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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.

Mr. Justice Khilji Arif Hussain

Mr. Justice Khalil-ur-Rehman Ramday

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Civil Appeals No.228-K, 275-K of 2009

And Civil Petition No.49 of 2009

Prime Minister Inspection Team

(in CA 228-K/09)

National Highway Authority

(in CA 275-K & CP 49/09)

...Appellants/Petitioners

Versus

Zaheer Mirza and others

(in CA 228-K, 275-K/09)

Naveed Zaheer & others

(in CP 49/09)

For the appellants/petitioners:

Mr. Umar Hayat Sandhu, DAG

Mr. Nadeem Azhar Siddiqui, ASC

Mr. A.S.K. Ghouri, AOR

Mr. M.S. Ghouri, AOR

For respondent No.1:

Mr. Bilal A. Khawaja, ASC

Mr. K.A. Wahab, AOR

Date of hearing:

06.04.2010

ORDER

Iftikhar Muhammad Chaudhry, CJ.— We have heard these cases as put up by the learned counsel for the parties. It is to be noted that substantially the matter relates to an incident of collapse of Fly-Over of Karachi Northern By-Pass, located at Peracha Chowk as back as on 1st September, 2007. Initially the names of the respondents were put on the Exit Control List but they approached the High Court and succeeded in getting their names removed. As such against the impugned judgment instant cases have been filed.

2. During the hearing of the cases, it has been noticed that despite of comprehensive inquiry conducted about three years ago, except the action noted hereinabove, no further action has been taken, may be for the reasons known to the competent authority. Apparently it would be a case of discrimination because on the one hand the persons, who are responsible for the collapse of the bridge, are not being charged for the negligence, both under the criminal and civil proceedings but at the same time names of few persons have been put on ECL. Therefore we direct the respondents, whose names have been removed from ECL, to remain in attendance tomorrow and similarly M/s Maj.Gen(R) Farrukh Javed, Muhammad Yousaf Barakzai, Raja Nowsherwan, Mr. Altaf Chaudhry, Syed

Najmul Hasan, Col.(R) Tehsin ul Haq shall also appear in Court. Learned Attorney General shall also attend the Court, who would inform as to whether any compensation has been paid to the injured persons and legal heirs of the deceased namely:

- (i). Ghulam Yaseen son of Aashiq Muhammad (injured)
- (ii) Master Zain Raza, Master Hasnain Raza, Baby Marium and Mst. Razia Bano, Mst. Khair-un-Nisa wife of Ghulam Ali, Ghulam Ali son of Ramzan Ali (legal heirs of deceased Rizwan Raza)
- (iii) Babi Fazila, Babi Kiran, Master Muhammad Faizan, Baby Nirma, Master Haris, Baby Hooria & Mst. Salma Bibi (Legal heirs of deceased Fayyaz Ahmed),
- (iv) Mst. Bukhoo wife of Faiz Bukhsh, Faiz Bukhsh son of Haji Yar Muhammad (legal heirs of deceased Muhammad Shehzad)
- (v) Muhammad Qasim Ali son of Ghulam Mahmood (injured)
- (vi) Ameer Abdullah son of Gul Mir Khan (injured)

The legal heirs of the deceased and injured persons are also required to attend the Court tomorrow. Mr. Nadeem Azhar Siddiqui, learned counsel for NHA shall contact them to inform about this order.

3. Deputy Registrar (K) is directed to inquire from the PPO/IGP, Sindh as to whether in respect of the incident of collapse of Fly-Over, any criminal case has been registered or not. He should depute a responsible Police Officer to attend the Court for offering explanation in this behalf. The Secretary M/o Communication, Government of Pakistan is also directed through Registrar of this Court to remain in attendance.

Adjourned to 7.4.2010.

Karachi, the
6th April, 2010
Nisar/*

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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Khilji Arif Hussain
Mr. Justice Khalil-ur-Rehman Ramday

Civil Appeals No.228-K, 275-K of 2009

And Civil Petition No.49 of 2009

(On appeal from the judgment dated 29.5.2009 passed by the High Court of Sindh, Karachi in CP No.D-620/09 etc.)

Prime Minister Inspection Team (in CA 228-K/09)
National Highway Authority (in CA 275-K & CP 49/09)
...Appellants/Petitioners

Versus

Zaheer Mirza and others (in CA 228-K, 275-K/09)
Naveed Zaheer & others (in CP 49/09)

For the appellants/petitioners: Mr. Umar Hayat Sandhu, DAG
Mr. Nadeem Azhar Siddiqui, ASC
Mr. A.S.K. Ghouri, AOR
Mr. M.S. Ghouri, AOR

For respondent No.1: Mr. Bilal A. Khawaja, ASC
Mr. K.A. Wahab, AOR
With Zaheer Mirza and Khalid Mirza

On Court Call: Mr. Shahadat Awan, P.G, Sindh

On Court Notice: Mr. Sharif Ahmed Khan, Secy. Communication
Mr. Altaf Ahmed, Chairman, NHA
Gen.(R) Farrukh, Ex.Chairman NHA
Mr. Yousar Barakzai
Raja Noshervan
Col ® Tahseen (absent)

Sardar Abdul Majeed, DIG, West Zone, Karachi
Mr. Abdul Sattar, DPO, Site Karachi
Mr. Shaukat Khatian, SP, Investigation

Mr. Nasir Maqsood, ASC with LRs of Rizwan
Namely; Zain Raza (9 years)
Hasnain Raza (6 years) Maryum Raza (4 years)
Razia Bano (wife 27 years)
Ghulam Raza (father aged 60 years)

And Legal heirs of Fayyaz Ahmed namely:
Fazila (16 years) Kiran (14 years)
Nimra (8 years) Hooria (3 years)
Salma Bibi (wife 32 years)
a/w Abdul Haq (cousin)

Date of hearing: 07.04.2010

ORDER

Iftikhar Muhammad Chaudhry, CJ.— After hearing the parties and their counsel, whose attendance has been marked hereinabove, it is ordered as under:

- (i) Operation of the impugned judgment dated 29.5.2009 passed by the High Court is suspended. The names of the respondents shall continue to be on Exit Control List and Mr. Shahadat Awan, Prosecutor General, Sindh, if considers that names of any other person/persons connected directly or indirectly with the collapse of Fly Over at Peracha Chowk, Northern By-Pass, Karachi, shall recommend to the Secretary Interior, Government of Pakistan for placing his/their names on ECL, pending decision of the cases before the competent forums till finalization of the matter.
- (ii) Incumbent Chairman, NHA is directed to pay Rs.1.5 million each as interim compensation to the heirs of the deceased namely M/s Ali Muhammad s/o Noor Muhammad, Fayyaz s/o Faiz Muhammad, Moosa s/o Arif, Rizwan Raza Raja s/o Ghulam Ali, without prejudicing the claims, which they have already filed by instituting the suits before the High Court. However, result of the said suits would not make entitled to the NHA to effect recovery of the amount, which is being paid to the heirs.
- (iii) To safeguard the interest of the minors, the Prosecutor General, Sindh is deputed to ensure deposit of all the shares to the minors in the scheduled Banks/National Savings Center in profit bearing schemes, with facility to the mother or father, whosoever may be, to receive monthly profit for their expenditures etc. However, the shares of the majors/adults shall be paid to them without depositing in the bank. The payment of the amount as noted hereinabove, shall be paid to the legal heirs of the deceased within three days through Prosecutor General.
- (iv) The Prosecutor General shall workout the amount of compensation in respect of the shares of injured persons, list of which has already been supplied to him and after negotiating and making calculation as per law, the said amount shall be paid by the Chairman, NHA within three days to them against valid receipts, which shall be attested by the Prosecutor General, Sindh. This interim compensation shall not cause any prejudice to their cases, which they have already filed for effecting recovery of

damages by instituting civil suits. However, ultimately on the basis of result of the suits, this amount shall not be refunded.

- (v) The Chairman NHA, is directed to cooperate with the Prosecutor General and supply him all the documents including inquiry report.
- (vi) Sardar Majeed, DIG appeared and stated that no case has been registered in respect of the incident wherein about six persons lost their lives and so many were injured and damage was also caused to their properties. He is directed to register the case and conduct investigation independently.
- (vii) PPO/IGP, Sindh is directed to conduct inquiry against the officials/officers responsible for not immediately registering the case at the time when the incident had taken place. He is directed to do so within a period of six weeks and submit report about the action taken by him.
- (viii) The above exercise shall be completed as it has been stipulated hereinabove and report shall be submitted by Mr. Shahadat Awan, P.G. Sindh to the Registrar for our perusal in Chambers.
- (ix) Mr. Muhammad Sharif Khan, Secretary Communication, Government of Pakistan is directed to complete departmental proceedings against the officers/officials responsible for the incident, in which the bridge was collapsed, as early as possible and intimate the result by sending fortnightly report.

Adjourned to a date after six weeks subject to availability of the Bench at Karachi.

Karachi, the
7th April, 2010

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0/4/10

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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ
Mr. Justice Khilji Arif Hussain

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CMA NO.123-K/2010

IN

CIVIL APPEAL NOS. 228-K,
275-K & C.P. NO.49 OF 2009

Prime Minister Inspection Team
National Highway Authority. Appellant/ Petitioner

Versus

Zaheer Mirza & Others
Naveed Zaheer & Others Respondents

For the Applicant Mr. Shahadat Awan, PG Sindh.

For the Appellant Nemo.

For the Respondents Nemo.

Date of Hearing: 09.04.2010

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, J.- Listed application has been moved by Mr. Shahadat Awan, learned PG Sindh, present in Court, firstly pointing out that in pursuance of directions of this Court dated 07.04.2010 he has procured details of the injured persons, but he is facing difficulty in making calculation as no criminal case was registered, as such without determination as to whether the amount, payable to them, shall fall within the definition of *Arsh* or *Daman*. He further stated that except two persons, namely, Mst. Taj Memon and Mst. Zarifa, he could not contact the others, therefore, he has sought calculation of amount for implementation the order with regard to the payment of compensation to the injured. In this behalf it may be noted that as far as question of determination of *Arsh* and *Daman* is concerned,

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it depends upon the finalization of the trial, but in order to give them interim compensation, we consider it appropriate that in the first instance each one of them should be paid a sum of Rs.50,000/- and this amount shall not be recoverable ultimately on the final determination of the amount payable to them. He further stated that in the order dated 07.04.2010 the names of four deceased persons have been written, whereas the name of Shahzad son of Faiz Bux has been omitted on account of the typographical error. He, therefore, sought the correction of the order. On having seen the relevant record we direct that the compensation of Rs.1.5 million to the legal heirs of Shahzad son of Faiz Bux shall also be paid.

Learned PG Sindh stated that on account of the procedural difficulties it would be appropriate if he is allowed to deposit the amount of compensation, which he has now received from National Highway Authority with the office of Nazir of Sindh High Court, Karachi for investing in terms of order dated 07.04.2010 as he, being an official functionary, would be in a better position to manage the affairs and look after the interest of the minors.

We order accordingly. Let the learned PG Sindh hand over this amount to Nazir of Sindh High Court, Karachi for distributing the same in the manner as per the direction contained in the earlier order.

As far as the amount of compensation for the injured is concerned, that shall also be received by the learned PG Sindh at the rate mentioned hereinabove [✓]and the same shall be deposited with the Nazir for distributing amongst the injured. However, those persons, who have not come in contact with him, he would

continue his efforts and all relevant agencies shall provide assistance to him to search the injured persons. He will inform the Nazir for making payment of compensation to them as well accordingly. It has also been informed that FIR No.181/2010 has been registered by the police and investigation of the case is likely to be concluded in due course. CMA No.123-K of 2010 stands disposed of.

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Adjourned to a date in office.

Karachi,
09.04.2010:

No
10/4/10

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CA 228-u/09

Filed on: 05th Aug 2009 + 2009
by: M. S. I. Shari (ASR)
Asst. Registrar

IN THE SUPREME COURT OF PAKISTAN

(APPELLATE JURISDICTION)

Civil Petition For Leave To Appeal No. 676 - K/2009

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Prime Minister Inspection Team
Prime Ministers Secretariat
Islamabad.....

Petitioners.

VERSUS

1. Zaheer Mirza.
S/O Wazir Mirza, Adult Muslim,
Resident of C-177, KDA Scheme I-A,
Karachi- 75350.

R

2. Khalid Mirza.
S/O Wazir Mirza, Adult Muslim,
Resident of C-177, KDA Scheme I-A,
Karachi- 75350.

R

3. National Highway Authority.
27 Mauve Area,
G-9/1, Islamabad.

4. Federation of Pakistan
Through secretary Ministry of
Interior Affairs Federal Secretariat
Islamabad.....

Respondents.

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 185(3) OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 AGAINST
THE ORDER OF HON'BLE HIGH COURT OF SINDH IN CONSTITUTION
PETITION NO D-620 OF 2009 DATED: 29.05.2009

Humbly Sheweth:

The Petition is directed against the order passed by the HON'BLE HIGH COURT OF SINDH IN CONSTITUTION PETITION NO D-620 OF 2009 DATED: 29.05.2009 filed by the Respondents No.1 and 2, whereby Constitution Petition was allowed against the Petitioners and Respondents No.3 and 4. Respondents No.3 and 4 are merely Performa respondents.

The following questions of general public importance require consideration of this Hon'ble Court.

POINTS OF LAW:

1. That Petitioners abovenamed were condemned unheard as they were not even allowed an opportunity to file comments and counter-affidavit against the contentions of the Respondents No. 1 to 3.
2. That reliance was placed on judgment in C.P No. D-1198 of 2008 though it was distinguishable as proper mind was applied in placement of the Respondents No. 1 to 3 on Exit Control List.
3. That the incident of bridge collapse at Shersha was a great public catastrophe caused by negligence of Respondents No. 1 to 3 and they were legally placed on ECL so that they do not abscond during enquiry and legal processes.

BRIEF FACTS:

1. That PMIC conducted an enquiry regarding collapse of Northern by-pass bridge Shersha, Karachi on direction of prime minister. PMIC requested the concerned organizations to make sure that any one involved in the construction of bridge who was likely to abscond should be put on ECL. NHA conveyed the names of petitioners and other two for placement on ECL. They were placed on ECL by M/o interior vide memorandum dated 03 sep 07. M/s Engineering Consultants (Pvt) Limited (ECIL) were the consultants of the projects of Northern Bypass Bridge Shersha Karachi undertaken by National Highway Authority. M/s. ECIL were held responsible for collapse of the bridge because of its ill-conceived structural system and design, as a result of the enquiry. The enquiry report was approved by the Prime Minister and a case was referred to Pakistan Engineering Council for an action against M/s ECIL. The Pakistan Engineering Council issued a notice dated 16 May 2008 to explain why their names may not be removed from the Register of consulting engineering firms under Pakistan Engineering Council (Conduct and Practice of Consulting Engineers). By- Laws 1986 that case is still pending with Pakistan Engineering Council and its apprehended that the consultants (Petitioners) will be able to avoid this process of accountability in case their names are removed from

2. That the names of the following directors / staff of ECIL were placed on the Exit Control List (ECL) vide Memorandum dated 03-09-2007 issued by Petitioner No. 1.

i.	Mr. Zaher Mirza	Chief Executive, ECIL
ii.	Mr. Khalid Mirza	Director
iii.	Mr. Naveed Zaher	Director
iv.	Col. (Retd.) Muhammad Siddique	Project Coordinator

3. That on 01-09-2007 at around 1:40 p.m. the 120 meters long part of the outer segment of the said bridge suddenly caved in causing loss of life as well as damage to properties. The Prime Minister of Pakistan directed Prime Minister's Inspection Commission to hold an inquiry into the causes of collapse and to recommend measures against repetition of such incidents in future. As a result the record pertaining to the construction of the said bridge available in the office of ECIL was sealed under the instructions of the Commission. An Enquiry Team comprising of seven members was constituted by the Commission vide notification dated 03-09-2007 to conduct an inquiry into the said collapse of part of the bridge. The sealed record was taken over by this Enquiry Team.

4. That the Inquiry Team constituted as aforesaid held to meetings at Karachi and examined various persons including some members of ECIL's staff and thereafter compiled an inquiry report in February, 2008, which is reported to have been submitted to the Prime Minister's Secretariat in Islamabad. Based on this Report, Pakistan Engineering Council was directed to proceed against ECIL/ the Petitioners (who were duly registered professional engineers and shareholders / directors of ECIL) and PEC vide letter dated 16-05-2008 notified the Respondents No. 1 and 2 to show cause why the action should not be taken against them. In response the Respondents No. 1 and 2 pointed out that they had not been supplied a copy of the Report nor of the proceedings before the Inquiry Team and were therefore unable to meaningfully respond to the Show Cause Notice.

5. That the Prime Minister's Inspection Commission (PMIC) constituted an inquiry team to conduct inquiry into the incident on the direction of the Prime Minister. The

inquiry report was submitted to the Prime Minister on 14-03-2008. The recommendations of the inquiry team were approved by the Prime Minister. The findings of the inquiry team in respect of M/s. Engineering Consultants International (Private) Limited (ECIL), are reproduced below:-

- a) The reason of physical collapse indeed lies in implementation of ill-conceived structural system and design thereof. The word criminal neglect on the part of M/s. ECIL seems to be too feeble a word to express the wrong they committed. M/s. ECIL deliberately suppressed all information related to their capacity and capability and despite witnessing the fate met by bridge due to their design, maintained the same casual and irresponsible attitude in dealing with the remedies. This tantamount to criminal breach of trust and dereliction of duty while making a complete mockery of professional ethics in a very ridiculous manner. Due to this egregious structural design of the bridge, M/s. ECIL are solely responsible for the physical collapse of Paracha Chowk Bridge.
- b) The land required for a good geometric design was never considered nor was the land negotiated for the prospective design ever acquired by NHA. Having established the design capabilities of M/s. ECIL, the acquisition of land, however, would have never saved the disaster and therefore, have no serious bearing on the cause of physical collapse of Paracha Chowk Bridge. It, however, would have definitely led to several serious issues related to monitoring, maintenance and safety of the bridge.
- c) Notwithstanding the physical collapse due to faulty structural design, the neglect on the part of NHA in discharging its duties fiducially shall, however, remain the root cause of collapse of the Paracha Chowk Box Girder Bridge, as NHA ignominiously failed to ensure implementation of the project.
- d) M/s. NLC despite having competence barriers, failing to spot major deviations by M/s. ECIL, from norms and requirements related to submission / acceptance of drawings and not having sufficient in-house capacity to undertake construction activities, cannot, however, be blamed for the physical collapse of Paracha Chowk Bridge, as evidence on record shows that they implemented the given design according to all drawings and specifications provided by M/s. ECIL.
- e) No evidence was found regarding deviation from the formal construction drawings supplied by M/s. ECIL during construction implementation and

no serious apprehension regarding workmanship and / or any deficiency in material was found to be reported by M/s. ECIL and / or NHA.

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- f) Responsibility of the disaster at the organizational level lies with the following organizations in the order defined.
- g) At individual level within M/s. ECIL, Engr. Zaheer Mirza, Chairman, ECIL, Engr. Khalid Mirza and all the other Directors of M/s. ECIL are solely responsible for the collapse of Paracha Chowk Bridge.

7. The inquiry team made the following recommendations in respect of M/s. ECIL which were also approved by the Prime Minister:-

- i) Action should immediately be initiated against M/s. ECIL for being responsible for the happening.
- ii) The name of M/s. ECIL should immediately be removed from the list of short-listed consultants and the firm should be blacklisted for undertaking consultancy job in future. Pakistan Engineering Council should also not only be informed of the decision and the basis thereof, but also be requested to initiate appropriate and exemplary action against the Company and its Directors.

8. In accordance with the approval of the Prime Minister, PMIC referred the case to Ministry of Science and Technology for an action by the Pakistan Engineering Council against M/s. ECIL on 11-04-2008. Pakistan Engineering Council (PEC) initiated an action against M/s. ECIL and directed them vide notice dated 16 May, 2008 to explain why their names may not be removed from the Register of consulting engineering firms under Pakistan Engineering Council Act, 1976 and Pakistan Engineering Council (Conduct and Practice of Consulting Engineers) By-Laws, 1986. The final decision in the matter is pending with PEC.

9. That National Highway Authority conveyed names of 04 persons including the petitioners for placement on ECL vide letter dated 02-09-2007. The Respondents No. 1 and 2 were placed on ECL by Ministry of Interior vide Memorandum dated 03-09-2007.

10. That Respondents No. 1 and 2 filed C.P. No. D-620/2009 which was allowed; hence this petition on the following grounds:

GROUNDS:

1. That the order of the Hon'ble High Court is not a speaking order wherein the Petitioners were not given any fair hearing. 139
2. That Petitioners abovenamed were condemned unheard as they were not even allowed an opportunity to file comments and counter-affidavit against the contentions of the Respondents No. 1 to 3.
3. That reliance was placed on judgment in C.P No. D-1198 of 2008 though it was distinguishable as proper mind was applied in placement of the Respondents no. 1 to 3 on Exit Control List
4. That the incident of bridge collapse at Shershah was a great public catastrophe caused by negligence of Respondents No. 1 to 3 and they were legally placed on ECL so that they do not abscond during enquiry and legal processes.
5. That further grounds shall be urged at the time of hearing of petition with kind permission of this Hon'ble Court.

PRAYER:

It is, therefore, most respectfully prayed that Leave to appeal may graciously be granted to the Petitioners against the judgment of HON'BLE HIGH COURT OF SINDH IN CONSTITUTION PETITION NO D-620 OF 2009 DATED: 29.05.2009 on the basis of Law Points, Facts and grounds as submitted hereinabove.

DRAWN AND FILED BY:



(Abdul Saeed Khan Ghori)
Advocate on Record for Petitioners



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**IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)**

OMA-123-10/09

**Civil Appeals No.228-K, 275-K of 1009
And Civil Petition No.49 of 2009.**

Prime Minister Inspection Team
National Highway Authority

(in CA 228-K/09)
(in CA 275-K & CP 49/09)
...Appellants/Petitioners

Versus

Zaheer Mirza and Others
Naveed Zaheers and Others

(in CA 228-K, 275-K/09)
(in CP 49/09)

... Respondents

REFERENCE.

Most respectfully it is submitted that in compliance of the Order dated 7th April, 2010, passed by this Hon'ble Court, I held the meetings with the concerned Police Officers, Medical Legal Officer as well as the Officers of the National Highway Authority, and gone through all the relevant record including Police File, Enquiry Report of Prime Minister Inspection Committee, and submit as under:

(Contd.....P/2..)

1. That in compliance of the above order on 8.4.2010 an amount of Rs.15 Million have been deposited by the National Highway Authority, in current account of Prosecutor General Sindh, Karachi bearing No.011-0797-4, United Bank Limited, Campbell Street, opp District & Sessions Court, Karachi, and the said transaction has been confirmed by the Bank of this office. (Photo copies of said letter alongwith deposit slip are annexed and marked as Annex: "A/I" & "A/II" respectively.
2. That on 7.4.2010, Police has registered FIR bearing No.181/2010, under section 322/431/337-A(i)/337-H(i)427/34 PPC in P.S. SITE-B, against 1) Engineer Zaheer Mirza, 2) Engineer Khalid Mirza, and all Directors of Engineering Consultant International Limited (ECIL), 3) Maj. Genl (R) Farrukh Javed, 4) Mr. Mohammad Yousuf Barakzai, 5) Mr. Raja Nowsherwan, 6) Mr. Altaf Chaudry, 7) Syed Najamul Hassan, Engineer, and 8) Col. (R) Tehsin-ul-Haq, (Photo copy of FIR alongwith its typed copy are annexed and marked as Annex: "B/I" & "B/II" respectively.
3. That further in view of above referred criminal case, the Secretary, Interior, Government of Pakistan, has been requested to enter the names of above accused persons in Exit Control List, vide this Office letter dated 8.4.2010. (Photo copy of said letter is annexed and marked as Annex: "C".
4. That in response of this Office letter dated 8.4.2010, S.H.O SITE-B has submitted the list of accused adding two names therefore another letter was sent to the Secretary Interior, Government of Pakistan, in continuation of Annex: "C". Photo copy of said letter is annexed and marked as Annex: "D".

- : (3) :-

5. That vide Order dated 7.4.2010, the names of 4 deceased namely M/S. Ali Mohammad S/O Noor Mohamad, Fayyaz S/O Faiz Muhammad, Moosa S/O Arif, Rizwan Raza Raja S/O Ghulam Ali, have been mentioned and the name of **Shahzad Ahmed S/O Faiz Bux** appears to has been missed, hence such modification may please be issued in this regard so that the legal heirs of deceased Shahzad Ahmed S/O Faiz Bux may also become able to receive the Diyat amount accordingly.
6. That as per police report the deceased namely M/S. Ali Mohammad S/O Noor Mohamad, Fayyaz S/O Faiz Muhammad, Moosa S/O Arif, Rizwan Raza Raja S/O Ghulam Ali, and Shahzad Ahmed S/O Faiz Bux have been contacted and are at Karachi except the legal heirs of Shahzad Ahmed S/O Faiz Bux, who are reported to be at Faisalabad, and it has also been reported by the concerned Police that they have tried to contact the injured persons but could not trace all of them. Photo copy of police report alongwith its eclosures is annexed hereto and marked as Annex "E".
7. That the record further shows that out of fourteen injured person, three injured were directed to be present again before the concerned Medico Legal Officer for final report , but the said injured person did not appear. Photo copy of such report dated 8.4.2010, submitted by the Police Surgeon is annexed hereto and marked as Annex "F".
8. That as per Medico Legal and Supplementary Reports it appears that there was no Arsh injury to any one and all the injuries were of Daman, which is to be determined by the **Court**, as provided u/s 337(y) of Q&D PPC.

(Contd.....P/4..)

9. It is further submitted that due to paucity of time none of the legal heirs could provide any succession/heirship certificate except in one case, as such in case of future claim by any one can not be ruled out.
10. That deposit of the share of minor legal heirs of deceased persons in the scheduled Bank/National Savings Centre in profit bearing schemes will also require permanent monitoring till the minor(s) become major(s) and after certain period the amount is to be re-invested or to be applied for issuance of fresh certificate containing profit tokens.

Although this office has reached the stage for disbursement of amount but under the circumstances it is humbly prayed that it will be just and proper if this Hon'ble Court may be pleased to place the said amount of Rs.15 Million at the disposal of the Nazir of the Hon'ble High Court of Sindh, Karachi, for disbursement of the same amongst legal heirs of the deceased as well as to deposit the shares of minor(s) in the scheduled Bank/National Savings Centre and payment to the injured persons after determination of Daman by any Court as per law or this Hon'ble Court may be pleased to order for payment of certain fixed amount to every injured or any order as deemed fit may please be passed.

It is also prayed for including the name of fifth deceased **Shahzad Ahmed S/O Faiz Bux** in the order dated 7th April 2010.

This prayer is made in the large interest of justice.

Karachi,
Dated April 9, 2010


(SHAHADAT AWAN)
PROSECUTOR GENERAL SINDH