

THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

BEFORE:
Mr. Justice Arbab Ali Hakro
Mr. Justice Muhammad Osman Ali Hadi

Const. Petition No. D-326 of 2026
[Irshad Khatoon Vs. Province of Sindh & others]

Petitioner : Through Mr. Javed Ahmed Soomro, Advocate

The State : Through Mr. Saeed Akbar Siyal, Assistant Advocate General, Sindh along with Inspector Ashique Hussain Chandio, on behalf of DIGP Larkana & SIP Ali Dost, on behalf of SSP Larkana

Date of Hearing : 14-10-2026

Date of Order : 14-10-2026

ORDER

ARBAB ALI HAKRO, J:- The petitioner is the mother of Police Constable Abdul Hayee (No. 3020) of the Traffic Branch, Ratodero. She seeks directions to the respondents to declare her son a *Shaheed*, to set aside the decision dated 25.04.2025 of the Shaheed Declaration Committee (hereinafter referred to as '**the Committee**'), which was approved by the Inspector General of Police, Sindh (hereinafter referred to as '**the impugned order**') and to award compensation in terms of section 2(f) of the Sindh Shaheed Recognition and Compensation Act, 2014 (hereinafter referred to as '**the Act**').¹

2. On 06.08.2015, the constable was on traffic duty, in uniform, on the Ratodero-Naudero bypass when a white car without a number plate, coming from the wrong side, was signalled to stop. The driver did not stop, struck him, and drove off towards Larkana. He died of the injuries. F.I.R. bearing

¹ Sindh Shaheed Recognition and Compensation Act, 2014 (Sindh Act No. XVI of 2014), s. 2(f) as originally enacted; impugned letter No. Welfare/S.D/2586/2025 dated 25.04.2025 (pp. 41–43 of the file).

Crime No. 135 of 2015 was lodged at P.S. Ratodero on behalf of the State under Sections 353, 279 and 320 PPC; its narrative attributes the collision to the negligent and rash driving of the unknown driver. The accused was never traced, and the case was disposed of in "A" Class. The post-mortem records death from chest injuries sustained in a road traffic accident.²

3. The SSP Larkana issued an obituary and processed the case as one of *Shahadat*; the DIG Larkana Range forwarded a Shaheed compensation case to the Inspector General on 30.09.2015, and the Crime and Investigation Officer, Ratodero, reported on 17.03.2016 that the death had occurred in a car accident while on duty.³ The Committee, at its meeting on 10.05.2016, did not recommend the case, along with other road-accident deaths placed before it. The family has received death compensation of Rs.300,000 and group insurance of Rs.350,000.

4. C.P. No. D-567 of 2021 was not pressed on 18.01.2022, allowing the petitioner to approach the department. In C.P. No. D-194 of 2025, this Court, on 17.03.2025, directed the competent authority to decide her application afresh by a reasoned order after hearing her. The impugned order followed. It holds that road accidents are excluded by the Finance Department's notification of 20.05.2009, that the death does not fall within Section 2(f) of the Act, and that the three officers whose declarations the petitioner cited (SIP Abdul Hadi, PC Mansoor Ali Solangi and PC Ameer Ali Junejo) fulfilled that provision. It also remarks that the Shaheed package far exceeds the compensation admissible to the heirs of other deceased constables. C.P. No. D-226 of 2026 was withdrawn on 25.03.2026 with liberty to file afresh, and the present petition was filed on 15.04.2026.⁴

² F.I.R. in Crime No. 135 of 2015, P.S. Ratodero; post-mortem report and death certificate (Annexure A).

³ Letter of the DIG Larkana Range dated 30.09.2015; letter No. CIO/R/219 of 2016 of the Crime and Investigation Officer, Ratodero (Annexure B).

⁴ Orders dated 18.01.2022 in C.P. No. D-567 of 2021, 17.03.2025 in C.P. No. D-194 of 2025 and 25.03.2026 in C.P. No. D-226 of 2026 (Annexures F, G & H).

5. Learned counsel for the petitioner contended that the deceased lost his life in the line of duty while stopping a vehicle; that the SSP and the DIG Larkana treated him as a Shaheed and that the Crime and Investigation Officer recommended that status; that the Committee could not take a view at variance with the field officers; that PC Mansoor Ali Solangi, struck by a vehicle while on traffic duty in January 2015, was declared a Shaheed; that the rule of consistency entitles the petitioner to the same treatment; and that the impugned order is unreasoned and runs counter to the orders of this Court in **Waziran Khatoon** and **Zahoori** and to the judgment of the Lahore High Court in **Asad Imran**.⁵

6. Learned AAG, supported the impugned order. He submitted that section 2(f) of the Act, as it stood in 2015, was confined to deaths connected with terrorism; that road accidents were expressly excluded by the Finance Department's notification of 2009; that the Committee, after hearing the petitioner as directed by this Court, had recorded its reasons; and that the petition is, in any event, not maintainable, since the petitioner had a statutory appeal to the Secretary, Home Department, under the Sindh Shaheed Recognition and Compensation Rules, 2023 (hereinafter referred to as '**the Rules of 2023**'), which she never availed.⁶

7. The questions that arise are: (i) whether the petition is maintainable in view of the appeal provided by rule 6(6) of the Rules of 2023; (ii) whether a death in a road traffic accident on 06.08.2015 falls within Section 2(f) of the Act and whether the definition, as amended in 2023, applies; (iii) whether the petitioner can claim parity with the officers declared Shaheed in 2014 and 2015; and (iv) whether the defects in the impugned order call for a remand.

⁵ *Mst. Waziran Khatoon v. Province of Sindh* C.P. No. D-360 of 2021, decided on 28.02.2025 (Annexure E); *Mst. Zahoori v. Province of Sindh* C.P. No. D-6587 of 2015, decided on 13.01.2023 (Karachi); *Asad Imran v. Inspector General of Police, Punjab* 2023 PLC (C.S.) 1013.

⁶ Sindh Shaheed Recognition and Compensation Rules, 2023, Home Department Notification No. SO(POL-I)HD/03-73/2020 dated 01.01.2024, made under s. 5 of the Act; rr. 6 and 16.

8. Rule 6(6) of the Rules of 2023 requires that a refusal be communicated to the family in writing and provides for an appeal to the Secretary, Home Department, within thirty days, whose decision is final. No appeal was filed. The impugned order, however, is addressed to the AIGP Legal, not to the petitioner, and the record does not show when, if at all, it was communicated to her in writing to set the period running. The office objection that the petition is a repetition is met by the liberty granted on 25.03.2026. We have therefore not relegated the petitioner to the appellate forum. Where the claim turns on the construction of the statute and fails on its plain terms, a remand would only prolong litigation that has already run for a decade without altering its result.

9. As enacted, Section 2(f) defined "Shaheed" as a person who offered the sacrifice of his life in the line of duty in counter-terrorism, or became the victim of an act of terrorism, or was targeted and killed by a terrorist group, and was declared Shaheed in the manner prescribed by Government. Each limb is tied to terrorism. The death of a constable struck by a car driven rashly and negligently, however tragic and however much in the line of duty, falls under none of them. The State's own case, as set out in the F.I.R., is under section 320 PPC, that is, *qatl-i-khata* by rash or negligent driving. The addition of section 353 PPC reflects no more than that the deceased was on duty and had signalled the vehicle; neither the F.I.R., the investigation nor the report of the Crime and Investigation Officer suggests a deliberate or terror-driven attack. The assertion that he was intentionally hit surfaces for the first time in the petitioner's representation to the Chief Minister in 2019, years after the event, and is unsupported by any material.

10. This has been the consistent view of this Court. In ***Shamshad Khatoon***⁷, a constable run over by a vehicle while on duty was held not to be a Shaheed, since death on duty does not, by itself, attract that status; in ***Muhammad Iqbal Naseem***⁸, the F.I.R. invoked section 7 of the Anti-Terrorism Act, 1997, yet the accident was held incapable of being stretched into an act of terrorism, and road-accident claims have been dismissed in the same terms by the Larkana, Sukkur and Karachi Benches.⁹ The Finance Department's notification of 20.05.2009, which fixed enhanced compensation for police personnel killed in encounters, bomb blasts, riots, watch-and-ward duty or terrorist activity, expressly excludes road accidents, and the Committee rightly took this into account.¹⁰

11. By the Amendment Act of 18.07.2023, Section 2(f) was substituted to include a person who lost his life "in the line of duty or during the discharge of his official responsibility, as a result of an act of violence", and the words "in an act of terrorism" were omitted from the long title and preamble.¹¹ The impugned order does not notice the amendment. The omission is not fatal, because the amended clause does not extend to a death that occurred on 06.08.2015. The substitution operates as a repeal and re-enactment. Section 4 of the West Pakistan General Clauses Act, 1956 preserves the previous operation of the repealed provision and the rights and liabilities that accrued under it, and an amending statute is prospective unless its language says otherwise.¹² The Amendment Act says only that it shall come into force at once. Nor is it curative or declaratory. It clears no ambiguity and supplies no oversight in the original definition; it enlarges the class of beneficiaries and

⁷ *Mst. Shamshad Khatoon v. Province of Sindh* 2019 PLC (C.S.) 1459, relying on *Ghulam Haider v. Murad* PLD 2012 SC 501.

⁸ *Muhammad Iqbal Naseem v. Province of Sindh* 2023 PLC (C.S.) 700.

⁹ C.P. No. D-1077 of 2015, decided on 19.02.2019; C.P. No. D-309 of 2019, decided on 09.02.2022; C.P. No. D-468 of 2020, decided on 11.01.2022 (all Circuit Court Larkana); *Mst. Sahjan Pitafi v. Province of Sindh* C.P. No. D-3970 of 2014, decided on 30.11.2021 (Sukkur Bench); C.P. No. D-1501 of 2020, decided on 27.09.2021 (Karachi).

¹⁰ Finance Department Notification No. FD(SR-III)10-6/2006 dated 20.05.2009.

¹¹ Sindh Shaheed Recognition and Compensation (Amendment) Act, 2023 (Sindh Act No. XXII of 2023), ss. 2 and 3.

¹² West Pakistan General Clauses Act, 1956, s. 4(1)(b) and (c); *Badshah Gul Wazir v. Government of Khyber Pakhtunkhwa* 2015 SCMR 43.

creates a fresh charge on the provincial exchequer, which is a substantive change. Beneficial legislation does not become retroactive merely because it is beneficial.¹³ The entitlement of a family crystallises on the date of death, and the law of that date governs.

12. Even under the amended text, the petitioner would not succeed on this record. The expression "act of violence" connotes intentional force. The State's case is one of unintentional killing by negligent driving. The Sindh Police (Shaheed, Deceased, Permanently Invalidated or Incapacitated Quota) Recruitment Rules, 2021, on which the petitioner herself relies, point the same way: a death in a road traffic accident is treated as *Shahadat* only where it occurred in pursuit of criminal elements or the officer was deliberately run over, and in either case only when duly established after an inquiry conducted by an officer not below the rank of Superintendent of Police.¹⁴ No such inquiry was held or sought, and this Court cannot find deliberate intent on affidavits eleven years after the event.

13. The comparators do not assist the petitioner. SIP Abdul Hadi (03.05.2014) was deliberately run down by armed men, who then took the vehicle at gunpoint. The death of PC Ameer Ali Junejo was registered under section 302 PPC; both deaths preceded the Act and were dealt with under IGP Standing Order No. 279/2014. PC Mansoor Ali Solangi, struck by a vehicle on traffic duty on 21.01.2015 (F.I.R. under sections 320, 279, 337-G and 353 PPC) and declared Shaheed on 04.05.2015 under the same Standing Order, is the closest case, and the statement in the impugned order that his case "fulfills" section 2(f) cannot be reconciled with the words of that provision. The same Committee, at its meeting of 16.04.2015, had declined the road-accident case of HC Muhammad Murad.¹⁵ An inconsistency of that

¹³ *Messrs Rajby Industries, Karachi v. Federation of Pakistan* 2023 SCMR 1407.

¹⁴ Sindh Police (Shaheed, Deceased, Permanently Invalidated or Incapacitated Quota) Recruitment Rules, 2021, Notification No. 9040-9120/EB-III/T-7/S&S/2021 dated 23.08.2021, r. 2(1)(i)(v).

¹⁵ C.P. No. D-1077 of 2015 (n. 9 above).

kind does not, however, confer a right. Article 25 of the Constitution does not countenance negative equality; a wrong concession made in favour of one person cannot be invoked by another to claim the benefit of a wrong decision.¹⁶ This Court has also held that Standing Order No. 279/2014 never received the approval of the Provincial Government and confers no enforceable right.¹⁷ A declaration that the statute does not permit cannot be compelled by mandamus.

14. The authorities cited for the petitioner are distinguishable. **Waziran Khatoon** and **Asad Imran** concerned deaths in an armed encounter and a murder on duty; **Zahoori** was remanded only because the Committee had given no reasons, and the deceased there had died when an armoured personnel carrier overturned in a ditch dug by unknown persons.¹⁸ None of them holds that a death caused by negligent driving is *Shahadat*.

15. The impugned order is open to criticism. It records the date of the incident as 15.08.2015 instead of 06.08.2015; its distinction between the comparators is stated in a single sentence that does not bear scrutiny; and it refers to the cost of the Shaheed package in comparison with the compensation payable to other heirs. The last is an extraneous consideration that has no place in a statutory declaration, and we disapprove of it. The decisive finding, that a road-accident death in 2015 lies outside section 2(f) of the Act, is nonetheless correct in law and independently sustainable. A remand would produce the same result and serve no purpose.

16. For the foregoing reasons, the death of PC Abdul Hayee on 06.08.2015 in a road traffic accident, though it occurred while on duty and in uniform, does not fall within the definition of "Shaheed" in section 2(f) of the Act as it stood on that date. The 2023 amendment does not operate

¹⁶ *Chief Secretary, Government of Balochistan v. Adeel-ur-Rehman* 2024 SCMR 145.

¹⁷ *Rab Nawaz v. Province of Sindh* 2019 PLC (C.S.) Note 5.

¹⁸ *Waziran Khatoon, Asad Imran and Zahoori* (n. 5 above).

retrospectively and, in any event, requires an act of violence that the record does not disclose. No right to parity arises from declarations made in other cases contrary to the statute. No legal right of the petitioner is shown to have been infringed. The petition is **dismissed** along with the listed application(s). There shall be no order as to costs.

17. This order shall not prejudice any claim by the legal heirs of the deceased to the benefits admissible on the death of a police official in service under the rules and notifications in force on the date of his death. If any such benefit remains unpaid, the competent authority shall, on an application by the petitioner, determine and release it by a speaking order within sixty days. The observation in the impugned order regarding the cost of the Shaheed package has played no part in this decision.

JUDGE

JUDGE

Zulfiqar