

(1) *In case where the investigating officer files a report that prima facie offence under the Act has been made out but he is unable to determine the accused or the owner of the animal, then the magistrate shall direct the local authority to undertake the costs involved and it shall be deemed that the owner has relinquished the ownership of the animal.*

(2) *The relinquishment of ownership shall have no effect on any criminal charges against the unknown offender or the owner.*

7. Voluntary relinquishment.—

Nothing in these rules shall be construed to prevent the voluntary and permanent relinquishment of any animal by the owner who is the accused, to infirmary, pinjarapole, SPCA, Animal Welfare Organisation or Gaushala in lieu of executing a bond but the voluntary and permanent relinquishment shall have no effect on any criminal charges against the accused or owner.

8-9 XXXXXXXXXXXXXXXX

(iii) PREVENTION OF CRUELTY TO ANIMALS (ESTABLISHMENT AND REGULATION OF SOCIETIES FOR PREVENTION OF CRUELTY TO ANIMALS) RULES, 2001

Notified on 26.03.2001 under Section 38(1) and (2) of the Prevention of Cruelty to Animals Act, 1960

“2. Definitions .-*In these rules, unless the context otherwise requires,-*

- (a) xxxxx xxxxx xxxxx
- (b) *"Animal Welfare Organisation" means a Welfare Organisation for animals which is registered under the Societies Registration Act of 1860 (21 of 1860) or any other corresponding law for the time being in force and recognised by the Board or the Central Government;*
- (c) xxxxx xxxxx xxxxx
- (d) *"local authority" means a municipal board of municipal committee, a State Animal Welfare Board, district board or any local animal welfare organisation authorised by any law for the control and administration of any matter relating to animals within a specified local areas.*
- (e) *"Society" means Society for Prevention of Cruelty to Animals (hereinafter referred to as SPCA) established in any district under the Societies Registration Act, 1860 (21 of 1860) or any other corresponding law applicable in a state and shall include the existing SPCA functioning in any district.*
- (f) xxxxx xxxxx xxxxx

3. Society for Prevention of Cruelty to animals in a district .-

- (1) *Every State Government shall by notification in the Official Gazette, establish, as soon as may be and in any event within six months from the date of commencement of these rules, a society for every district in the State to be the SPCA in that district.*

Provided that any society for Prevention of Cruelty to Animals functioning in any district on the date of commencement of these rules shall continue to discharge its functions till establishment of the SPCA in that district under these rules.

- (2) *The Managing Committee of the Society shall be appointed by the State Government or the local authority of the district consisting of a Chairperson to be appointed by the State Government or the local authority of the district, as the case may be with the concurrence of the Board and shall consist of such number of other members as may be considered necessary by the State Government or the local authority of the district subject to the condition that-*
- (i) *at least two members shall be representatives of the Animal Welfare Organisations which are actively involved in the work of prevention of cruelty to animals and welfare of animals preferably from within the district; and*
- (ii) *at least two members shall be the persons elected by the general body of members of the Society.*
- (3) *The duties and powers of the Society shall be to aid the Government, the Board and local authority in enforcing the provisions of the Act and to make such bye-laws and guidelines as it may deem necessary for the efficient discharge of its duties.*
- (4) *The Society, or any person authorized by it in this behalf, if it or he has reasonable grounds for believing that any person has committed an offence under the Act, it or such authorized person may require such person to produce forthwith any animal in his possession, control, custody or ownership, or any license, permit or any other document granted to such person or required to be kept by him under the provisions of the Act and may stop any vehicle or enter into any premises in order to conduct a search or inquiry and may seize an animal in respect of which it or such authorized person has reason to believe that an offence under the Act is being committed, and deal with it in accordance with law.*

(5) *In addition to the powers conferred by these rules, the State Government may, in consultation with the Board, confer such other powers upon any Society for exercising the powers and discharging the functions assigned to it under these rules.*

4. *Setting up of infirmaries and animal shelters .-*

- (1) *Every State Government shall provide adequate land and other facilities to the Society for the purpose of constructing infirmaries and animal shelters.*
- (2) *Every infirmary and animal shelter shall have,-*
- (i) *a full time veterinary doctor and other staff for the effective running and maintenance of such infirmary or animal shelter; and*
- (ii) *an administrator who shall be appointed by the Society.*
- (3) *Every Society shall, through its administrator or otherwise, supervise the overall functioning of the infirmaries and animal shelters under its control and jurisdiction.*
- (4) *All cattle pounds and pinjrapoles owned and run by a local authority shall be managed by such authority jointly with the Society or Animal Welfare Organisations.”*

(iv) ANIMAL BIRTH CONTROL RULES, 2023

Notified on 10.03.2023 under Section 38(1) and (2) of Prevention of Cruelty to Animals Act, 1960

“1. XXXXXXXXXXXXXXXXXXXXXXXX

2. *Definition:-*

- (1) *In these rules, unless the context otherwise requires, -*
- (a) *XXXXXXXXXXXXXXXXXXXXX*
- (b) *“Animal Birth Control enter” means a veterinary facility with surgical infrastructure, post-operative care kennels, quarantine kennels, isolation kennels, dog transport vehicles with necessary logistics and other such facilities as specified by the Board, built*

for the purpose of carrying out the Animal Birth Control Program for street dogs;

- (c) "Animal Birth Control program" means Birth Control program carried out for animal under these Rules by a local authority or an animal welfare organisation.*
- (d) "Animal Shelter" means place where stray or street or abandoned animals are kept for adoption or rehabilitation, general treatment while they are ill or injured;*
- (e) "Animal Welfare Committee" means committee constituted under these rules for resolution of the community dog feeding;*
- (f) "Animal Welfare Organisation" means any Organisation working for welfare of animals which is registered under the Societies Registration Act of 1860 (21 of 1860) or any corresponding law for the time being in force and which is recognised by the Animal Welfare Board of India as per the extant policy of the Board;*
- (g)-(l) XXXXXXXXXXXXXXXXXXXXXXXX*
- (m) "local authority" means a Municipal Committee, Municipal Council, District Administration, District Panchayats or Board, Cantonment Board or other authority for the time being invested by the law with the control and administration of any matters within a specified local area;*
- (n) XXXXXXXXXXXXXXXXXXXXXXXX*
- (o) "Owner" means the Owner of an animal and includes any other person or any other organisation or association in possession or custody of such animal whether with or without the consent of the owner;*

(p)-(t) XXXXXXXXXXXXXXXXXXXXXXXX

(2) XXXXXXXXXXXXXXXXXXXXXXXX

3. Project Recognition:

- (1) The local authority may conduct the Animal Birth Control program through their own veterinary officers, or if required, local authority may engage the services of an Animal Welfare Organisation which is duly recognised by the Board for Animal Birth Control and which has the requisite training, expertise and*

human resources, for conducting the Animal Birth Control program as per the extant policy of the Board.

(2-14) xxxxx xxxxxx xxxxxxxx

4-6. xxxxx xxxxxx xxxxxxxx

7. Classification of animals:-

Animals classified for the purpose of these rules are as under:

- (1) Pet animals – dogs owned and kept indoor by individuals;*
- (2) Street dogs or community owned Indian dogs or abandoned pedigree dogs which are homeless, living on the street or within a gated campus.*

8. Responsibility for Vaccination and Sterilisation:-

- (1) In case of pet animals, the owner of the animal shall be responsible for the deworming, immunisation and sterilisation.*
- (2) In case of street animals, the local authority shall be responsible for deworming, immunisation and sterilisation and may engage an Animal Welfare Organisation duly recognised by the Board to carry out the animal birth control program in accordance with these rules*

9. XXXXXXXXXXXXXXXXXXXX

10. Obligations of the Local Authority:-

- (1) The local authority shall ensure following facilities are available in each Animal Birth Control Center within their jurisdiction:-*
 - (a) sufficient number of kennels and veterinary hospital facilities which may be managed by local authority or animal welfare organisation;*
 - (b) requisite number of vans with necessary modifications for safe handling and transportation of dogs;*
 - (c) a mobile Operation Theatre Van equipped with surgical infrastructure to be provided as mobile Center for sterilisation and immunisation for smaller local bodies, where considered necessary and where kennels for post-operative care are available;*
 - (d) incinerators to be installed by the local authority for disposal of organs and carcasses and where an incinerator is not feasible, deep burial method may be adopted.*

- (e) *periodic repair and maintenance of Animal Birth Control Center.*
- (f-g) xxxxxxxx xxxxxxxx xxxxxx
- (h) *Records for catching, release, medicine, surgery, feeding, vaccinations of all animals brought to the Animal Birth Control Center to be maintained.*
- (2) *The local authority shall reimburse the expenses of sterilisation or immunisation on a regular basis, if the services of an animal welfare organisation have been engaged.*
- (3) *The local Animal Birth Control Monitoring Committee shall be constituted by the Local Authority and it shall meet at least once every month to assess the progress made with regard to implementation of the Animal Birth Control Program.*
- (4) *The local authority shall inquire into the matter of violation of these rules on receipt of the complaint against the Animal Birth Control Center and shall terminate or suspend any engagement with such an organisation on the basis of the recommendation of the Local Animal Birth Control Monitoring Committee or the Board.*
- (5) *The local authority may conduct the Animal Birth Control program through it's own staff by creating a Special Purpose Vehicle and intimate the Board in accordance with sub-rule (6) of rule 3.*
- (6) *The Special Purpose Vehicle shall hire contractual or full time veterinarians, handlers, drivers and paraveterinarians who shall implement the program and such shall not sub-let any part of the Animal Birth Control Project to any other agency.*
- (7) *The local authority shall be responsible for ensuring that the staff hired by the Special Purpose Vehicle have been suitably trained and are adhering to all conditions in these rules and the Module and the Project Incharge appointed by the local authority shall not be a part of the Special Purpose Vehicle.*

11. Capturing or sterilisation or immunisation or release:-

- (1) *Capturing of street dogs shall be conducted for the following reasons namely:-*

- (a). **General purpose:** for which the local authority in consultation with the Monitoring Committees shall decide to control the excess population of street dogs through animal birth control program in a specific area or region.
- (b). **Specific complaints:** for which the local authority in consultation with the Monitoring Committee shall set up an Animal Complaint Cell at the Animal Birth Control Center to receive information or complaints about dog bites from street dogs suspected to be suffering from Rabies.
- (2) The dog capturing team shall consist of:-
- (i) the driver of the van;
- (ii) two or more trained employees of the local authority or Animal Welfare Organisation who are trained in humanely capturing street dogs; and
- (iii) One representative of any of the Animal Welfare Organisation nominated for the purpose;
- Provided** that each member of the capturing squad shall carry a valid identity card issued by the local authority.
- (3-19) xxxxxxxxxxx xxxxxxxxxxx xxxxxxxxxxx
- (20) In order to carry out the Animal Birth Control surgeries safely and humanely, the Implementing Agency shall abide by the directions given by the Board regarding the Standard Operating Procedures in the Module from time to time.
- 12-22 XXXXXXXXXXXXXXXXXXXXXXXX”

POLICY/BYE-LAWS NOTIFIED BY THE STATE OF HARYANA

(i) **DEEN DAYAL UPADHYAYA ANTYODAYA PARIVAR SURAKSHA YOJANA (DAYALU-II)**

NOTIFIED ON 24.05.2023

No. Plg(HPSN)-2023/494.— The Government of Haryana hereby notifies the scheme Deen Dayal Upadhyaya Antyodaya Parivar Suraksha Yojana (DAYALU-II) to provide financial assistance to residents of Haryana in case of accidental death or permanent disability occurred due to stray cattle/animal/dog

bite. This scheme will provide an assistance which would vary depending on the age of the person at the time of accidental death/permanent disability.

General:

- (a) ‘Beneficiary’ means member(s) of a family having Family ID/ PPP number.
- (b) ‘Claimant’ means the beneficiary (in case of permanent disability) or eligible relative (in case of death) on behalf of the beneficiary applying to claim the assistance amount under DAYALU-II.
- (c) ‘DAYALU-II’ means Deen Dayal Upadhyaya Antyodaya Parivar Suraksha Yojana-II.
- (d) ‘Accident’ mean death or permanent disability occurred due to stray cattle/animal/dog bite.
- (e) ‘Stray cattle/animal’ means animal such as cow, bull, oxen, donkey, dog bite, mule, nilgai and buffalo that roam freely.
- (f) ‘Permanent Disability’ means 70% or above permanent disability on account of accident as certified by the Medical Authority.
- (g) ‘State’ means the State of Haryana.
- (h) ‘Trust/HPSN’ means Haryana Parivar Suraksha Nyas.

Eligibility:

- (a) The benefits of assistance under the scheme will be made available to all the residents of Haryana having Family ID/Parivar Pehchan Patra (PPP) number.
- (b) The scheme will come into the forces from the date of notification in the official gazette and any claim made under this scheme for the death/permanent disability prior to this date will not be entertained.
- (c) Under the scheme, compensation will be given only for death or permanent disability occurred due to stray cattle/animal/dog bite of a beneficiary.

Amount of Assistance:

The scheme will provide the below mentioned assistance which would vary depending on the age of the beneficiary:-

Sr. No.	Age	Assistance amount
1.	upto 12 years	Rs.1 lakh
2.	above 12 years and upto 18 years	Rs.2 lakh

3.	above 18 years and upto 25 years	Rs.3 lakh
4.	above 25 years and upto 40 years	Rs.5 lakh
5.	above 40 years	Rs.2 lakh

Claim Procedure:

- a. The claim shall be filed by beneficiary/claimant through the online portal of the scheme <https://dapsy.finhry.gov.in/> for compensation in case of accidental death/ permanent disability.
- b. The applicant shall submit the following documents online with the claim:-
 - I. In case of death**
 - (a) Death certificate
 - (b) Copy of FIR/DDR indicating death due to accident caused due to stray cattle/animal/dog bite.
 - II. In case of permanent disability**
 - (a) Permanent disability certificate from Medical Authority issued after the implementation of the scheme (i.e. date of notification) showing permanent disability 70% or above on account of any accident caused due to stray cattle/animal/dog bite.
 - (b) Hospital discharge summary.
 - (c) Copy of FIR/DDR indicating accident caused due to stray cattle/animal/ dog bite.
- c. To establish the genuineness of the claim and identity of the claimant(s), the deciding authority may seek any further documents from the claimant(s), as he deems necessary, for settlement of claim.
- d. In case of death, the assistance amount will be paid to the Head of the family in their bank account registered in the PPP database or linked to the Aadhaar number of head of the family.
- e. In case of permanent disability, the assistance amount will be paid to the beneficiary in his bank account registered in the PPP database or linked to the Aadhaar number of Head of the family.

f. In case of death of the Head of family in PPP, the assistance amount will be paid to the eldest member of the family below the age of 60 years in PPP database.

Implementing Agency:

The implementing agency for the DAYALU-II will be Haryana Parivar Suraksha Nyas (HPSN), Government of Haryana. The detailed Standard Operating Procedures (SOPs) for implementation of the scheme are being issued separately.”

(ii) THE HARYANA MUNICIPAL ACT, 1973

Section 66-A. Powers and Functions of Municipalities.—The State Government may, by order, entrust the municipalities with such powers and functions as institutions of self government and to assign to them tasks relating to

- (i-ix) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (xv) cattle pounds, prevention of cruelty to animals
- (xvi-xviii) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

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Section 117. Disposal of mad and stray dogs and other animals.-

- (1) The committee may,-
- (a) authorize any person-
- i. to destroy, or cause to be destroyed, or confine, or cause to be confined for such period as the committee may direct, any dog or other animal suffering, or reasonably suspected to be suffering from rabies or bitten by any dog or other animal suffering or suspected as aforesaid;
- ii. to confine, or cause to be confined any dogs found wandering, about streets or public places without collars or other marks distinguishing them as private property and charge a fee for such detention and destroy or otherwise

dispose of any such dog if it is not claimed within one week,
and the fee is not paid;

- (b) issue a temporary or standing order that any dogs, without collars or other marks distinguishing them as private property, found straying on the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed and destroy or cause them to be destroyed accordingly. Public notice shall be given of every such order.

(2) XXXXXXXXXXXXXXXXXXXX

(iii) **THE HARYANA MUNICIPAL CORPORATION ACT, 1994**

Section 311. Registration and Control of dogs.-

- (1) The Corporation may, by bye laws made in this behalf—

(a to d) XXXXXXXXXXXXXXXXXXXX

- (2) The Commissioner may-

- (a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is , or is reasonably suspected to be suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;
- (b) by public notice direct that, after such date as may be specified in the notice, dogs which are without collars of without marks, distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed and cause them to be destroyed accordingly.

(3-5) XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

Section 332. Seizure of certain animals.-

- (1) If any horses, cattle or other quadruped animals or birds are kept on any premises in contravention of the provision of section 331 or are found abandoned and roaming or tethered on any street or public place or on any land belonging to the Corporation, the Commissioner or any officer empowered by him may seize them and may cause them to be impounded or removed to such place as may be appointed by the Government or the Corporation for this purpose and cost of seizure of these animals or birds and of impounding or removing them and of feeding and watering them, shall be recoverable by sale or auction of these animals or birds:

Provided that any one claiming such animals or birds may, within seven days of the seizure get them released on his paying all expenses incurred by the Commissioner in seizing, impounding or removing and in feeding and watering such animals or birds, and on his producing a licence for keeping these animals and birds issued under the provisions of section 331.

- (2) Whenever the Commissioner is of the opinion that the user of any premises for any of the purposes referred to in sub-section (1) of section 331 is causing a nuisance and such nuisance should be immediately stopped the Commissioner may order the owner or the occupier of the premises to stop such nuisance within such time as may be specified in the order and in the event of the failure of the owner or occupier to comply with such order, the Commissioner may himself or by an officer subordinate to him, cause such user to be stopped.
- (3) Without prejudice to the foregoing provision of this section any person by whom or at whose instance any horses, cattle or other quadruped animals or birds are so kept, abandoned or tethered, shall also be punishable under this Act.

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Section 392 Powers to make by-laws.-

- (1) Subject to the provisions of this Act, the Corporation may in addition to any bye law which it is empowered to make under any

other provision of this Act, make bye-laws to provide for all or any of the following matters, namely:-

A to D XXXXXXXXXXXX

E. Bye Laws relating to Sanitation and public health-

(1-5) XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

(6) the seizure of ownerless animals straying within the limits of the Municipal area and the regulation and control of ponds;

(7-12) XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

(iv) **HARYANA MUNICIPAL (REGISTRATION AND PROPER CONTROL OF DOGS) BYE LAWS, 2005.**

“1. XXXXXXXXXXXXXXXX

2. ***Definitions. –***

In these bye-laws, unless the context otherwise requires, -

- (a) *"Act" means the Haryana Municipal Act, 1973 (24 of 1973);*
- (b) *"Animal Welfare Organization" means and includes the Society for prevention of cruelty to animals and any other welfare organization for animals which is registered under the Societies Registration Act, 1860 (21 of 1860), or any other corresponding law for the time being in force and which is recognized by the Animal Welfare Board of India, constituted under the Prevention of Cruelty to Animals Act, 1960 (59 of 1960);*
- (c) *"Court" means the civil Court having jurisdiction over the area;*
- (d) *"dog" means a dog and includes a bitch;*
- (e) XXXXXXXXXXXXXXXX
- (f) XXXXXXXXXXXXXXXX
- (g) *"owner" means the owner of a dog and includes any other person in possession or custody of such dog whether with or without the consent of the owner;*
- (h) XXXXXXXXXXXXXXXX

3. ***Registration of dogs. –***

(1) *The owner of every dog kept or brought within the committee, shall, on or before the 1st day of April in each year or within seven days of its arrival in the municipal area, get the dog registered at the office of the committee in Form A.*

(2-6) xxxxxxxx xxxxxxxx xxxxxx

(7) (a) *Any dog without collar or other marks distinguishing them as private property and not wearing the metal token of registration in accordance with clause (3), if found straying on the street or beyond the enclosures of the house of the owner of such dog, may be detained at the direction of the person authorized by the committee to carry out these duties and destroyed or otherwise disposed of it not claimed within one week. A fee of Rs. 50/- per day or part thereof, will be leviable on, and recoverable from, the owner for such period of detention in a place named by the committee.*

(b) *It shall be the duty of the owner of the dog who has been suffering from or is suspected of rabies to report the matter without delay to the licensing authority.*

(c) *The licensing authority may, after reasonable notice, require the owner or person incharge of a dog suffering or reasonably suspected to be suffering from rabies to deliver the same to any specified official of the committee. The licensing authority may either cause the animal to be destroyed forthwith or send it to the veterinary hospital, for observation for a period of not more than fourteen days. The expenses of such observation and detention will be paid by the owner.*

(d) *No damages shall be payable in respect of dog destroyed or otherwise disposed of under sub-clause (a) or (c).*

4-7.

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8. **Dangerous dogs. –**

(1) *On complaint made to the licensing authority that a dog which appears to it to be dangerous and not kept under proper control,*

the licensing authority may order the owner of the dog to keep the dog under proper control. The penalty for failing to comply with such order shall be Rs. 200/- or Rs. 10/- per day whichever is more. Notice of penalty shall be given to the owner during the period of non-compliance. If the owner fails to comply with the order of licensing authority and fails to keep his dangerous dog in proper control then the [licensing authority shall move the Court for its destruction in accordance with the law].

- (2) *Appeal may be filed within 15 days against a destruction order of the Court in appellate Court.*

9. Mad Dogs. –

If a mad dog or a dog suspected of being mad is found under the custody of the owner of the dog, the licensing authority may issue notice to the owner directing dog to be confined on account of suspicious of canine madness or any suffering pet dog to be at large, during the time specified, in any street within municipal limits so as not to cause any harm to anybody. A person contravening the order is liable to a penalty of Rs. 200/- and dogs found at large in contravention of the order may be treated as stray dogs.

10. xxxxxx xxxxxx

11. Seizure, detention and sterilization of stray dogs. –

- (1) *An official duly authorised by licensing authority may seize any dog found in highway or public place, which he has reason to believe to be a stray dog and detain it for a week or until the owner has claimed for it and paid all expenses incurred by the committee for its detention. If the dog wears a collar with an address on or attached to it, or the owner of the dog is known, the committee may serve on the person whose address is given, or on the owner, written notice stating that the dog has been seized and is liable to be sold or culled if not claimed within seven clear days after the service.*
- (2) *The stray dogs found moving in streets/roads/any public place within the municipal limits by the private individual, Animal Welfare Organization(s) shall be caught and handed over to the*

official incharge of the committee for impounding the stray dogs in the enclosure fixed for the purpose by the committee. The above said enclosure shall have a boundary wall of such height as the dogs inside the enclosure is not able to cross/jump the boundary wall. The enclosure shall have the provision of a pond of the size of 20' x 20' mean size of the depth of 2 in Trapezoidal shape with side slope of 1 : 4.

[(3) The stray dogs shall be sterilized and immunized by the veterinary doctor in the enclosure fixed for impounding the stray dogs with the help of Animal Welfare Organisations and the cost of sterilization and immunization shall be borne by the concerned municipal committee. The requirement of stray dogs in the impounding campus shall be met out by the Animal Welfare Organisation(s)/Non-Government Organisations/committee.]

12. XXXXXXXXXXXXXXXX”

(v) THE HARYANA MUNICIPAL (REGISTRATION AND PROPER CONTROL OF STRAY ANIMALS) BYE LAWS, 2006

“1. XXXXXXXXXXXXXXXX

2. Definitions.

In these bye-laws, unless the context otherwise requires,-

- (a) XXXXXXXXXXXXXXXX*
- (b) "animal" means any he/she buffalo, horse, camel, cow, calf, bull, pony, donkey, goat, sheep, pig, elephant, neal gayen, deer etc.;*
- (c) XXXXXXXXXXXXXXXX*
- (d) XXXXXXXXXXXXXXXX*
- (e) "cattle pound" means an enclosure where all types of stray animals are kept after being impounded;*
- (f)-(k) XXXXXXXXXXXXXXXX*

3. Registration/Renewal of Animals.

- (a) The owner of every animal kept or brought within the committee, shall, on or before the 1st day of April in each year or within seven days of its arrival in the municipal area, get the animal registered at the office of the committee in Form A, failing which a penalty of*

three times the registration fee for such animals shall be imposed on the owner,

(b-g) xxxxxxxxxxx xxxxxxxxxxxxxxx

4. Construction of cattle pound and its maintenance.

(a) The committee shall construct a cattle pound of sufficient capacity for Impounding the stray cattle. Any animal with or without Branding Code of registration in accordance with Clause 3(c), If found straying on the streets or beyond the enclosures of the house of the owner may be detained in a cattle pound at the direction of the person authorized by the committee and shall be disposed of in the manner as may be decided by the committee, if not claimed within a week. A fee will be leviable and recoverable from the owner, for such period of detention of the animal in the cattle pound or at a place specified by the committee as per the rates notified by the Committee from time to time. In addition to the fee, feed charges for impounded animals during the period of impounding shall also be charged by the committee as per rates fixed by the committee.

(b-d) xxxxxx xxxxx xxxxx

(e) The animals bearing Branded Code If found straying repeatedly more than two times, the registration of such animals shall be cancelled with prior notice to the owner and extra penalty shall be charged at rates notified by the committee from time to time. The animal shall be rounded up by the committee and dealt with as deemed fit. The owner shall have no claim of any kind on the animal.

(f) These bye-laws shall also apply to the animals which are brought within the municipal limits even for bona fide show purposes and the owner of such animals shall be charged a fee to be notified by the committee from time to time.

5. Caution for the owners of the animals.-

No one, being the owner or person Incharge of any animal shall allow it to be at large in any public street or public place without being muzzled and without being secured by a chain lead in any

case in which the animal is likely to annoy or intimidate any person.

6. *XXXXXXXXXXXXXXXX*

7. ***Dangerous animal.-***

(a) *On a complaint being made to the licensing authority regarding an animal which appears to be dangerous and is not being kept under proper control, the licensing authority may order the owner of such animal to keep the animal under proper control. The penalty for failing to comply with such order shall be charged by the committee as may be notified from time to time. Notice of penalty shall be given to the owner during the period of non- compliance. If the owner fails to comply with the order of licensing authority and fails to keep such dangerous animal in proper control then the court having the necessary jurisdiction order for its suitable disposal.*

(b) *An appeal can be filed against the order of the lower court within a period of fifteen days before the appellate court.*

(c) *The owner or person incharge of a ferocious animal shall not allow such animal to be at large without being muzzled or to be set on or urge such animal to attack, worry or intimidate any person, or knowing or having reason to believe that any animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies. In case he falls or neglects to give immediate information of this fact to the Executive Officer/Secretary in-charge of committee or conceals this fact or gives false information, he shall be liable to pay a penalty at rates notified by the committee or shall be prosecuted as per law. The ferocious animal shall be impounded by the committee as per Clause 4.*

8. ***Injury to livestock.-***

Any person who keeps an animal, which causes any damage by killing or injuring the livestock, is liable for such damage.

9. ***Seizure, Detention and Sterilization of Stray Animal.***

(1) *An official duty authorized by licensing authority may seize any animal found on the highway or in public place, which he has*

reason to believe to be a stray animal and detain it for a week or until the owner of such animal has claimed for it and paid all expenses incurred by the committee for its detention in addition to the fee as per Clause 4(a). If the animal bears a Branding Code, the committee may serve a written notice to the owner stating that the animal has been seized and is liable to be sold by way of auction or disposed of as may be decided by the committee, if not claimed within seven days after the service of the notice.

- (2) *The stray animal found moving in streets/roads/any public place within the municipal limits by the private individual, Animal Welfare Organization(s) shall be caught and handed over to the official incharge of the committee, for impounding in the cattle pound or enclosure fixed for this purpose by the committee. The abovesaid cattle pound or enclosure shall have a boundary wall of such height as the animal inside the enclosure is not able to cross/jump.*

10. Fund for compensation and Insurance.

All the revenue collected by way of registration/renewal fee and penalty charges shall be used for the following purposes, namely:-

- (a) for maintenance of cattle pound;*
- (b) for payment of compensation to the victims of stray cattle;*
- (c) for payment of premium for third party insurance of registered animals; and*
- (d) cost of identification and veterinary health care of stray animals.*

11-12 XXXXXXXXXXXXXXXXXXXX”

(vi) THE HARYANA PANCHAYATI RAJ ACT, 1994

Section 210. (1) A Gram Panchayat, Panchayat Samiti and Zila Parishad with the previous sanction of the Government shall, from time to time, make by notification in the Official Gazette, bye-laws consistent with the provisions of this Act and the rules made there under for carrying out all or any of the purposes of this Act, and without prejudice

to the generality of the foregoing powers such bye-laws may make provisions for all or any of the following matters, namely:-

- (i)-(xxv) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (xxvi) seizure and disposal of ownerless animals straying within the limits of the Gram Panchayat, Panchayat Samiti and Zila Parishad;
- (xxvii) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (xxviii) inspection and proper regulation of premises used as stables, cow houses or huses or enclosure for sheep, goats or swine ; and
- (xxix) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (2) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (3) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

(vii) WILDLIFE POLICY: FIXATION OF COMPENSATION NORMS FOR LOSS

The Government of Haryana had increased the compensation for loss sustained due to wild animals vide memo No.526F-4-2014/2997 dated 19.02.2014 as per the following table:

Sr. No.	Nature of damage caused by wild animals like Leopard etc.	Existing rate		Revised rate	
		Adult	Minor	Adult	Minor
(a)	In case of death due to attack of wild animal like Leopard etc.	30,000/-	20,000/-	2,00,000/-	70,000/-
(b)	Disability cause to human body due to attack of wild animals	15,000/-	10,000/-	1,00,000/-	35,000/-
(c)	In case of death of cattle due to lifting by Leopard/Hyena/Wolf				
		XXX	XXX	XXX	

POLICY FOR THE STATE OF PUNJAB

(I) THE PUNJAB COMPENSATION TO THE VICTIMS OF ANIMAL ATTACKS AND ACCIDENTS POLICY, 2023

Notified On 13.05.2023

“2. Definitions:-

In this policy, unless the context otherwise requires,

- (a) "Animal" means any Dog, Bull, Horse, Cow, Calf, Pony or any other stray animal
- (b) XXXXXXXXXXXXXXXX
- (c) "Animal Attack/accident Compensation Committee' means committee appointed under rule 4 of the Policy or modified by the Government time to time.
- (d) "Competent Authority" means concerned Commissioner of concerned Municipal Corporations, Executive Officer of concerned Municipal Councils/Nagar Panchayats, Sarpanch of concerned Gram Panchayats, Executive Officer of concerned Panchayat Samities, Chief Executive Officer-cum-Additional Deputy Commissioner (Development) concerned Zila Parishids or any other authority appointed by the government for the purpose of this policy.
- (e) "Stray animal" means an ownerless animal (male/female) found straying around within State of Punjab
- (f) XXXXX XXXXXX XXXXX

COMPENSATION AND PROCEDURE

3. Grant of Compensation for accident, attack or death with stray animal. Whosoever is the victim of the attack by any stray animal or accident caused due to stray animal shall be eligible for compensation as provided in this policy.

4. Animal Attack/accident Compensation Committer to determine Compensation.

- (1) There shall be an Animal Attack Accident Compensation Committee for each district to determine the amount of compensation to be granted to the victims as caused by accidents/attacks or deaths with stray animals
- (2) The Animal Attack Accident Compensation Committee shall consist of following officers-

- (i) Deputy Commissioner
(Chairman)
- (ii) Additional Deputy Commissioner (Urban Development/General)
(Member)
- (iii) Additional Deputy Commissioner (Development)
(Member)
- (iv) Superintendent of Police, Traffic
(Member)
- (v) District Transport Officer
(Member)
- (vi) Chief Medical Officer
(Member)
- (vii) Deputy Director (Animal Husbandry)
(Member)

5. Application for grant of compensation under the policy:

The victim of the attack of animal shall file an application in Form-A to the Animal Attack Accident Compensation Committee for grant of compensation as per the provisions of this policy.

6. Notice to the concerned Competent Authority:

- (1) The Animal Attack/Accident Compensation Committee on receiving such application having complete information as required under Clause 5, shall issue notice to the concerned Competent Authority under whose jurisdiction such accident has happened.
- (2) The concerned competent authority or authority authorized by the same shall verify the facts and submit its recommendations within the specified period as given by the Animal Attack/Accident Compensation Committee.
- (3) In case, if the Animal Attack/Accident Compensation Committee feels any doubt regarding the grounds of death of a deceased person, the committee may mark an enquiry or appoint any local commissioner to determine the factual facts of the happening of such incident as caused by stray animal.
- (4) The Animal Attack/Accident Compensation Committee shall examine the causes/grounds of death of a deceased person on the basis of contents

as mentioned in FIR as well as the facts as mentioned under Section 174 of Cr.P.C. 1973.

7. Award of compensation by the Animal Attack/Accident Compensation Committee:

The Animal Attack/Accident Compensation Committee shall award the compensation to the legal heirs of the deceased person or to the permanently incapacitation Victim of attack after hearing the parties concerned and also shall pass detailed order of award of compensation or denying the same on merit of the case.

8. Compensation to be paid:

- (1) In case of **death**, the amount of compensation to the legal heirs of a deceased person shall be **Rs. Five lakh**.
- (2) In case of **permanent incapacitation** as certified by Civil Surgeon, the amount of compensation shall be **Rs. Two lakh**.

(9) Fund for compensation:

In rural areas, the concerned Panchayati Raj Bodies and in urban areas, concerned Municipal Councils Nagar Panchayats or Municipal Corporations shall be responsible to pay the award of compensation as determined by Animal Attack/Accident Compensation Committee from their own sources In case Gram Panchayats, Panchayat Samities or Zila Parishads do not have sufficient funds, then the Chief Executive Officer cum Additional Deputy Commissioner (Development) will send a proposal for demand of funds to Department of Rural Development and Panchayats. In the cases where Gram Panchayats, Panchayat Samities, Zila Parishads, Nagar Panchayats, Municipal Councils or Municipal Corporations do not have adequate funds in order to pay the award of compensation as determined by Animal Attack/Accident Compensation Committee, the State Government shall arrange the adequate funds in order to pay the amount of compensation to the victim.

10. Authorities liable to pay compensation:

The concerned Urban Local Authority or Rural Development Department Authority shall be responsible for grant of compensation to the victim of such stray animal attack/death happened within its jurisdiction.

Provided that applicant victim/deponent shall make such authority as respondent to prove the case against the same.

11. XXXXXXXXXXXXXXX

12. **Limitation:**

No claim made by the victim or dependent(s) shall be entertained after a period of one year from the date of occurrence of the accident with stray animal. However, in deserving cases, if the Animal Attack/Accident Compensation Committee finds valid reasons for the delay beyond one year, then the committee can condone such delay.

No such application can be entertained after three years of occurrence of accident.

13 XXXX XXXX XXXX XXXX.”

(ii) **THE PUNJAB MUNICIPAL ACT, 1911**

Section 109. Disposal of mad and stray dogs and other animals.-

- (1) The committee may-
 - (a) authorise any person-
 - (i) to destroy, or cause to be destroyed, or confine or cause to be confined for such period as the Committee may direct, any dog or other animal suffering, or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected as aforesaid;
 - (ii) to confirm, or cause to be confined , any dogs found wandering about streets or public places without collars or other marks distinguishing them as private property and charge a fee for such detention and destroy or otherwise dispose of any such dog if it is not claimed within one week, and the fee paid;

(b) issue a temporary or standing order that any dog without collars or other marks distinguishing them a private property, found straying on the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed and destroy or cause them to be destroyed accordingly. Public notice shall be given of any such order.

XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

Section 188. General bye-laws.-

A Committee may, and shall if so required by the State Government by bye law,-

(a-q) XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

(r) provide for the seizure and confiscation of ownerless animals straying within the limits of the municipalities.

(s) provide for the registration of all or any specified classes of dogs and in particular and without prejudice to the generality of foregoing-

(i-ii) XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

(iii) provide that any dog, not registered and wearing such token, may if found in any public place, be detained at a place to be set apart for the purpose and will be liable to be destroyed or otherwise disposed of after a period to be specified in the bye laws;

(iii) THE PUNJAB MUNICIPAL CORPORATION ACT, 1976

Section 323. Prohibition of nuisances. –

(1) XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

(2) XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX

- (3) The owner or keeper of any animal shall not allow it straying in a public street or public place without a keeper.
- (4) Any animal found straying as aforesaid may be removed by an officer or employee of the Corporation or by any police officer to a pound.
- (5) xxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxx

Section 324 xxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxx

Section 325. Registration and control of dogs. –

- (1) The Corporation may, by bye-laws made in this behalf-
 - (a) require the registration, by the registration authority appointed by the Commissioner in this behalf of all dogs kept within the City;
 - (b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof ;
 - (c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose; and
 - (d) xxxxxxxx xxxxxxxxxxxxxx xxxxxxxxxxxxxx
- (2) This Commissioner may
 - (a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;

- (b) by public notice direct that, after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed and cause them to be destroyed accordingly.
- (3) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (4) No one, being the owner or person in charge of any dog, shall allow it to be at large in any public street or public place without being muzzled and without being secured by a chain lead in any case in which-
- (a) he knows that the dog is likely to annoy or intimidate any person, or
- (b) the Commissioner has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads.
- (5) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- XXXXXXXXXX

Section 344 Seizure of certain animals. –

If any horses, cattle or other quadruped animals or birds are kept on any premises in contravention of the provisions of Section 343, or are found abandoned and roaming or tethered on any street or public place or on any land belonging to the Corporation, the Commissioner or any officer empowered by him may seize them and may cause them to be impounded or removed to such place as may be appointed by the Government or the Corporation for this purpose and cost of seizure of

these animals or birds and of impounding or removing them and of feeding and watering them shall be recoverable by sale by auction of these animals or birds:

Provided that anyone claiming such animal or birds may, within seven days of the seizure get them released on his paying all expenses incurred by the Commissioner in seizing, impounding or removing and in feeding and watering such animal or bird, and on his producing a licence for keeping these animals and birds issued under the provisions of Section 343.

- (2) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (3) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

XXXXXXXXXXXXXXXXX|

Section 399. Powers to make bye-laws. –

- (1) Subject to the provisions of this Act the Corporation may in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters, namely :-

A-D xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

E. Bye-laws relating to sanitation and public health -

- (1-4) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

- (5) the regulation or prohibition of the stabling or herding of animals or any class of animals so as to prevent danger to public health;
- (6) the seizure of ownerless animals straying within the limits of the City and the regulation and control of ponds ;

- (7) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (8) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (9) the segregation in or the removal or exclusion from
any part of the City or the destruction of animals
suffering or reasonably suspected to be suffering from
any infectious or contagious disease;
- (10-12) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

F-J xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

(IV) **THE PUNJAB PANCHAYATI RAJ ACT, 1994**

Section 30. Functions of Gram Panchayats. –

Subject to such conditions as may be prescribed by the State Government from time to time, the Gram Panchayat having regard to the availability of funds at its disposal, shall perform the function specified below:—

- (I) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (II) **Construction, repair and maintenance of community assets—**

(a-e) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

(f) ponds for animals, cattle and sheds for cart, bicycle,
rickshaw, and auto stand;

(g-u) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (III) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (IV) **Animal Husbandry, Dairying and Poultry—**

(a-d) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

(e) Collection and destruction of stray animals;

(f) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (V-XV) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (XVI) **Public Health and Family Welfare—**

- (a-e) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (f) destruction of stray dogs;
- (g-h) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

XXXXXXXXXXXXXX

Section 122. Power of Panchayat Samiti to make bye-laws.—

(1) A Panchayat Samiti may, and if required by the State Government shall, from time to time, make by notification in the official Gazette bye-laws consistent with the provisions of this Act and the rules made thereunder, for carrying out all or any of the purpose of this Act, and, without prejudice to the generality of the forgoing power such bye-laws may make provision for all or any of the following matters, namely.

- (i-xxviii) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (xxix) seizure and disposal of ownerless animals straying within the limits of the Panchayat Samiti area;
- (xxx) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx
- (xxxi) inspection and proper regulation of the premises used as staples, cow-houses or houses or enclosures for sheep, goats or swine; and
- (xxxii) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

(2) xxxxxxxx xxxxxxxxxxxx xxxxxxxxxxxx

XXX XXX XXX

NATIONAL HIGHWAY ACT, 1956

“Section 4. National highways to vest in the Union.—

All national highways shall vest in the Union, and for the purposes of this Act “highways” include—

- (i) all lands appurtenant thereto, whether demarcated or not;
- (ii) all bridges, culverts, tunnels, causeways, carriageways and other structures constructed on or across such highways; and
- (iii) all fences, trees, posts and boundary, furlong and milestones of such highways or any land appurtenant to such highways.

Section 5. Responsibility for development and maintenance of national highways.—

It shall be the responsibility of the Central Government to develop and maintain in proper repair all national highways; but the Central Government may, by notification in the Official Gazette, direct that any function in relation to the development or maintenance of any national highway shall, subject to such conditions, if any, as may be specified in the notification, also be exercisable by the Government of the State within which the national highway is situated or by any officer or authority subordinate to the Central Government or to the State Government.”

XXX XXX XXX

NATIONAL HIGHWAY AUTHORITY OF INDIA ACT, 1988

“16. Functions of the Authority.—

- (1) Subject to the rules made by the Central Government in this behalf, it shall be the function of the Authority to develop, maintain and manage the national highways and any other highways vested in, or entrusted to, it by the Government.
- (2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may, for the discharge of its

- functions— (a) survey, develop, maintain and manage highways vested in, or entrusted to, it;
- (b) construct offices or workshops and establish and maintain hotels, motels, restaurants and rest-rooms at or near the highways vested in, or entrusted to, it;
- (c) construct residential buildings and townships for its employees;
- (d) regulate and control the plying of vehicles on the highways vested in, or entrusted to, it for the proper management thereof;
- (e) develop and provide consultancy and construction services in India and abroad and carry on research activities in relation to the development, maintenance and management of highways or any facilities thereat;
- (f) provide such facilities and amenities for the users of the highways vested in, or entrusted to, it as are, in the opinion of the Authority, necessary for the smooth flow of traffic on such highways;
- (g) form one or more companies under the Companies Act, 1956 (1 of 1956) to further the efficient discharge of the functions imposed on it by this Act; 1
- [(h) engage, or entrust any of its functions to, any person on such terms and conditions as may be prescribed;]
- (i) advise the Central Government on matters relating to highways;
- (j) assist, on such terms and conditions as may be mutually agreed upon, any State Government in the formulation and implementation of schemes for highway development;
- (k) collect fees on behalf of the Central Government for services or benefits rendered under section 7 of the National Highways Act,

1956 (48 of 1956), as amended from time to time, and such other fees on behalf of the State Governments on such terms and conditions as may be specified by such State Governments; and

(l) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act. (3) Nothing contained in this section shall be construed as—

- (a) authorising the disregard by the Authority of any law for the time being in force; or
- (b) authorising any person to institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not otherwise be subject under this Act.”

Perusal of the above provisions establishes that the Statute has cast a duty on these institutions of local self government as well as Panchayats to take all requisites steps to check the menace of stray animals and stray dogs to prevent injury to individuals as a result of the same. The duty having thus been imposed on these agencies, the State acknowledges its obligation to put effective measures to check the above menace. In its bid to tackle the problem at the grass root level, there has been delegation of the said functions by the state to such authorities.

STRAY ANIMALS AND LOCAL BODIES: LAW AND ANALYSIS

This Court had directed payment of compensation to the claimants in the matter of **Savitri Yadav Versus State of Haryana and others** bearing **CWP No.8832 of 2016** decided on **16.09.2019** , wherein the provisions of Haryana Municipal (Registration and Proper Control of Stray Animals) Bye-

Laws 2006 were under consideration. It was held by this court that the custodian of the stray animals is the State and the Municipality. It is their duty to round them up with the help of their enforcement staff on everyday basis by keeping in view the preponderance of menace of stray cattle. When the Municipality fails to carry out its statutory obligation of keeping the citizens/residents free from possible harm from stray animals, they become liable to compensate for such injury(ies). A compensation of Rs.20 lacs was awarded in the said case. The relevant extract of the same is reproduced hereinafter below:

“12. Firstly, I have to deal with the objection raised by the learned counsel for the respondents that this petition is not maintainable in view of Paragraph 2 (f) of the Bye-laws which defines “court” as Civil Court having jurisdiction over the area. It is further provided in Paragraph 7 (b) that an appeal can be filed against the order of the lower court within a period of fifteen days before the appellate court. Paragraph 9 (1) of the Bye-laws is relevant and reads as under:

“An Official duly authorised by the licensing authority to seize any animal found on the highway or in public place which he has reason to believe to be a stray animal and detain it for a week or until the owner of such animal has claimed for it and paid all expenses incurred by the committee for its detention in addition to the fee as per clause 4(a). If the animal bears a Branding Code, the committee may serve a written notice to the owner stating that the animal has been seized and is liable to be sold by way of auction or disposed off as may be decided by the committee, if not claimed within seven days after the service of the notice.”

13. The aforesaid provisions cast a statutory duty on the Municipality and its officials to remain vigilant in carrying out duties and removing stray cattle from public places and commit the

same to the cattle pounds maintained out of the funds and revenue collected by way of registration/renewal fee and penalty charges.

14. The matter can be examined from another angle. Paragraph 2 (i) defines “owner” as the owner of an animal and includes any other person in possession or custody of such animal whether with or without the consent of the owner. Paragraph 2 (j) defines “stray animal” to mean an ownerless animal (male/female) as defined in clause (b) of Paragraph 2 found straying within municipal limits. In my view, as per Paragraph 2 (i) defining “owner”, the word “person” has to be read in animate and inanimate form. The Municipality is also a “person” in law and it is bound by statutory duty and the principles of strict and vicarious liability and is strictly liable to compensate bodily harm caused to man by stray animals in municipal area. The custodian of stray animals is the State and the Municipality and it is their duty to round them up by their enforcement staff regularly and on an everyday basis by keeping in mind the preponderance of the menace of stray cattle on roads. It is their job to brand stray animals and it is for the owner to prove to the contrary. The liability first falls surely and inevitably on the shoulders of the Municipality to keep public places free from stray cattle at all times. If the Municipality fails to carry out its statutory obligations to keep citizens free from possibilities of harm from stray animals and this duty cannot be abdicated. They are liable to compensate family on account of death of member due to injuries caused to person by stray cattle attacks or injuries received by users of public places, for which facilities, roads and markets etc. they pay municipal taxes, state taxes, central government taxes, fees, levies etc.

15. Mr. Vivek Singla, learned Amicus Curiae cites the well known Supreme Court judgment in “**Smt. Nilabeti Behera alias Lalita Behera vs. State of Orissa and others, AIR 1993 SC 1960**” to submit that in case of violation of fundamental right to life, the State is enjoined to pay monetary compensation. The writ remedy under Article 226 of the Constitution of India is justified. The defence of sovereign immunity is not available. Writ petition for

compensation is maintainable and it is not enough to relegate the victim to ordinary remedy of civil suit to claim damages. Though this was a case of death on account of injuries caused by the police in custodial death, the principles evolved are of universal application. Compensation of Rs.1.5 lacs was awarded in the case to the victim and it was observed that award of compensation in writ proceeding would be taken into account for adjustment, in the event of any other proceedings taken by the petitioner for recovery of compensation on the same ground so that the amount to this extent is not recovered by the petitioner twice over. It was further observed that such an order is just. It is also in consonance with the statutory recognition of the principle of adjustment provided in Section 357(5) Cr.P.C., 1973 and Section 141 (3) of the Motor Vehicles Act, 1988. The aforesaid principle in Nilabeti Behera (supra) has been proliferated in other fields of law including in cases of death by electrocution, motor accident, Section 357 (5) of the Cr.P.C. and other akin laws in the matter of award of compensation. This principle has also been applied to death caused due to stray cattle and the principles have also been extended to the case of psychiatric shock, which is in nascent use. In the present case also, the petitioner's husband had a fundamental right to life which has been extinguished due to negligence of the Municipality in not taking care of its duties by continuously rounding up stray animals from public places, streets and markets and confining them in pounds.

16. In the case of Sushma Rani (supra) also, the husband of the petitioner was killed by a stray bull in 2014 when he was on his way to a construction site on his moped. He was seriously injured and taken to the Civil Hospital, Mandi Gobindgarh where he succumbed to the injuries caused by an enraged stray bull. In the aforesaid case also, an objection was taken of the regular remedy by way of filing a civil suit. In that case, the State of Punjab in its short affidavit had stated that no provision has been made for compensation in case of accidental death by the stray animals. However, as per the Punjab Municipal Corporations Act, 1976,

any animal found straying may be removed by an officer or employee of the Corporation or by any police officer to a pound. This Court had relied on the judgment rendered in **Parminderjit Kaur and another vs. State of Punjab and others, 2015 (2) PLR 693** wherein an Engineer working in the Irrigation Department was hit by a stray animal from the back and suffered grievous injury. He was taken to hospital where he was declared dead. This Court found that as per Section 182 (2) of the Punjab Municipal Act, 1911, any animal found picketed, tethered or straying on any public street without the permission of the Committee may be removed to a pound by any officer or servant of the committee or by a police officer. No such effort was made to take control of stray animal which had taken the life of a human being. Consequently, the Court awarded Rs.10 lacs as compensation with interest @ 9% per annum from the date of filing of the petition till the date of payment, leaving it open to the petitioner to approach the regular court for any sum in excess of what was assessed by the writ Court. Having relied on the aforesaid judgment in *Parminderjit Kaur, Shakuntala and Parmeshwar, supra* in the case of *Sushma Rani*, this Court allowed compensation vide order dated 24.2.2016. LPA against the judgment in *Sushma Rani* filed by the State was dismissed by a Division Bench of this Court in LPA No.1405 of 2016 vide order dated 24.8.2016 permitting the withdrawal of the appeal.

17. In the present case, death admittedly occurred due to attack by stray animal i.e. bulls and inquest report and post mortem report prove without any iota of doubt that the death was as a result of injuries suffered in a cross fire of two raging bulls in a busy market. Accordingly, the objection as to the maintainability of writ petition is over-ruled. The writ court has sufficient power and authority to award adequate compensation in the present case.

18. The State and the Municipality, in my view, is the constructive owner of *res nullius* and all stray animals which can cause potential harm, and therefore, the offending bull in the present case will be deemed to be in their care, custody and

possession with an obligation to round them up. This strict responsibility is not to be seen to be lightly shirked and brushed aside to deny a just claim. It is not enough to send the aggrieved party to the civil court to prosecute a protracted litigation to find the true owner when the ingredients of award of compensation are amply available on record and satisfied in this case. If they do find the owner, they can always pass on the compensation after it is paid. The widow must be compensated for her terrible loss in her middle age when she would have needed her husband the most.”

(Emphasis supplied)

A compensation of Rs.10,00,000/- was awarded by this Court in the case of **Parminderjit Kaur and another Vs. State of Punjab and others** bearing **CWP No.4847 of 2012** decided on **09.01.2015** by referring to Article 226 of the Constitution of India. The duty was cast upon the Municipal Council under Section 182(2) of the Punjab Municipal Act, 1911.

The Delhi High Court also directed payment of compensation in the matter of **Shakuntala Vs. Government of NCT of Delhi and another** bearing **Writ Petition (Civil)-13771-2006** decided on 01.07.2009, where the petitioners had sustained injuries as a result of raging bulls entangling leading to the victims passing away. It was observed by the Delhi High Court as under:

“16. The relief of compensation under public law, for injuries caused on account of negligent action, or inaction or indifference of public functionaries or for the violation of fundamental rights is a part of the evolving public law jurisprudence in India. The High Courts' and the Supreme Court's powers, under Article 226 and Article 32 respectively, to mould the relief so as to compensate the victim has been affirmed by the Supreme Court on numerous occasions including Common Cause, A Registered Society V. Union of India, (1999) 6 SCC 667, Chairman Railway Board V. Chandrima Das, (2000) 2 SCC 465, Delhi Domestic Working Women's Forum V. Union of India, (1995) 1 SCC14, D.K. Basu V. State of W.B, (1997) 1 SCC 416, Postsangbam Ningol

*Thokchom (Smt) And Another, Appellants; V. General Officer Commanding 1997 (7) SCC 725; Rudul Shah V. State of Bihar, (1983) 4 SCC 141. The concept of compensation under public law must be understood as being different from the concept of damages under private law. Compensation under public law must not be merely seen as the monetary equivalent for compensating towards the injury caused, but also understood in the context of the failure of the State or state agency, to protect the valuable rights of the citizens, particularly of the marginalized and the disempowered. In the decision reported as **State of A.P. v. Challa Ramakrishna Reddy & Ors 2000 (5) SCC 712**, the Supreme Court emphasized that the nature of the proceedings - through writ petitions or through other civil jurisdictions, would not make any difference, in applying the principles for award of damages in case of violation of a public law right or entitlement, of a citizen, or where he complains of violation of fundamental rights.*

17. *It has been established now, for nearly three decades, that the right to life enshrined in Article 21 is not a right to mere vegetative ("animal") existence, but to a life with dignity and a decent standard of living. The injury, suffered due to the state's or its agencies' neglect in the performance, or the wrongful performance of its duties, is as actionable in public law, as in tort. In this background the failure of the State to prevent the occurrence of negligent acts by its employees, or those who are accountable to it, within premises under its control, or in respect of zones of activities falling within their jurisdiction strikes at the root of the right to life, guaranteed under Article 21 of the Constitution of India.*

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23. ***In Common Cause (Regd. Society) v. Union of India (UOI), & Govt. of NCT of Delhi, MCD and NDMC and Ram Pratap Yadav v. MCD (decided on 03.11.2000)*** a decision of this Court, the court was concerned with the precise duty of the MCD to maintain public roads and streets and ensure that they are free of stray cattle, for the safety of road users (which would include pedestrians, those plying vehicles and vendors on footpaths, etc.) it was observed that-

“14. The menace of stray cattle is hazardous and causes traffic snarls. It affects the safety of human beings on the road. It has the potential to cause accidents. Besides, it depicts a very dismal picture of the capital. It is also very cruel on the bovine animals as they are let loose on the roads because the owners do not want to feed them. These animals have to fend for themselves. They eat whatever comes in their way including garbage and plastic bags. This affects their health and causes extreme trauma to them. We also find that Gosadans, by and large, have not been able to fulfill the purpose for which they were established. The fact that the animals which were made over to Gosadans have disappeared speaks volumes about their working. The capital city of Delhi should be a show window for the world. The stray cattle on the roads gives a wrong signal. Cattle and other animals which are let loose on the roads by their owners and also responsible for filth, squalor and outbreak of diseases.

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16. It appears that the State and its agencies are impervious to the menace of stray cattle. They have not taken any effective steps to prevent the cattle and the bovine animals from taking to the roads. This has affected the quality of life of the citizens. The inaction of the state and its agencies impinges upon the fundamental right of the citizens under Article 21 of the Constitution. Under Article 48 of the Constitution, the State inter alias is required to protect and safeguard the forests and wild life. The State by neglecting to perform its duty in preventing the menace of stray cattle is avoiding implementation of Article 48 of the Constitution. It is the duty of the State to keep in view the directive principles of the State policy which are fundamental in the governance of the country and to apply those principles in making the laws. No effective law has been made to prevent the owners of bovine animals including cattle and cows from being let loose. In the facts and circumstances, therefore, it has become necessary to give directions to the State to control and prevent the menace of stray cattle.

17. Accordingly, we direct and observe as follows:-

.....

3. The MCD and the NDMC shall employ sufficient number of vehicles to ferry the impounded cattle.

4. The MCD, the NDMC and the police department should work together to stop the menace of stray cattle.

5. Co-ordination Committees shall be constituted in each of the Police Districts. Each committee shall consist of the Deputy Commissioner, MCD of the area/Secretary, NDMC, and the Deputy Commissioner of Police of the concerned District. The two-member Committee shall be responsible for eradicating the menace of stray cattle.

.....

7. Cattle and bovine animals located in Delhi shall have a tag number tied around their necks. The tag number must be indicative of the owner to whom the animal belongs so that there is no difficulty in tracing the owner.

8. Prosecutions should be launched under Section 98 of the Delhi Police Act, 1978, and Section 289 of the Indian Penal Code, 1860 against the owners of any cattle and bovine animals which are found on the streets and roads.

9. The MCD and the NDMC should employ sufficient number of persons to catch stray cattle and bovine animals. Once they are caught they shall be impounded and may be released only on payment of fine of at least Rs. 1,000/- each. The vehicles which are used for carrying impounded cattle and bovine animals ought to be fitted with ramp in order to obviate the chance of injury to them. The transit and handling of cattle and bovine animals after being impounded shall be in consonance with the provisions of the Prevention of Cruelty to Animals Act, 1960.

.....

18. The roads of Delhi should be made free of stray cattle and bovine animals by 1st February, 2003. No cattle or

bovine animals shall be permitted on the roads after the aforesaid date. The responsibility to comply with the order will be that of the aforesaid Committee in their respective areas.”

24. In a decision of the **Rajasthan High Court Sanjay Phophaliya v. State of Rajasthan and Ors. AIR 1998 Raj 96** placing reliance on **L.K. Koolwal v. State of Rajasthan AIR 1988 Raj 2** it was observed that-

“it is primary, mandatory and obligatory duty of Municipality to keep city clean and to remove insanitation, nuisance etc. The Municipality cannot take plea whether funds or staff is available or not.”

It was further observed that-

“9. It is a serious matter when the dogs and other animals suffering from rabies bite animals and persons. The duty becomes more onerous on the respondents with regard to the dogs and such animals. The staff cannot say that its duty is complete if action is taken only on complaints. They must not sit in the office but should continuously take round of the city. If any inaction is found on the part of the staff, the respondents are bound to take disciplinary action against such staff. If still any accident happens, then the injured person or relative of the deceased person would be competent to invoke the provisions of Section 188 of IPC against such a negligent staff. It is expected that the roads of Jodhpur be cleaned from these stray animals within a period of four months from today. The respondents would be free to get work through contractors.”

25. In **Milkmen Colony Vikas Samiti v. State of Rajasthan and Ors. and Shri Ghanchi Mahasabha, Jodhpur v. Rajasthan Chapter of Indian Association of Lawyers and Ors. AIR 2007 SC 1046** the Supreme Court directed the Municipal Corporation of Jodhpur to remove unattended stray animals, such as, stray cattle, bulls, dogs, pigs etc. from the city of Jodhpur as expeditiously as possible and in any event on or before 30th April, 2007. Further, in a string of decisions by various High Courts it was observed that keeping the public streets free from the menace of stray animals is the primary duty of the municipal

bodies. In the light of these decisions, it is held that the duty to maintain streets and public roads free of stray cattle is that of the MCD. This duty is owed to all members of the public, and is an absolute obligation.”

(Emphasis supplied)

WILD ANIMAL:

Similarly, a compensation on account of death due to attack by blue buck/cow (Nilgai) was awarded to the tune of Rs.5,12,500/- in the matter of **Sukhdev Kaur and others Versus State of Haryana and others** bearing **CWP No.9865 of 2014** decided on **11.05.2016**. Principles of Motor Vehicle Act, 1988 were applied for computing the compensation in the said case. The relevant extract of the same is reproduced hereinafter below:

“5. There is no dispute that Jaswinder Singh has been killed by blue cows (Nilgains) and his case falls within the parameters of attack by wild animal causing his death. It is also not in dispute that earlier, as per the instructions dated 03.11.1998 of the Department of Wild Life Preservation, compensation was to be paid to the tune of Rs.30,000/- in case of death of an adult due to attack of wild animals, which has now been revised to the tune of Rs.2 lacs by way of instructions dated 19.02.2014. However, the question would be as to whether the petitioners should be satisfied with Rs.2 lacs or the compensation has to be assessed keeping in view the longevity of life of the deceased, multiplied with his monthly earning and the multiplier of years he would have lived, as per the formula which is being used in case of deaths in a vehicular accident.

6. There is no dispute that the deceased was 39 years of age at the time of his death and has left behind three dependents, out of which one is his widow and two are his minor sons of the age of 15/16 years. Since the deceased was a healthy male and was doing agricultural work as there is nothing else brought on record in respect of his occupation, he must have been earning the minimum

of Rs.4,000/- per month which, after multiplying with 12, comes to Rs.48,000/- per year. He would have also spending 1/3rd of his earning on himself, therefore, the amount of Rs.48,000/- is reduced to Rs.32,000/- and by applying the multiplier of 16, which is provided in the Motor Vehicles Act, 1988 for a person between the age of 35 to 40 years, the compensation assessed would be Rs.5,12,000/-, which shall be paid to the petitioners instead of Rs.2 lacs. If Rs.30,000/- has already been paid, then the said amount has to be deducted from the amount of compensation determined by this Court. The amount of compensation shall be paid by the respondents with 9% interest to be calculated from the date of application filed for compensation, within a period of 3 months from the date of receipt of certified copy of this order.”

STRAY DOGS AND COMPENSATION:

In the matter of **Anupam Tripathi Versus Union of India and others** reported as **(2016) 13 SCC 492**, the Hon'ble Supreme Court observed that many children were becoming easy and innocent targets of the stray dogs and that the children being the fundamental embodiment of human race deserve due care and protection from any kind of attack by stray dogs. Referring to the provisions of Animal Birth Control (Dogs) Rules 2001, it was held that obligation of Local Authorities is to prevent harm to human beings while maintaining compassion to stray animals. Directions were issued to Local Authorities to maintain sufficient number of dog pounds/animal kennels/shelters, dog vans for capturing and transportation of stray dogs, trained dog catchers and other facilities including the periodical care of the shelters/bounds. The Local Authorities were also required to sterilize/immune the stray dogs with the participation of the concerned organizations amongst others and the expenses were to be reimbursed at the rate to be fixed by the Committee on fortnightly basis based on proper sterilization/immunization.

Noticing that the victims have to undergo severe pain, a Committee was formed for the State of Kerala and interim ex-gratia compensation was awarded to the victim. Such Committee exists only in Kerala so far and the same has not been replicated by the other States. The Bombay High Court also granted compensation against the Civil Authorities in the case of **Maruti Shrishailya Hale and others Vs. Commissioner, Sangli Miraj Kupwad Corporation and others** reported as **2018 SCC OnLine Bom. 7549**.

A Division Bench of the Himachal Pradesh High Court in the judgment of **Court at its own motion Versus State of Himachal Pradesh** reported as **2010 SCC OnLine HP 358** directed compensation of Rs.1,00,000/- to the child who was bitten by a stray dog.

Similar order was also passed by the Division Bench of Allahabad High Court in **Writ (Civil) No.4099 of 2022** and an interim compensation of Rs.1,50,000/- was awarded in an incident of dog bite.

Similarly, Karnataka High court also awarded compensation in the matter of **Mr. Yusub Vs. State of Karnataka and others** bearing **Writ Petition No.110352 of 2019** decided on 10.04.2022 and directed the District Administration as well as Local Authorities to pay compensation of Rs.10,00,000/- to the petitioner whose minor son had sustained injuries due to dog bite and eventually passed away.

Hence, there are numerous instances where the State has been held liable to pay compensation on account of death/injuries due to stray animals /wild animals or dogs. However, at the same time, there are numerous instances where the parties have been relegated to the common law alternative remedy available to them since disputed questions of facts were found arising in the matter. Hence, the public law remedy has been invoked and exercised by the

Constitutional Courts and at the same time, the jurisdiction has not been exercised noticing that facts pleaded need to be established by evidence.

PUBLIC SAFETY AND ARTICLE 21: ANALYSIS

The question which arises next is as to whether Article 21 of the Constitution of India has to be read into public safety statutes/provisions since the prime object of Public Safety Legislation is to protect the individual and compensating him for the loss suffered. The duty of care expected from State or its officials functioning under the Public Safety Legislation is, therefore, very high compared to the statutory powers and supervision desired under any other Statutes. The Hon'ble Supreme Court of India dealt with the issue as to whether or not to award compensation for violation of right to life and personal liberty guaranteed under Article 21 of the Constitution of India in the matter of **Rudul Sah Versus State of Bihar** reported as **1983 (4) SCC 141**. The stand of the State was that the claimant/victim should seek remedies under the ordinary Civil Law, however, this contention was rejected by the then Chief Justice of India, Mr. Y.V. Chandrachud as it would have amounted to rob Article 21 of its significant content. The Hon'ble Chief Justice of India observed that relegating the petitioner to ordinary remedy of a Civil Suit would have only prolonged the misery of the person who had been kept in prolonged detention despite his acquittal. The Hon'ble Supreme Court of India had awarded compensation for violation of fundamental rights in various other cases also including the matter of **Sebastian M. Hongray Versus Union of India** reported as **(1984) 3 SCC 544**; **Bhim Sen Vs. State of Jammu & Kashmir** reported as **AIR 1986 SC 494**; **Saheli Vs. Union of India Vs. Union of India** reported as **AIR 1990 SC 513** and **State of Maharashtra Vs. Ravi Kant Pathak** reported as **AIR 1991 SC 71**.

The legal proposition propounded in the abovesaid cases was that the Union of

the State Government would be liable for tortuous acts committed by their officials in violation of Article 21 of the Constitution of India.

The nature of liability was however, not clearly spelt out by the Hon'ble Supreme Court in the above said decisions, which was extensively dealt with in the case of **Nilabati Behara Vs. State of Orissa, AIR 1993 SC 1960**, wherein it was held appropriate to spell out clearly the principles on which the liability of the State arises for payment of compensation and drawing distinction between "liability" and the "liability in law" for payment of compensation in an action of torts. The judgment in the matter of **Nilabati's case** (Supra) was inspired by the Privy Council decision in the matter of **Ramesh Lawrence Maharaj Vs. The Attorney General of Trinidad and Tobago (1978) 2 All England Reports 670**. Amongst the earlier cases reported in India, the Government was recognized as liable for the tort committed by its officials while acting in discharge of their statutory duties in the matter of **Peninsular Oriental Steam Navigation Company Versus Secretary of State of India (1868-69) 5 Bombay High Court APP.2 Page-1**. A distinction was, however, drawn between sovereign and non-sovereign functions of the East India Company and it was held that maintenance of dockyard is a non-sovereign function, hence, the Government was not liable for negligence of its servants. The abovesaid point of view was, however, not followed by the Courts of Madras and Bombay in subsequent judgments of **Secretary of State for India Versus Hari Bhanji, ILR (1882) 5 Madras 272** and **P.V. Rao Versus Khushaldas S. Advani, AIR 1949 Bombay 277**.

A Full Bench of Punjab and Haryana High Court in the matter of **Roop Ram Versus State of Punjab reported as AIR 1971 P&H 336** held the State liable for torts of its servants. The point of law was reverberated in the

Judgment of Hon'ble Supreme Court in the matter of **Kasturilal Ralia Ram Jain Versus The State of Uttar Pradesh** reported as **AIR 1965 SC 1039**. The previously followed distinction between sovereign and non-sovereign functions was even though initially given much weightage and precedence and the traditional sovereign function such as making of laws, administration of justice, maintaining of law and order, repression of crime, carrying of war, the making of treaties and peace and other consequential functions etc., which were exclusively sovereign functions, were held to be covered under the defence of sovereign functions under the law of Torts. However, the plea of sovereign immunity was not made available in case of public law remedy for claiming monetary compensation for violation of fundamental rights, especially the right to life and personal liberty guaranteed under the Constitution of India by the Hon'ble Supreme Court in the matter of ***Nilabati Behara (Supra)***.

The principles which thus emerge about the nature and scope of new public law remedy in torts and compensatory jurisprudence evolved by the Hon'ble Supreme Court are as under:

- (i) Mandatory compensation for violation of fundamental rights is an acknowledged remedy in public law for enforcement and protection of fundamental rights;
- (ii) Such a claim is based on strict liability;
- (iii) Such a claim is distinct from, and in addition to the remedy in private law for damages for tort;
- (iv) This remedy would be available when it is the only practicable mode of redressal available; and
- (v) Against the claim for compensation for violation of fundamental rights in a writ petition under Article 226 of the Constitution of India, the defence of sovereign immunity may be inapplicable.

The remedy thus provided goes a long way in providing relief to the victims/claimants for violation of right to life and personal liberty

guaranteed under Article 21 of the Constitution of India. The remedy is, however, to be tempered by judicial restraint, to avoid circumvention of private law remedy.

The abovesaid judicial pronouncements established that public law remedy may be availed by a person under a given set of circumstances where the liability of the respondents is *per se* well established and made out on the principles of strict liability. The remedy for seeking compensation on account of failure of public duty is in addition to the private law remedy available before the Civil Court which is competent to look into the issue and award adequate compensation after examining the evidence. The invocation of public law remedy is however to be exercised with restraint and not as a means to circumvent the private law remedy. The public law remedy should not be extended as a routine but when it is the only practicable mode of redressal, in the exigencies of the respective case. A mere plea of hardship or delay cannot be construed as denial of private law remedy. The expectation of a faster adjudication cannot be the ground for bye-passing the well established procedure of law and pave way for ignoring the due process of law.

The issue of public safety and disbursement of compensation under the Constitutional remedies were also considered by the Hon'ble Supreme Court in the matter of **Sanjay Gupta and others Versus State of U.P.** reported as **(2022) 7 SCC 203**. The relevant extract of the same is reproduced hereinafter below:

“13. It was thereafter, the Division Bench of the Delhi High Court in a judgment reported as Assn. of Victims of Uphaar Tragedy & Ors. v. Union of India & Ors. 13 noticed the deviations in the building plans of the theater. The High Court considered a similar argument as was raised on behalf of the Organizers herein and held as under:

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48. In *D.K. Basu Vs.State of West Bengal (Supra)* it was held that the claim in public law for compensation for unconstitutional deprivation of fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for tortious acts of the public servants. Public law proceedings serve a different purpose than the private law proceedings. Award of compensation for established infringement of the indefeasible rights guaranteed under Article 21 of the Constitution is a remedy available in public law since the purpose of public law is not only to civilise public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved. Grant of compensation in proceedings under Article 32 or Article 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Article 21, is an exercise of the courts under the public law jurisdiction for penalising the wrongdoer and fixing the liability for the public wrong on the State which failed in the discharge of its public duty to protect the fundamental rights of the citizen. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend

upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit. Dr.Dhawan also relied upon the judgment reported as M.C. Mehta Vs.Union of India, 1987 (1) Supreme Court Cases 395, to contend that to justify the award of compensation, the requirement is that infringement must be gross, patent, incontrovertible and ex facie glaring. It is also his submission that the remedy of damages was an extra ordinary remedy where there was gross violation arising out of deliberate action or malicious action resulting in deprivation of personal liberty. It is submitted that the exemplary damages in public law were not to be confused with damages in private law for which private law remedies were available. The damages available for constitutional wrongs were by very nature exemplary and have a limited meaning and were not intended to be compensatory in nature. In support of his contentions, he refers to the judgments of the Supreme Court in Nilabati Behara Vs.State of Orissa, 1993 (2) Supreme Court Cases 746 and Indian Council for Enviro Legal Action and Others Vs.Union of India and Others, 1996 (3) Supreme Court Cases 212. In Nilabati Behara Vs.State of Orissa(Supra), it was held by the Supreme Court that it would, however, be appropriate to spell out clearly the principle on which the liability of the State arises in such cases for payment of compensation and the distinction between this liability and the liability in private law for payment of compensation in an action on tort. It may be mentioned straightway that award of

compensation in a proceeding under Article 32 by the Supreme Court or by the High Court under Article 226 of the Constitution is a remedy available in public law, based on strict liability for contravention of fundamental rights to which the principle of sovereign immunity does not apply, even though it may be available as a defense in private law in an action based on tort. This is a distinction between the two remedies to be borne in mind which also indicates the basis on which compensation is awarded in such proceedings. We shall now refer to the earlier decisions of this court as well as some other decisions before further discussion of this principle. The compensation is in the nature of 'exemplary damages' awarded against the wrongdoer for the breach to its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.

49. In Indian Council for Enviro Legal Action and Others Vs. Union of India and others (Supra), the Supreme Court had held that even if it is assumed that the Court cannot award damages against the respondents in proceedings under Article 32 of the Constitution of India that would not mean that the Court could not direct the Central Government to determine and recover the cost of remedial measures from the respondents. It was held that Section 3 of the Environment (Protection) Act, 1986 expressly empowered the Central Government to made all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment. The right to claim damages was left by institution of suits in appropriate Civil Courts and it was held that if such suits were filed in forma pauperis, the State of Rajasthan shall not

oppose those applications for leave to sue in forma pauperis.

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52. We have given our thoughtful consideration to the arguments advanced by Dr.Rajeev Dhawan that public law remedies by way of writ petition are normally limited to giving directions, providing interim and final injunctive reliefs and quashing decisions which are violative of the fundamental rights or violation of law and that the remedy of damages in public law is not available for each and every transgression of fundamental rights nor ultra vires acts by themselves give rise to damages and that where the disputes questions of fact involved, the party should be left to the normal course of getting the matter decided by a Civil Court but we have not been able to make ourselves agreeable with Dr.Rajeev Dhawan. We have already held in our judgment dated 29th February, 2000 that the petition for claiming damages in public law by filing a petition under Article 226 of the Constitution of India was maintainable. We have also already held that it was not a matter in which highly disputed questions of fact arose and it appears to be a matter in which facts could be ascertained very easily.

*14. An appeal against the said order was partly allowed in **Municipal Corporation of Delhi, Delhi v. Uphaar Tragedy Victims Association & Ors.** (2011) 14 SCC 481 wherein this Court held as under:*

“60. The contention of the licensee is what could be awarded as a public law remedy is only a nominal interim or palliative compensation and if any claimants (legal heirs of the deceased or any injured) wanted a higher compensation, they should file a suit for recovery thereof. It was contended that as what was awarded was an interim or palliative compensation, the High Court could not have assumed the monthly income of each adult who died as being not less than Rs 15,000 and then determining the

compensation by applying the multiplier of 15 was improper. This gives rise to the following question : whether the income and multiplier method adopted to finally determine compensation can be arrived at while awarding tentative or palliative compensation by way of a public law remedy under Article 226 or 32 of the Constitution?

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64. Therefore, what can be awarded as compensation by way of public law remedy need not only be a nominal palliative amount, but something more. It can be by way of making monetary amounts for the wrong done or by way of exemplary damages, exclusive of any amount recoverable in a civil action based on tortious liability..

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*67. Insofar as death cases are concerned the principle of determining compensation is streamlined by several decisions of this Court. (See for example Sarla Verma v. DTC [(2009) 6 SCC 121 : (2009) 2 SCC (Cri) 1002 : (2009) 2 SCC (Civ) 770] .) If three factors are available the compensation can be determined. The first is the age of the deceased, the second is the income of the deceased and the third is number of dependents (to determine the percentage of deduction for personal expenses). For convenience the third factor can also be excluded by adopting a standard deduction of one-third towards personal expenses. Therefore just two factors are required to be ascertained to determine the compensation in 59 individual cases. First is the annual income of the deceased, two-thirds of which becomes the annual loss of dependency; and second, the age of the deceased which will furnish the multiplier in terms of **Sarla Verma [(2009) 6 SCC 121 : (2009) 2 SCC (Cri) 1002 : (2009) 2 SCC (Civ) 770]** . The annual loss of dependency multiplied by the multiplier will give the compensation. As*

this is a comparatively simple exercise, we direct the Registrar General of the Delhi High Court to receive applications in regard to death cases, from the claimants (legal heirs of the deceased) who want a compensation in excess of what has been awarded, that is, Rs 10 lakhs/Rs 7.5 lakhs. Such applications should be filed within three months from today. He shall hold a summary inquiry and determine the compensation. Any amount awarded in excess of what is hereby awarded as compensation shall be borne exclusively by the theatre owner. To expedite the process the claimants concerned and the licensee with their respective counsel shall appear before the Registrar without further notice. For this purpose the claimants and the theatre owner may appear before the Registrar on 10-1-2012 and take further orders in the matter. The hearing and determination of compensation may be assigned to any Registrar or other Senior Judge nominated by the learned Chief Justice/Acting Chief Justice of the Delhi High Court.

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76.4. The licensee (appellant in CA No. 6748 of 2004) and the Delhi Vidyut Board are held jointly and severally liable to compensate the victims of the Uphaar fire tragedy. Though their liability is joint and several, as between them, the liability shall be 85% on the part of the licensee and 15% on the part of the DVB.”

15. In a separate order, Hon’ble Mr. Justice K.S.P. Radhakrishnan held as under:

“78. Private law causes of action, generally enforced by the claimants against public bodies and individuals, are negligence, breach of statutory duty, misfeasance in public office, etc. Negligence as a tort is a breach of legal duty to take care which results in damage or injury to another. Breach of statutory duty is conceptually separate and

independent from other related torts such as negligence though an action for negligence can also arise as a result of cursory and mala fide exercise of statutory powers. Right of an aggrieved person to sue in ordinary civil courts against the State and its officials and private persons through an action in tort and the principles to be followed in considering such claims are well settled and require no further elucidation.

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80. We are primarily concerned with the powers of the constitutional courts in entertaining such monetary claims raised by the victims against the violation of statutory provisions by the licensing authorities, licensees, and others affecting the fundamental rights guaranteed to them under the Constitution. The constitutional courts in such situations are expected to vindicate the parties constitutionally, compensate them for the resulting harm and also to deter future misconduct. The constitutional courts seldom exercise their constitutional powers to examine a claim for compensation merely due to violation of some statutory provisions resulting in monetary loss to the claimants. Most of the cases in which courts have exercised their constitutional powers are when there is intense serious violation of personal liberty, right to life or violation of human rights.

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*93. Liability to compensate for infringement of fundamental rights guaranteed under Article 21 was successfully raised in *Khatri (2) v. State of Bihar [(1981) 1 SCC 627 : 1981 SCC (Cri) 228]* (*Bhagalpur Blinded Prisoners case*).*

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96. Courts have held that due to the action or inaction of the State or its officers, if the fundamental rights of a citizen are infringed then the liability of the State, its officials and

instrumentalities, is strict. The claim raised for compensation in such a case is not a private law claim for damages, under which the damages recoverable are large. The claim made for compensation in public law is for compensating the claimants for deprivation of life and personal liberty which has nothing to do with a claim in a private law claim in tort in an ordinary civil court.

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98. But, in a case, where life and personal liberty have been violated, the absence of any statutory provision for compensation in the statute is of no consequence. Right to life guaranteed under Article 21 of the Constitution of India is the most sacred right preserved and protected under the Constitution, violation of which is always actionable and there is no necessity of statutory provision as such for preserving that right. Article 21 of the Constitution of India has to be read into all public safety statutes, since the prime object of public safety legislation is to protect the individual and to compensate him for the loss suffered. Duty of care expected from State or its officials functioning under the public safety legislation is, therefore, very high, compared to the statutory powers and supervision expected from the officers functioning under the statutes like the Companies Act, the Cooperative Societies Act and such similar legislations. When we look at the various provisions of the Cinematograph Act, 1952 and the Rules made thereunder, the Delhi Building Regulations and the Electricity laws the duty of care on officials was high and liabilities strict.” (Emphasis Supplied)

16. We find the precedents for payment of compensation in a writ petition under Article 32 of the Constitution fall under three categories of cases. First category is where the acts of commission or omission are attributed to the State or its officers such as Nilabati Behera, Sube Singh, Rudul Sah v. State of Bihar &

Anr., Bhim Singh, MLA v. State of J & K & Ors. and D.K. Basu v. State of W.B.

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58. *The State has paid Rs.2 lakhs each as ex-gratia compensation to the families of the deceased, Rs.1 lakh each for the persons who suffered serious injuries and Rs.50,000/- each for the persons suffering from minor injuries whereas the Union of India has paid ex-gratia compensation of Rs.1 lakh each for the deceased and Rs.50,000/- each for those with serious injuries. In terms of the order of this Court, the State has paid Rs.5 lakhs each to the deceased, Rs.2 lakhs each to the victims suffering serious injuries and Rs. 75,000/- each to the victims suffering minor injuries, apart from the amount paid by the Union of India.*

59. *The list of deceased and injured persons has been produced by the learned counsel for the petitioners. The amount of compensation payable to each of the victim including the families of the deceased have not been computed and such amount is required to be computed in accordance with the principles of just compensation as in the case of accident under the Motor Vehicle Act, 1988 by the Motor Accidents Claims Tribunal.”*

(Emphasis supplied)

Hence, while recognizing the entitlement of a person to claim compensation, it also acknowledged that the principles of Motor Vehicle Act, 1988 can be relied upon for computing compensation. The principles of the Motor Vehicles Act, 1988 were recognized by the Hon'ble Supreme Court to be a just principle and criterion for computing compensation and has been adopted even in cases of negligence resulting in death/ injuries. The said principles have now become cardinal in assessment of compensation laying down and objective and broad formula for computing compensation, which is also largely accepted by the masses.

NEGLIGENCE AND COMPENSATION UNDER PUBLIC LAW

The issue which arises next relates to what 'negligence' is 'actionable' and what is the meaning of 'negligence' for entertaining a claim under the Public Law for compensation.

The said question was examined by the House of Lords in the matter of **Donoghue Versus Stevenson**, reported as **1932 AC 562**. Lord Atken spoke on behalf of the Bench laying down an important rule that the manufacturer owes a duty of care in their manufacturing, to all persons who are foreseeably likely to be affected by the lack of care in the preparation of those products. It was further stated that negligence depends upon proof that one person has committed a breach of duty of care binding upon himself and owed to another, and has thereby caused injury to that other. The judgment laid the foundation for creation of a separate tort of negligence has since evolved as amongst most important tort. Actions under negligence far exceed those brought for any other tort. A two tier test was evolved in the judgment of **Anns Versus London Borough of Merton (1977)**, which was increased to a triple test in the judgment of House of Lords in **Caparo Industries PLC versus Dickman** reported as **1990 All England Reports 568**. The three requirements which were laid down were:-

- (i) There must be reasonable foreseeability of the relevant laws;
- (ii) It must be just and reasonable that a duty should exist; and
- (iii) There must exist relationship of proximity between the parties.

The concept of foreseeability and proximity has been accepted as a flexible concept as the bounds of foreseeability can be stretched or narrowed to almost certainty or virtually impossibility. It is the reasonableness i.e. the prudence of a reasonable person that has been applied to the foreseeability and proximity of relationship. Hence, a claimant is required to establish that the respondent/defendant owed a duty to him and to next establish that there was

breach of this duty on the parameters of a reasonable and prudent man to be guided by those considerations. The issue as regards compensation to be granted for the negligence shown by the statutory authorities has been under consideration for the Court in various matters. In a case relating to debris sliding down to the road and claiming lives of two persons, a claim was awarded against National Highway Authority of India. The defence taken by the National Highway Authority of India was to the effect that it had entered into an agreement with a concessionaire for maintenance and operation of said Section of the National Highway and that it had no further obligation and that the liability was cast on the concessionaire.

While dealing with the aspect of legality of the compensation awarded under Question –II in the matter of **The Director (Road Development) National Highway Authority of India Versus Aam Aadmi Lok Munch and others** bearing **Civil Appeal No.6932 of 2015** decided on **14.07.2020** , the Hon'ble Supreme Court noticed and recorded the following:

“54. The legal position regarding highways is outlined in two enactments, i.e. the National Highways Act, 1956 (“the Highways Act”) and the NHAI Act. The provisions of the Highways Act, to the extent they are relevant are as follows:

“4. National highways to vest in the Union. — All national highways shall vest in the Union, and for the purposes of this Act “highways” include—

(i) all lands appurtenant thereto, whether demarcated or not;

(ii) all bridges, culverts, tunnels, causeways, carriageways and other structures constructed on or across such highways; and

(iii) all fences, trees, posts and boundary, furlong and milestones of such highways or any land appurtenant to such highways.

5. Responsibility for development and maintenance of national highways.—It shall be the responsibility of the Central Government to develop and maintain in proper repair all national highways; but the Central Government may, by notification in the Official Gazette, direct that any function in relation to the development or maintenance of any national highway shall, subject to such conditions, if any, as may be specified in the notification, also be exercisable by the Government of the State within which the national highway is situated or by any officer or authority subordinate to the Central Government or to the State Government.

XXXXXX XXXXXX XXXXXX 8A. Power of Central Government to enter into agreements for development and maintenance of national highways — (1) Notwithstanding anything contained in this Act, the Central Government may enter into an agreement with any person in relation to the development and maintenance of the whole or any part of a national highway.

(2) Notwithstanding anything contained in section 7, the person referred to in sub-section (1) is entitled to collect and retain fees at such rate, for services or benefits rendered by him as the Central Government may, by notification in the Official Gazette, specify having regard to the expenditure involved in building, maintenance, management and operation of the whole or part of such national highway, interest on the capital invested, reasonable return, the volume of traffic and the period of such agreement. (3) A person referred to in sub-section (1) shall have powers to regulate and control the traffic in accordance with the provisions contained in Chapter VIII of the Motor Vehicles Act, 1988 (59 of 1988) on the national highway forming subject-matter of such agreement, for proper management thereof.”

55. Section 16 of the NHAI Act spells out the functions of the NHAI; it reads as follows:

“16. Functions of the Authority.— (1) Subject to the rules made by the Central Government in this behalf, it shall be the function of

the Authority to develop, maintain and manage the national highways and any other highways vested in, or entrusted to, it by the Government. rules made by the Central Government in this behalf, it shall be the function of the Authority to develop, maintain and manage the national highways and any other highways vested in, or entrusted to, it by the Government.”

56. Acting in furtherance of its powers, the NHAI entered into an agreement with the concessionaire for the construction, operation and maintenance of the highway in question (i.e. the stretch of 140 kms on which the accident occurred). The question is whether the NHAI, which indisputably owns and controls the highway, and on whose behalf it was constructed, and for which the maintenance and operation agreement was entered into, led to a duty of care, to the users (of the highway).

57. This issue had arisen in **Rajkot Municipal Corpn. v. Manjulben Jayantilal Nakum** in the context of certain facts. The deceased used to travel on a railway season ticket to Rajkot to attend to his office work. One day whilst he was on the footpath on the way to his office, a roadside tree suddenly fell on him, resulting in serious injuries on the head and other parts of the body, and later died in the hospital. The High Court allowed the writ petition. This court noted the distinction between a common law duty of care owed to members of the public, and whether liability could be imposed upon a local authority for breach of its statutory duty. The court noticed previous English decisions and stated that the question emerges as to when would the breach of statutory duty under a particular enactment give rise to tortious liability? The statutory duty gives rise to civil action. The statutory negligence is sui generis and independent of any other form of tortious liability. It would, therefore, be of necessity to find out from the construction of each statutory duty whether the particular duty is general duty in public law or private law duty towards the plaintiff. The plaintiff must show that (a) the injury suffered is within the ambit of statute; (b) statutory duty imposes a liability for civil

action; (c) the statutory duty was not fulfilled; and (d) the breach of duty has caused him injury. These essentials are required to be considered in each case. The action for breach of statutory duty may belong to the category of either strict or absolute liability which is required, therefore, to be (1997) 9 SCC 552 Gorris v. Scott [(1874) 9 Exch 125] and Kilgollan v. William Cooke & Co. Ltd. (1956) 2 All ER 294, CA] considered in the nature of statutory duty the defendant owes to the plaintiff; whether or not the duty is absolute; and the public policy underlying the duty. In most cases, the statute may not give rise to cause of action unless it is breached and it has caused damage to the plaintiff, though occasionally the statute may make breach of duty actionable per se. The burden, therefore, is on the plaintiff to prove on balance of probabilities that the defendant owes that duty of care to the plaintiff or class of persons to whom he belongs, that defendant was negligent in the performance or omission of that duty and breach of duty caused or materially contributed to his injury and that duty of care is owed on the defendant. If the statute requires certain protection on the principle of volenti non fit injuria, the liability stands excluded. The breach of duty created by a statute, if it results in damage to an individual prima facie, is tort for which the action for damages will lie in the suit. One would often take the Act, as a whole, to find out the object of the law and to find out whether one has a right and remedy provided for breach of duty. It would, therefore, be of necessity in every case to find the intention of legislature in creating duty and the resultant consequences suffered from the action or omission thereof, which are required to be considered. No action for damages lies if on proper construction of statute, the intention is that some other remedy is available. One of the tests in determining the intention of the statute is to ascertain whether the duty is owed primarily to the general public or community and only incidentally to an individual or primarily to the individual or class of individuals and only incidentally to the general public or the community. If the statute aims at duty to protect a particular citizen or particular class of

citizens to which the plaintiff belongs, it prima facie creates at the same time correlative right vested in those citizens of which plaintiff is one; he has remedy for enforcement, namely, the action for damages for any loss occasioned due to negligence or for failure of it. But this test is not always conclusive.

19. Duty may be of such paramount importance that it is owed to all the public. It would be wrong to think that on an action, the duty could be enforced by way of damages when duty is owed to a section of public and cannot be enforced if an individual sustains damages to whom the Corporation owes no duty and no private interest is infringed. Breach of statutory duty, therefore, requires to be examined in the context in which the duty is created not towards the individual, but has its effect on the right of individual vis-à-vis the society.

Statutory duty generally is towards public at large and not towards an individual or individuals and the correlative right is vested in the public and not in private person, even though they may suffer damages. The duty in such a case is to be enforced by way of criminal prosecution or by way of injunction at the suit under Section 192 of CPC or with leave of court under Order I, Rule 8 CPC by public- spirited person or in any appropriate manner to enforce the right and not by way of private action for damages. In that situation, the legislature, while recognising the private right vested in an injured individual, may intend that it shall be maintained solely by some special remedy provided for a particular case and not by ordinary method of an action for damages as penalty or compensation.

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24. Generally, a public authority entrusted with no statutory obligation to exercise a power, does not come under common law duty of care to do so but by conduct the public authority may place itself in such a situation that it attracts the duty of care which calls for exercise of the power. Common illustration is provided by an action in which an authority in the exercise of its functions, if it had created a danger, thereby subjecting itself to a duty of care for

the safety of others which must be discharged by an exercise of its statutory power or by giving necessary warnings. It is the conduct of the authority in creating the danger that attracts the duty of care as envisaged in Sheppard v. Borough of Glossop [(1921) 3 KB 132 : 1921 All ER Rep 61, CA] . The statute does not by itself give rise to a civil action but it forms the formulation on which the common law can build a cause of action....

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39. *It can be seen that ordinarily the principle of the law of negligence applies to public authorities also. They are liable to damages because by a negligent act or failure to act when they are under a duty to act or for a failure to consider whether to exercise a power conferred on them with the intention that it would be exercised if and when public interest requires it. Where the public authority has decided to exercise a power and has done it negligently a person who has acted in reliance on what the public authority has done, may have no difficulty in proving that the damages which he has suffered have been caused by the negligence. Where the damage has resulted from a negligent failure to act there may be greater difficulty in proving causation and requires examination in greater detail. ... ”*

58. *In the UK, the duty of a highway authority was described by **Diplock L.J. in Griffiths v. Liverpool Corporation** as follows:*

“The duty at common law to maintain, which includes a duty to repair a highway, was not based in negligence but in nuisance. It was an absolute duty to maintain, not merely a duty to take reasonable care to maintain, and the statutory duty which replaced it was also absolute.” Again, Diplock, LJ stated in Burnside v. Emerson described the duty as follows:

“in such good repair as renders it reasonably passable for the ordinary traffic of the neighbourhood at all seasons of the year without danger caused by its physical condition.”

59. *Later, in **Haydon v. Kent County Council** Lord Denning M.R. explained that while the duty to maintain the highway meant an*

absolute duty to ensure that it was in a condition to be used as a highway and to ensure safety, it did not include the duty to ensure at all times that the road surface was kept clean. It was clarified however, that the issue had to be considered in each case, and it was to be considered whether the authority had taken reasonable steps to keep it in good repair after being notified about obstruction:

“If section 41 is to be construed as capable of imposing a duty to take remedial measures to deal with ice and snow on a highway, or footway, which is in good physical repair, so that whether in particular circumstances that duty has arisen is to be decided ‘as a question of fact and degree,’ it would seem that the facts relevant to determining whether the duty has arisen would be essentially similar to those relevant to deciding whether a breach of the duty has been proved and whether the statutory defence under section 58 has been made out. Parliament did not define those facts for the purpose of section 41. The concept of the passing of sufficient time to make it prima facie unreasonable for the highway authority to have failed to take remedial measures must presuppose some idea of the amount and [1967] 1 Q.B. 374 [1968] 1 W.L.R. 1490 [1978] Q.B. 343 nature of the resources for dealing with snow and ice which are or ought to be available to the authority, and of the order of priority among different carriageways and footways which guides or which ought to guide the authority; and of the necessary degree of urgency in using those resources. No such guidance is given in the statute with reference to proof of the arising of the duty.”

60. In Stovin v Wise, the defendant emerged from a side road and ran down the plaintiff, because she was not keeping a proper look-out. When she was sued for damages, the defendant joined the County Council as a third party because the visibility at the intersection was poor and they said that the Council, which had the duty to maintain the road should have done something to improve it. The council had statutory powers which would have

enabled the necessary work to be done and there was evidence that the relevant officers had decided in principle that it should be done, but they had not taken steps to do it. The House of Lords held that there was no duty of care in private law based on the statutory duty, and that “Drivers of vehicles must take the highway network as they find it”. It was held that statutory power could not be converted into a common law duty. The council had done nothing which, apart from statute, would have attracted a common law duty of care. It had done nothing at all. The only basis on which it was a candidate for liability was that Parliament had entrusted it with general responsibility for the highways and given it the power to improve them and take other measures for the safety of their users. Lord Hoffmann observed, “In summary, therefore, I think that the minimum preconditions for basing a duty of care upon the existence of a statutory power, if it can be done at all, are, first, that it would in the circumstances have been irrational not to have exercised the power, so that there was in effect a public law duty to act, and secondly, that there are exceptional grounds for holding that the policy of the statute requires compensation to be paid to persons who suffer loss because the power was not exercised.” 1996 (3) All ER 801

61. Stovin (supra) and its enunciation that the existence of a public duty did not per se extend to a private duty of care to take special measures, unless exceptional features were proved, was followed in Gorringe v. Calderdale Metropolitan Borough Council. The entire law was re-examined and the correct position, restated in a recent judgment by the UK Supreme Court in Robinson v. Chief Constable of West Yorkshire Police, which observed as follows:

“32 At common law, public authorities are generally subject to the same liabilities in tort as private individuals and bodies: see, for example, Entick v Carrington (1765) 2 Wils KB 275 and Mersey Docks and Harbour Board v Gibbs (1866) LR 1 HL 93. Dicey famously stated that “every official, from the Prime Minister down to a constable or a

collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen”: The Law of the Constitution, 3rd ed (1889), p 181. An important exception at common law was the Crown, but that exception was addressed by the Crown Proceedings Act 1947, section 2.

33. *Accordingly, if conduct would be tortious if committed by a private person or body, it is generally equally tortious if committed by a public authority: see, for example, Dorset Yacht Co Ltd v Home Office [1970] AC 1004, as explained in Gorrings case 2004 (1) WLR 1057, para 39. That general principle is subject to the possibility that the common law or statute may provide otherwise, for example by authorising the conduct in question: Geddis v Proprietors of Bann Reservoir (1878) 3 App Cas 430. It follows that public authorities are generally under a duty of care to avoid causing actionable harm in situations where a duty of care would arise under ordinary principles of the law of negligence, unless the law provides otherwise.*

34. *On the other hand, public authorities, like private individuals and bodies, are generally under no duty of care to prevent the occurrence of harm: as Lord Toulson JSC stated in Michael’s case [2015] AC 1732, para 97, “the common law does not generally impose liability for pure omissions”. This “omissions principle” has 2004 (1) WLR 1057 2019 (2) All ER 1041 been helpfully summarised by Tofaris and Steel, “Negligence Liability for Omissions and the Police” [2016] CLJ 128:*

“In the tort of negligence, a person A is not under a duty to take care to prevent harm occurring to person B through a source of danger not created by A unless (i) A has assumed a responsibility to protect B from that danger, (ii) A has done something which prevents another from protecting B from that danger, (iii) A

has a special level of control over that source of danger, or (iv) A's status creates an obligation to protect B from that danger." 35 As that summary makes clear, there are certain circumstances in which public authorities, like private individuals and bodies, can come under a duty of care to prevent the occurrence of harm: see, for example, *Barrett v Enfield London Borough Council* [2001] 2 AC 550 and *Phelps v Hillingdon London Borough Council* [2001] 2 AC 619, as explained in *Gorrings's case* 2004 (1) WLR 1057, paras 39–40. In the absence of such circumstances, however, public authorities generally owe no duty of care towards individuals to confer a benefit upon them by protecting them from harm, any more than would a private individual or body: see, for example, *Smith v Littlewoods Organisation Ltd* [1987] AC 241, concerning a private body, applied in *Mitchell v Glasgow City Council* [2009] AC 874, concerning a public authority.

36. That is so, notwithstanding that a public authority may have statutory powers or duties enabling or requiring it to prevent the harm in question. A well known illustration of that principle is the decision of the House of Lords in *East Suffolk Rivers Catchment Board v Kent* [1941] AC 74. The position is different if, on its true construction, the statutory power or duty is intended to give rise to a duty to individual members of the public which is enforceable by means of a private right of action. If, however, the statute does not create a private right of action, then "it would be, to say the least, unusual if the mere existence of the statutory duty [or, a fortiori, a statutory power] could generate a common law duty of care": *Gorrings's case* 2004 (1) WLR 1057, para 23.

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40. However, until the reasoning in the *Anns* case was repudiated, it was not possible to justify a rejection of liability, where a *prima facie* duty of care arose at the first stage of the analysis from the foreseeability of harm, on the basis that public bodies are not generally liable for failing to exercise their statutory powers or duties so as to confer the benefit of protection from harm. Instead, it was necessary to have recourse to public policy in order to justify the rejection of liability at the second stage. That was accordingly the approach adopted by the House of Lords and the Court of Appeal in a series of judgments, including *Hill's case* [1989] AC 53. The need to have recourse to public policy for that purpose has been superseded by the return to orthodoxy in *Gorringe's case*. Since that case, a public authority's non-liability for the consequences of an omission can generally be justified on the basis that the omissions principle is a general principle of the law of negligence, and the law of negligence generally applies to public authorities in the same way that it applies to private individuals and bodies.

41. Equally, concerns about public policy cannot in themselves override a liability which would arise at common law for a positive act carried out in the course of performing a statutory function: the true question is whether, properly construed, the statute excludes the liability which would otherwise arise: see *Gorringe's case* 2004 (1) WLR 1057, para 38, per Lord Hoffmann.

42. That is not to deny that what might be described as policy considerations sometimes have a role to play in the law of negligence. As explained earlier, where established principles do not provide a clear answer to the question whether a duty of care should be recognised in a novel situation, the court will have to consider whether its recognition would be just and reasonable.”

62. In *Yetkin v. Mahmood*, where injury was caused to a highway user by shrubs which had overgrown and impeded visibility, the court upheld the claim for damages. The court observed as follows:

“...The planting of vegetation in the raised beds of the central reservation is obviously a reasonable exercise of the authority’s powers but to plant shrubs which will grow so large as to obscure the view and then not to ensure that they are trimmed back is a negligent exercise of those powers. The judge held that that failure was a cause 2011 QB 827 of this accident. It is not suggested that he was not right so to hold. I have no doubt that, in the circumstances of this case, the local authority had a common law duty of care towards the claimant, notwithstanding her own negligence, that that duty was breached and that the breach was a cause of the accident. There was no need for the judge to consider whether the danger created by the bushes amounted to a trap or enticement. It follows in my judgment that the judge erred in dismissing the claim. He should have held that primary liability was established.”

63. A similar approach was indicated by this court in *Municipal Corpn. of Delhi v. Sushila Devi* (where a tree fell on a passer-by causing injury) the court upheld the findings that the municipal corporation was liable, stating that:

“13. By a catena of decisions, the law is well settled that if there is a tree standing on the defendant's land which is dried or dead and for that reason may fall and the defect is one which is either known or should have been known to the defendant, then the defendant is liable for any injury caused by the fall of the tree (see *Brown v. Harrison* [1947 WN 191 : 63 TLR 484], *Quinn v. Scott* [(1965) 1 WLR 1004 : (1965) 2 All ER 588] and *Mackie v. Dumbartonshire County Council* [1927 WN 247]). The duty of the owner/occupier of the premises by the side of the road whereon persons lawfully pass by, extends to guarding against what may happen just by the side of the premises on account of anything dangerous on the

premises. The premises must be maintained in a safe state of repair. The owner/occupier cannot escape the liability for injury caused by any dangerous thing existing on the premises by pleading that he had employed a competent person to keep the premises in safe repairs. In Municipal Corpn. of Delhi v. Subhagwanti [AIR 1966 SC 1750] a clock tower which was 80 years' old collapsed in Chandni Chowk, Delhi causing the death of a number of persons. Their Lordships held that the owner could not be permitted to take a defence that he neither knew nor ought to have known the danger. "[T]he owner is legally responsible irrespective of whether the damage is caused by a patent or a latent defect," — said their Lordships. In our opinion the same principle is applicable to the owner of a tree standing by the side of a road. If the tree is dangerous in the sense that on account of any disease or being dead the tree or its branch is likely to fall and thereby injure any passer-by then such a (1999) 4 SCC 317 at page 323 tree or branch must be removed so as to avert the danger to life. It is pertinent to note that it is not the defence of the Municipal Corporation that vis major or an act of God such as a storm, tempest, lightning or extraordinary heavy rain had occurred causing the fall of the branch of the tree and hence the Corporation was not liable." This approach that a statutory corporation or local authority can be held liable in tort for injury occasioned on account of omission to oversee, or defective supervision of its activities contracted out to another agency, was also followed in Vadodara Municipal Corporation v Purshottam V. Muranji.

64. *The terms of the agreement which the NHAI entered into with the concessionaire clearly contemplated the safety of highway users (Clause 18.1.1) and an elaborate highway monitoring mechanism (Clause 19.1). The agreement also required any unusual occurrences to be reported; an independent engineer was required to, and did inspect the highway. The reports of the inspecting engineer reveal that the deficiencies by way of*

narrowing of water channels, and the unusual collection of debris, were noted. Even before the incident, the NHAI was alive to this; it had separately written to Rathod, and later to the local administration about it through its letter dated 15.04.2011. That letter is revealing; it inter alia, states that:

“During pre-monsoon rains all the excavated muck has been carried to NH4 alongwith rain water and block Satara bound traffic lane for quite some time. The problem will be severe during heavy rains of July and August.

As such safety of highway and tunnel is completely at stake due to indiscriminate cutting of hills on upper side of tunnel and both the end.”

65. *Having regard to the duty imposed on the NHAI by virtue of Sections 4 and 5 of the Highways Act, read with Section 16 of the NHAI Act, there can be no manner of doubt that the NHAI was responsible for the maintenance of the 2014 (16) SCC 14 highway, including the stretch upon which the accident occurred. The report of the sub-divisional officer clearly shows that inspection reports were furnished to the NHAI shortly before the incident, highlighting the deficiencies; also, the NHAI’s correspondence with Rathod, and the local administration, reveal that it was aware of the danger and likelihood of risk to human life, and the foreseeability of the event that actually occurred later. Further, letters addressed by the local administration and the NHAI to Rathod similarly show that it was incumbent upon him to take remedial action. The failure of the NHAI to ensure remedial action, and likewise the failure by Rathod to take measures to prevent the accident, prima facie, disclose their liability.”*

CONSIDERATION AND CONCLUSION:

It is evident from a perusal of the above that the law not only imposes an obligation on the respondent-State Agencies to curb the menace of animals (stray/wild/pet) on public streets/passages, but has also burdened the

instrumentalities with the liability to pay compensation on the occurrence of such lapse. Even though multiple agencies till the Gram Panchayats at the primary level have been made duty bound in the legislative scheme, however, all the agencies/individually as well as collectively, indulged in doing what they do best – shift the burden. An increasing number of fatalities and an alarming rate of stray animal on roads (which is a direct outcome of State policy implementation without impact assessment and infrastructure creation) has started taking its toll on human life. It is thus essential that the State and its instrumentalities should now share the burden and shoulder the responsibility.

Notwithstanding that such a large number of cases are being reported and even instituted before the Courts, the State has shown no inclination to address the issue. They have chosen to look the other way as people suffer injuries every day and underplay the magnitude of the problem by under-recording the incidents. The denial of existence of a problem does not redress the problem but only escalates the agony of the citizen.

This Court requested the agencies to frame certain scheme and after much persuasion, only the States of Punjab and Haryana have been able to notify a scheme for granting ex-gratia financial assistance. The U.T. Chandigarh and the National Highway Authority of India (NHAI) have not come up with any scheme. Besides, the said schemes have been notified prospectively and do not undertake any efforts to address the cases that have already been filed before this Court. The relevant aspect of the policy is as under:

POLICY NOTIFIED BY THE STATE OF HARYANA

- (i) The abovesaid policy is confined only to the residents of Haryana and also does not extend the benefits to the victims who have suffered injuries.

Hence, even though incident/accident may have occurred qua a claimant within the territory of the State and if he/she is not resident of the State of Haryana, the benefit of the policy is not available to him/her.

(ii) The policy stipulates compensation only in cases of death or permanent disability and does not talk of any relief/compensation towards the simple or grievance hurt/injuries not resulting into any permanent disability.

(iii) There is no time frame prescribed in the abovesaid policy within which the compensation is to be paid.

POLICY NOTIFIED BY THE STATE OF PUNJAB

(i) The said policy stipulates the determination and grant of compensation by the Committee which is confined in its scope to Local Government as well as the Department of Panchayat and Development. The expression used for grant of compensation against concerned Authority/Department is in relation to the victims if animal attack within its jurisdiction. The issue of jurisdiction has been left wide and paving way for the disputes as to whether the forest area as well as National Highways would be within the jurisdiction of the Local Government and/or the said respective departments.

(ii) Even though the policy stipulated grant of compensation to the victim of the attack of an animal, however, the tenor of the policy stipulates award of compensation to the legal heirs or to the victim in case of a permanent incapacitation. Hence, the injuries (simple/grievous) have not been taken into consideration.

(iii) Additionally, the U.T. Chandigarh and the National Highway Authority of India have failed to notify any comprehensive policy or file response despite having been granted sufficient number of opportunities. Furthermore, the policies notified by the respective States and the Authorities

constituted thereunder are to consider the future claims, but they are silent with respect to the claim petitions pending as on the date of notification of the policies.

The abovesaid policies have although been notified by the above said State(s), however, the said policies are prospective in their application from the date of Notification and do not redress the grievance of the persons who have already filed their cases before this Court or any other Court/Forum.

Hence, it has become essential for this Court to proceed further and to pass a comprehensive order so that claims of the citizens can be considered objectively and decided on a pre-determined uniform criteria.

Having considered the position as legislated and through the judicial pronouncements, it is necessary to advert to the points that arise for consideration of this Court, which are as under:

(i) Whether the doctrine of strict liability would apply on incidents/ accidents due to stray/wild animals on roads and public streets fastening the liability on the State?

A perusal of the statutory provisions as also the precedents referred to above from the Hon'ble Supreme Court as well as the High Courts across the country clearly establishes that the State as well as its Agencies and Instrumentalities including the National Highway Authority of India have been fastened with the responsibility of keeping and maintaining their streets/roads safe including from the menace of stray/wild animals and stray dogs. The States as well as its Agencies have also been held liable to compensate to the victims/heirs of the victims by holding that the State owed a public duty to safeguard the citizens/residents from the abovesaid menace and having failed to fulfill the said obligations, they cannot be permitted to escape liability by pleading paucity of resources or insufficiency of funds. People cannot be left to

fend for themselves for a State failure. The rights of the claimants stand further crystallized since the State has been collecting road tax/user fee from the persons using the highways and roads and the Local Bodies are also collecting various types of taxes/fee/cess from the residents and are entitled to levy penalty/fine on the owners who have not been able to impound/keep their animals in chains and/or control.

Such public duty having been cast on the State, it cannot claim itself insulated against being sued for such compensation merely because the State has chosen to depute an Agency i.e. Local Authority, Gram Panchayat, Concessionaire etc. for discharge of such functions. The enforcement mechanism prescribed by the State is for its convenience and effective implementation of the safety measures and to determine the lapses of the employees. The same cannot be used as a shield to plead that it is immune to any claim and that only the Agency deputed by it is liable for such compensation. Such *inter se* determination of rights and obligations amongst the State and its instrumentalities cannot lay basis for delaying the relief to the victim(s). The law specifically recognizes that a person may be held liable in respect of wrongful acts or omissions of another under the following circumstances:

- (i) as having been ratified or authorized to do a particular act;
- (ii) as standing towards the other person in a relation entailing responsibilities for wrongs done by that person; and
- (iii) as having abetted the tortuous acts committed by others.

Hence, when an act is done by an agent or any Agency or Instrumentality of the State, the same is deemed to be done by it for and on behalf of the State, who would nonetheless principally remain bound to ensure

that an adequate and appropriate mechanism be put in place to safeguard the lives of its citizens/residents. Under such circumstances, even though the State may be entitled to recover its loss and/or make good its rights by enforcing the same against the Agency/Instrumentality/persons who committed the lapse, however, such rights merely govern *inter se* duties and obligations amongst the State and its authorized Agencies/Instrumentalities/ persons but the State would nonetheless be jointly or severally liable to compensate the victim(s) for any such loss sustained by such victim(s). Hence, the liability of State on the principles of strict liability is well accepted where accidents have occurred due to stray/wild animals. The State is thus liable to compensate on occurrence of such an event.

(ii) Whether claim for compensation/financial assistance can be made only by way of a writ petition in the absence of any statutory regulations or there is alternative mechanism?

The perusal of the judgments and the law referred to above does show that writ petition may be entertained but it does not rule that compensation/financial assistance can be claimed only by way of a writ petition and no other mean is available. The jurisdiction and remedy under the common law would always be available to the persons aggrieved to claim compensation. A writ petition is thus not an exclusive jurisdiction and is only an alternate to what should otherwise be the normal procedure. The counsel for the parties had also fairly conceded that the jurisdiction of the Civil Court would not be barred in such cases and that the petitioners had been advised to approach this Court only on account of an expeditious redressal of their grievances coupled with the difficulties that are being faced by them in the event of approaching the Civil Court. The law is well settled that where an alternative remedy is available to a person, such a person is expected to first exhaust his alternative remedies before

approaching the writ Court. It is only in certain exceptional circumstances, grave exigencies or hardship of an exceptional nature and/or where a competent Court feels that such interference is necessary for meeting the ends of justice, that a writ Court may exercise its jurisdiction. The presence of an alternative remedy is though not a bar to entertain a writ petition for grant of compensation in an appropriate and befitting case, however, such indulgence, in exceptional cases, should not be construed as laying down a legal course and procedure for adjudication of such disputes, creating a sense of entitlement to bypass the normal procedure. The cases, wherein disputed questions of facts arise, should be examined only by a competent Court and ordinarily a writ Court would not be an appropriate remedy.

(iii) Which agency or authority ought to be held liable for compensation and the procedure required to be followed for computation of compensation.

Since the State and its agencies/instrumentalities have been held liable to pay compensation to a person aggrieved, hence, it is necessary to reiterate the Authorities liable to pay the compensation in the event of any claim being filed before a competent Court so as to rule out the confusion or ambiguity in the minds of the litigating public. The State through the department of Local Self-Government in relation to the areas falling within the notified Municipal Authorities and through the Department of Panchayat and Development for the areas falling outside the jurisdiction of Local Government would be liable to pay the claims against the Award passed. Similarly, where the incident in question has occurred on a State Road/State Highway, the Government through the Department of PWD (B&R) and where the road is under any scheme/grant by the Government, the Government through the

Department implementing the said scheme shall be liable for being prosecuted and disbursing the claim awarded.

Where the claims are against the incidents/accidents that have taken place on the National Highways, the National Highway Authority of India shall be principally liable.

Where the incident/accident is on account of wild animal, the Government through the Department of Forest, Wildlife and Environment (as may be applicable) would be liable to disburse the compensation. However, where there is involvement of more than one department (e.g. a wild animal/stray animal causes accident on Highway etc.), the competent Court may apportion the compensation between the respective departments.

Having dealt with the above issues, it has also become essential to address the reasons that have been given or cited by the petitioners for approaching the High Court instead of filing the claim petitions/suits before the competent Civil Court for redressal of their grievances so that appropriate guidelines may be issued to ensure that the remedy is made expeditious and the hardship faced by a claimant can be mitigated. The respective reasons are being dealt with as under:

(1) The absence of statutory policy/frame work providing a uniform criterion for determination of compensation.

This High Court has held in numerous precedent judgments that the principles as prescribed in the Motor Vehicle Act, 1988 can be adopted for computation of compensation in cases relating to tortious claim pertaining to death/injury. The principles of computation of compensation under the Motor Vehicles Act, 1988, as a just and objective procedure for assessment, has already evolved through numerous precedent judgments of the Hon'ble Supreme Court of India as well as of this court and have also come to

be accepted by the masses. Hence, the abovesaid criteria is held to be a just, reasonable and fair criteria for computation of compensation by the Civil Courts for assessing the compensation in these matters as well. The Civil Courts may thus rely on the same for computation of compensation even in accidents/incidents due to wild animal/stray animal.

(2) The common law/Civil Court remedy is perceived as inefficient; ineffective and incapable of delivering expeditious and reasonable compensation.

So far as the abovesaid reason is concerned, the same is perceptive. The efficiency, effectiveness and capability of a system is dependent on participating stake holders and not just on the adjudicatory procedure. Often the delay is caused by the delaying as well as dilatory tactics adopted by the respective parties. However, despite the same, the Civil Court remedy has proven its effectiveness, efficiency and capability of delivering expeditious dispensation of justice and determining the just, reasonable and equitable compensation. In the matter relating to claims against the State and its Agencies and instrumentalities, the procedural delays are lesser as compared to the dilatory tactics adopted by the contesting private parties. The Court expects that the stake holder shall put every honest effort and endeavour to ensure the expeditious disposal of the lis claiming compensation by the families in harness. The Civil Courts may, however, take recourse to the summary procedure or the case management provided under the Commercial Courts Act for expediting the process.

(3) In the event of approaching the Civil Court, an *ad-valorem* Court fee is required to be paid by the claimant and many times, the families of the victims are not in a position to afford payment of *ad-valorem* Court fee. The application for filing the suit as a pauper is often delayed due to multiple conditions and restrictions and delays in obtaining certificates from the administrative authorities.

Under the current statutory provisions, an *ad-valorem* Court Fee has been prescribed in cases relating to claims. The affixation of fixed Court Fee has been notified by the State Government in claim cases under the Motor Vehicles Act, 1988 before the Motor Accidents Claims Tribunal. The determination of Court Fee being within the domain of the State, it does not fall within the powers of this Court to direct that any Court Fee other than the one prescribed under the statute be affixed. Taking into consideration that the cases of the petitioner(s) would not be different in substance than the claims lodged under the Motor Vehicles Act, 1988 before the Motor Accidents Claims Tribunal, let this judgment be placed before the Chief Secretary of both the States to take a reasoned and conscious decision of drawing such parity and to prescribe the Court Fee which may be considerate and brings about the parity. Since there is no challenge raised to the legality of the Court Fee or the Court Fee Act, hence, this Court does not deem it appropriate to venture into the said aspect. Till the Court fee is suitably modified by the State, the Court Fee as prescribed under the Statute has to be paid. The hardships claimed by the petitioners cannot be the basis of waiver of Court Fee. A mechanism is, however, duly provided for seeking permission to pursue the case as pauper, if circumstances so exist. The mere plea of hardship (which is a question of fact to be determined) is not sufficient to relax the mandate of law and/or to provide a valid excuse for not approaching the Courts in the manner which is more appropriate and addresses the issues wholesomely.

- (4) **The police usually do not conduct any inquiry regarding the incidents reporting injuries caused by accident due to stray/wild animal. Consequently no MLR is prepared by the Civil Hospitals for want of reference by the police. The claimant thus has to face numerous hardships in establishing that injuries (fatal/non-fatal) are on account of the incidents/accidents caused directly or indirectly due to**

stray/wild animal impairing the prospects of a fair compensation.

The above reason espouses real and genuine concern of the claimants and highlights the practical difficulties that may be faced by them while seeking determination of just, fair and equitable compensation. In the absence of any regulation and direct third party involvement, the claimant has to run from one pillar to the other to shake things up. The system too feels its incapability, in the absence of any prescribed mechanism, for responding to the requests/grievances of a claimant. This slows down the pace of grievance redressal and adds to the harassment of the claimant leading to his depleting trust in the ability of the system to deliver expeditious, just, fair and equitable relief. The issue highlighting the hardships faced by the victims/families of the victims in getting the police aid/assistance was considered by the Hon'ble Supreme Court of India in the matter of **“Gohar Mohammed Versus Uttar Pradesh State Road Transport Corporation and others”** reported as **(2023) 4 SCC 381** had laid down certain procedures that were required to be followed by the Investigating Agencies in the matters relating to Motor Vehicles Act, 1988 for expeditious disposal of the claims relating to compensation. The said principles/ guidelines are extracted as under:

“62. Accordingly, this appeal is decided with the following directions:

- i) The appeal filed by the owner challenging the issue of liability is hereby dismissed confirming the order passed by the High Court and MACT.*
- ii) On receiving the intimation regarding road accident by use of a motor vehicle at public place, the SHO concerned shall take steps as per Section 159 of the M.V. Amendment Act.*
- iii) After registering the FIR, Investigating Officer shall take recourse as specified in the M.V. Amendment Rules, 2022*

and submit the FAR within 48 hours to the Claims Tribunal. The IAR and DAR shall be filed before the Claims Tribunal within the time limit subject to compliance of the provisions of the Rules.

- iv) The registering officer is duty bound to verify the registration of the vehicle, driving licence, fitness of vehicle, permit and other ancillary issues and submit the report in coordination to the police officer before the Claims Tribunal.*
- v) The flow chart and all other documents, as specified in the Rules, shall either be in vernacular language or in English language, as the case may be and shall be supplied as per Rules. The Investigating Officer shall inform the victim(s)/ legal representative(s), driver(s), owner(s), insurance companies and other stakeholders with respect to the action taken following the M.V. Amendment Rules and shall take steps to produce the witnesses on the date, so fixed by the Tribunal.*
- vi) For the purpose to carry out the direction No.(iii), distribution of police stations attaching them with the Claim Tribunals is required. Therefore, distribution memo attaching the police stations to the Claim Tribunals shall be issued by the Registrar General of the High Courts from time to time, if not already issued to ensure the compliance of the Rules.*
- vii) In view of the M.V. Amendment Act and Rules, as discussed hereinabove, the role of the Investigating Officer is very important. He is required to comply with the provisions of the Rules within the time limit, as prescribed therein. Therefore, for effective implementation of the M.V. Amendment Act and the Rules framed thereunder, the specified trained police personnel are required to be deputed to deal with the motor accident claim cases. Therefore, we direct that the Chief Secretary/Director General of Police in each and every State/Union Territory*

shall develop a specialized unit in every police station or at town level and post the trained police personnel to ensure the compliance of the provisions of the M.V. Amendment Act and the Rules, within a period of three months from the date of this order.

- viii) On receiving FAR from the police station, the Claims Tribunal shall register such FAR as Miscellaneous Application. On filing the IAR and DAR by the Investigating Officer in connection with the said FAR, it shall be attached with the same Miscellaneous Application. The Claims Tribunal shall pass appropriate orders in the said application to carry out the purpose of Section 149 of the M.V. Amendment Act and the Rules, as discussed above.*
- ix) The Claim Tribunals are directed to satisfy themselves with the offer of the Designated Officer of the insurance company with an intent to award just and reasonable compensation. After recording such satisfaction, the settlement be recorded under Section 149(2) of the M.V. Amendment Act, subject to consent by the claimant(s). If the claimant(s) is not ready to accept the same, the date be fixed for hearing and affording an opportunity to produce the documents and other evidence seeking enhancement, the petition be decided. In the said event, the said enquiry shall be limited only to the extent of the enhancement of compensation, shifting onus on the claimant(s).*
- x) The General Insurance Council and all insurance companies are directed to issue appropriate directions to follow the mandate of Section 149 of the M.V. Amendment Act and the amended Rules. The appointment of the Nodal Officer prescribed in Rule 24 and the Designated Officer prescribed in Rule 23 shall be immediately notified and modified orders be also notified time to time to all the police stations/stakeholders.*
- xi) If the claimant(s) files an application under Section 164 or 166 of the M.V. Amendment Act, on receiving the*

information, the Miscellaneous Application registered under Section 149 shall be sent to the Claims Tribunal where the application under Section 164 or 166 is pending immediately by the Claims Tribunal.

- xii) In case the claimant(s) or legal representative(s) of the deceased have filed separate claim petition(s) in the territorial jurisdiction of different High Courts, in the said situation, the first claim petition filed by the claimant(s)/legal representative(s) shall be maintained by the said Claims Tribunal and the subsequent claim petition(s) shall stand transferred to the Claims Tribunal where the first claim petition was filed and pending. It is made clear here that the claimant(s) are not required to apply before this Court seeking transfer of other claim petition(s) though filed in the territorial jurisdiction of different High Courts. The Registrar Generals of the High Courts shall take appropriate steps and pass appropriate order in this regard in furtherance to the directions of this Court.*
- xiii) If the claimant(s) takes recourse under Section 164 or 166 of the M.V. Amendment Act, as the case may be, he/they are directed to join Nodal Officer/Designated Officer of the insurance company as respondents in the claim petition as proper party of the place of accident where the FIR has been registered by the police station. Those officers may facilitate the Claims Tribunal specifying the recourse as taken under Section 149 of the M.V. Amendment Act.*
- xiv) Registrar General of the High Courts, States Legal Services Authority and State Judicial Academies are requested to sensitize all stakeholders as early as possible with respect to the provisions of Chapters XI and XII of the M.V. Amendment Act and the M.V. Amendment Rules, 2022 and to ensure the mandate of law.*
- xv) For compliance of mandate of Rule 30 of the M.V. Amendment Rules, 2022, it is directed that on disputing the*

liability by the insurance company, the Claims Tribunal shall record the evidence through Local Commissioner and the fee and expenses of such Local Commissioner shall be borne by the insurance company.

xvi) The State Authorities shall take appropriate steps to develop a joint web portal/platform to coordinate and facilitate the stakeholders for the purpose to carry out the provisions of M.V. Amendment Act and the Rules in coordination with any technical agency and be notified to public at large.”

The above said guidelines paved way for expeditious redressal of the grievance of the claimants. There is thus a necessity that such mechanism should also be followed in cases pertaining to incidents/accidents on account of dog bite/stray/wild animals. Adoption of such a mechanism would pave way for determination of a claim and ascertainment of the facts alleged. The immediate response would reduce the possibility of manipulations at a later stage and also protect the rights of the State against any false and vexatious claims. Additionally, as the State may be entitled to and be within its rights to seek recovery of its loss from the person responsible for the lapse, promptness on the part of the State Agencies in identifying such persons is likely to also protect the interest of the State.

It is therefore, deemed expedient to issue the following guidelines to be followed by the police on receipt of a complaint about any incident/accident reported due to involvement of animals (stray/wild/pet or deserted):

- (a) On receipt of information regarding accident due to stray/wild animal, the SHO shall get a DDR recorded without any undue delay.

- (b) The police officer shall verify the claim made and record statements of witnesses and prepare the site plan and summary.
- (c) A copy of the above report be forwarded to the claimant.
- (d) The above report be furnished within a period of 30 days of receipt of such information.

The Directors General of Police of the respective States are directed to issue appropriate instructions to the Authorities in this regard.

Having addressed the issues that arose for consideration of this Court and having also considered the reasons given by the petitioners for approaching the High Court, this Court now adverts to the cases in hand.

It is evident from the illustrative cases that the respondents are disputing the occurrence in the manner as claimed and also that compensation cannot be determined in writ proceedings considering various factual aspects involved. The cases in hand raise several questions that would require evidence to be led by the parties and would not be appropriate to be decided in a summary manner. Some of such issues that are arising in these cases are as under:

- a. Large number of writ petitions have been filed after inordinate delay and the claim per-se is barred by limitation. Evidence needs to be presented to establish that there is a subsisting claim as it would be a mixed question of law and fact.
- b. The manner in which the incident is alleged to have taken place is corroborated solely by a self serving statement of the claimant. The supporting contemporaneous documents and the witnesses needs to be examined to establish that the accident occurred in the manner as alleged.

- c. The requisite details are not available as would conclusively determine the income and dependency of the deceased or the loss due to injury. The assessment of annual income and dependency is thus required to be established by leading evidence.
- d. There is nothing on record to establish the age, to confirm whether the deceased was holding a valid driving licence, was wearing a helmet, was not under the influence of alcohol etc. and it was not a case of contributory negligence.
- e. There is nothing on record as to whether the claimants who have suffered injuries due to hitting another vehicle in an attempt to save from the animal, have not filed any other case for compensation under the Motor Vehicles Act.
- f. There is insufficient material on record about the apportionment of compensation between different stake holders. In a large number of such cases, there is nothing to determine as to whether the petitioners are the only claimants or heirs.
- g. In certain cases, the incident was not witnessed and even the family has filed the petition without disclosing the source of the information. In some such cases the rider has rammed his vehicle in the berms, trees, fence etc. and the case set up is that the accident occurred in a bid to save from the stray animal that came in front suddenly.
- h. In a large number of cases filed before this court, the documents only establish death or injury and do not establish the cause of such death or injury. The claim is thus based merely on the probabilities.

- i. The cases where compensation is being claimed due to injuries sustained, the nature of injury sustained, the disability if any suffered, the medical expenses incurred etc. are all questions that need determination after evidence in affirmative has been led.

It is thus apparent that the abovesaid issues would fall under disputed questions of fact which are required to be determined by the competent Court(s) as per law. Even though public law remedy for seeking compensation in an established case of State negligence (on principles of strict liability) is not barred, however, such remedy, being an extraordinary remedy, is not a substitute to the due process of law. The writ court may, where the facts a case shock its judicial conscience or where the circumstances are compelling or necessary in larger interest of justice, still invoke its jurisdiction and award compensation which it feels is just. However, exceptions cannot be construed as a rule or to hold that only a writ court is competent to entertain such petitions or claims. An inconvenience has to be differentiated from travesty of justice. The need for proving a case cannot be dispensed with merely for the sake of expeditious disbursement of compensation. Public exchequer is a money that is held in trust and needs to be dealt with a higher degree of caution rather than on reflex reaction or on pretext of sympathy alone.

This court is conscious of the fact that some cases have remained pending for some time before this court, however, the aforesaid factual aspects still need to be determined before a just compensation on a uniform procedure and criteria can be awarded and disbursed. The State having framed a policy for future claims for grant of financial assistance in such incidents, it would otherwise seem inappropriate for this court to be awarding any different financial assistance than determined by the State for settling future claims.

The financial assistance announced by the State is in no manner a bar to claim adequate compensation and only helps the family to tide over the immediate financial crisis and meet the exigencies and provides aid to pursue other remedies.

Reference to the abovesaid policies has been made to extract the prescribed mechanism and to notice that a Body has now been constituted by the respondent-States of Punjab and Haryana to entertain the claims and to disburse the financial assistance quantified and the quantum determined. The principles laid down and the procedures drawn in the said policies as well as the quantum of compensation prescribed thereunder are being relied upon by the Court while adjudicating the matters placed/filed before it. The reference to the abovesaid policies/schemes is used as an aid to formulate a uniform and objective procedure for determination of the claim and computation of compensation as well as quantum of *ex-gratia* financial assistance to the victims even in the pending petitions. Since the State has devised a mechanism for consideration of future claims, while accepting the quantum of financial assistance to be just and proper, this Court deems it appropriate to dispose of these petitions, without prejudice to the rights of the respective parties, to submit their claim to the Committee being constituted by this Court, at each district and such claims shall thereafter be decided by said Committee expeditiously and in the time prescribed. Hence, the following additional guidelines are issued:

- (i) The States of Punjab, Haryana and UT Chandigarh shall constitute a Committee to determine compensation to be paid on account of a claim made with respect to an accident/incident caused due to stray cattle/animal with such definition would include the animals such as cows, bulls, oxen, donkeys, dogs,

nilgai, buffaloes etc. and also include the wild, pet and deserted animals as well.

The said Committee shall be comprised of Deputy Commissioner of the concerned District as its Chairperson and shall have the following members:

- (a) Superintendent of Police/Deputy Superintendent of Police (Traffic),
- (b) Sub Divisional Magistrate of the concerned area,
- (c) The District Transport Officer,
- (d) Representative of the Chief Medical Officer,

Additional members (on case to case basis)

- (a) District Development and Panchayat Officer, (where the cases relating to the accident/incidents are reported to be in a Panchayat area).
- (b) The District Forest Officer, (where the cases relating to the accident/incidents have taken place on account of any wild animal).
- (c) The Executive Engineer, PWD (B&R) (where the incidents/accidents due to stray/wild animal have taken place on the State Roads/State Highways).
- (d) Additional Commissioner/Executive Officer/Secretary of the Municipal Corporations/Committees (where it relates to the Local Self Government/notified area under Municipal law).
- (e) The Project Director/ his Nominee and the Concessionaire/Authorized person of Concessionaire, if any, (where the accident/incidents happen on National Highways).
- (f) The Executive Officer or his nominee of the implementing Department (where the incidents/accidents are reported to have taken place at the site of a project being implemented/carried out under some scheme of the Government).

The petitioners herein shall, if so advised, file their applications before the aforesaid Committee for grant of compensation alongwith the supporting documents as provided in the respective policies notified by the respective States. In the claims that are filed in the UT, Chandigarh, the requisite documents required to be appended shall be the same as have been provided in the scheme/policy notified by the State of Haryana extracted earlier.

The compensation to be awarded by the said Committee for the incidents/accidents pertaining to the death/permanent disability in the respective States shall be as prescribed in the respective State Policies for the claims lodged in the respective States, while in relation to the claims lodged in the UT, Chandigarh, the benefit as extended in the policy of Punjab shall be awarded since the compensation proposed in the said policy is more beneficial.

The abovesaid Authority may also apportion the compensation between two or more departments where the involvement is of one or more such departments.

The Award shall be passed by the abovesaid Committee within a period of four months of the claims being filed before it alongwith requisite documents.

Copy of the Award shall be sent to the respective departments as noticed already through the Principal Secretary/Secretary or the Project Director (in case of NHAI), who shall be liable to ensure that the compensation/financial assistance is disbursed to the claimant expeditiously and preferably within a period of six weeks of the receipt of copy of the Award passed by the abovesaid Committee.

The abovesaid procedure would not operate as a bar against any claimant(s) to approach the Civil Court directly instead of approaching the said Committee and/or to seek just, fair and equitable compensation through the Civil Court, in case the victim/claimant is not satisfied with the financial assistance prescribed above. The compensation under the policies is to be considered as an interim financial assistance/ex-gratia grant to help the victim/claimant to overcome the immediate financial crisis and would not be a waiver of his right to proceed to the Civil Court for determination of compensation.

The amount awarded by the Committee may be set off against the final award passed by the Civil Court. However, where the amount awarded by Civil Court is less than the amount assessed by the Committee, no refund shall be claimed.

In the event of a claimant/victim approaching the Civil Court for seeking just, fair and equitable compensation, the same shall be decided expeditiously alongwith the applications that may be filed. While computing such compensation, the Civil Court may take the aid of the guidelines/parameters provided under the Motor Vehicles Act, 1988.

The period during which the proceedings have remained pending before this Court and/or the Committee shall be taken into consideration while computing limitation for institution of the proceedings before the Civil Court.

Additionally, in the cases relating to dog bite, the financial assistance shall be at a minimum of Rs.10,000/- per teeth mark and where the flesh has been pulled off the skin, it shall be a minimum of Rs.20,000/- per "0.2 cm" of wound.

The State shall be primarily responsible to pay compensation with a right to recover the same from the defaulting Agencies/ Instrumentalities of the State and/or the private person, if any.

Petitions stand disposed of accordingly.

All misc. applications including the applications for impleadment of LRs and/or proper/necessary parties, as the case may be, are also disposed of with liberty to the applicants to file the same afresh before the competent Authority/Committee, if so advised, and in accordance with law.

A copy of this judgment be sent to the office of Principal Secretary, Home as well as Director General of Police, Punjab and Haryana and U.T. Chandigarh as well for necessary and prompt action/compliance.

Date: 18.08.2023

rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No