

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CM(2624/2026) IN LPA 79/2026
CM(2625/2026)

UNION TERRITORY OF J AND K **...Petitioner/Appellant(s)**
AND OTHERS

Through: Mr. Mohsin S. Qadri, Sr. AAG with
Ms. Maha Majeed, Assisting Counsel

Vs.

SHOUBY JAN AND OTHERS **...Respondent(s)**

Through: Mr. Rizwanul Zaman Bhat, Advocate

CORAM:

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE**

ORDER
20.07.2026

CM No. 2624/2026

1. The applicants seek to challenge the judgment dated 17.09.2024, passed by learned Single Judge of this Court ("Writ Court") in OWP No. No. 1659/2018 titled "*Shouby Jan and Ors. Vs. State of J&K and Ors.*" which appeal is delayed by 531 days.
2. The delay is sought to be explained by the appellants by pleading that the matter with regard to the filing of appeal against the judgment dated 17.09.2024, supra remained under consideration before the different authorities and it was only after legal advice was tendered by the Department of Law, Justice and Parliamentary Affairs, a review petition was filed in the first instance. The review petition was, however, dismissed by the writ Court on 08.12.2025.
3. Faced with the dismissal of the review petition, the matter was again taken up with the Law Department and upon

considering the matter afresh granted sanction on 03.02.2026, for filing an appeal and this is how the relevant record was collected and the appeal was drafted and filed in the Court of law.

4. We have heard learned counsel for the parties and perused the averments made in the application on condonation of delay. Having regard to the cause shown, coupled with the fact that the judgment of the writ Court, on the face of it, suffers from serious factual error, we are inclined to condone the delay though it is huge. Accordingly, the application is allowed and the delay of 531 days in filing the appeal is condoned.

5. CM disposed of.

LPA 79/2026

1. The impugned judgment dated 17.09.2024, passed in OWP No. 1659/2018 together with order dated 08.12.2025 passed in RP No. 71/2025, are challenged by the appellants primarily on the ground that writ Court has not appreciated that the sanction order dated 28.01.2020 for grant of an amount of Rs. 19.49 lakh was not only in respect of ex-gratia relief of NOK's of deceased namely Muzaffar Nazir, but was also for re-modelling of EVM/VVPAT warehouse. It is submitted that pursuant to the aforesaid sanction granted, the Deputy District Election Officer, Anantnag, rightly released a sum of Rs. 10 Lakh as ex-gratia in favour of NOK's of the deceased.

2. It is thus argued that the serious error of fact, if noticed at an appropriate time by the writ Court in the third column of the sanction order dated 28.01.2020, could not have been committed. It is submitted that it was because of this oversight that the writ Court awarded a sum of Rs. 19.49 lakhs in favour of the respondents, whereas they were entitled only to an ex gratia payment of Rs. 10 lakhs.. This is apparent from para 9 of the

impugned judgement which for facility of reference is set out below:

9. *Perusal of compliance report filed by respondents 7&8, reveals that Chief Electoral Officer, J&K, accorded sanction to grant of ex gratia relief in the amount of Rs.10.00 lacs vide communication no.6085/ CEO/Acctts/2019-20201 5671-75 dated 28.01.2020; copy of which has been annexed by respondents with compliance report and marked it as Annexure R-1*

3. Learned counsel appearing for the respondent does not dispute this fact, but vehemently argues that the respondents were entitled to compensation much higher than the ex-gratia payment of Rs. 10 lakhs because the death of the deceased had occurred due to the negligence of the appellant. He would argue that writ Court ought to have applied the principles for computation of compensation as are applied to the motor accident cases under the Motor Vehicles Act.

4. Heard learned counsel for the parties and perused the material on record.

5. We are of the considered opinion that the judgment passed by the writ Court suffers from patent error of fact. Indisputably, as is otherwise also gatherable from the sanction order dated 28.01.2020, an amount of Rs. 19.49 lakhs was sanctioned not only for payment of ex-gratia relief to the respondents but also for the work of remodeling of EVM/EVVPAT warehouse. There is a comma (,) between the two; that is 'ex-gratia relief' and the 'remodeling work of EVVM/EVVPAT warehouse' and therefore, sum of Rs. 19.49 lakhs was sanctioned to discharge the two liabilities.

6. It seems that due to oversight, the writ Court came to the conclusion that the entire amount of Rs. 19.49 lakhs had been

sanctioned to discharge the liability of ex-gratia relief to the respondents. We are, however, in agreement with the learned counsel for the respondents that the Writ Court has not gone into the plea of the respondents that the death of the deceased, Muzaffar Nazir, had occurred due to the negligence of the State, and therefore, the respondents were entitled to higher compensation.

7. In view of the aforesaid, this petition is disposed of by providing as under:

- A. That the judgment impugned is set aside.
- B. The matter is remanded back to the writ Court for consideration of the matter afresh.
- C. While so considering, the writ Court shall consider the plea of the respondents, if any, raised with regard to the death of the deceased Muzaffar Nazir having occurred due to the negligence of the appellants and determine the amount of compensation payable in accordance with law.
- D. The amount of Rs. 10 lakhs as ex-gratia already received by the respondents shall be subject to the final orders that will be passed by the writ Court after hearing both the sides.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

20.07.2026

Bhat Aadil