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भारत सरकार / GOVERNMENT OF INDIA

पत्तन, पोत परिवहन और जलमार्ग मंत्रालय / MINISTRY OF PORTS, SHIPPING & WATERWAYS

नाविक रोजगार कार्यालय/ SEAMEN'S EMPLOYMENT OFFICE

नव भवन, 10 रामजीभाई कमाना मार्ग/ NAU BHAVAN, 10 R.K. MARG,

बेलाई ईस्टेट, मुंबई /400001-BALLARD ESTATE, MUMBAI-400 001

31 MAY 2023

File No. MMDMUM-14011(14)/1/2022-SEO/ 535/2023

Dated 31 May 2023

SUB :INQUIRY INTO THE COMPLAINT OF DR. AMRITA SINGH, REGISTERED ONLINE CPGRAM PORTAL NO. MSHPG/E/2020/00088 DATED 21.03.2020 REGARDING DEPARTMENTAL ENQUIRY IN MURDER CASE OF CHIEF ENGINEER LATE MR. SANJAY CHAUDHARY UNDER MS ACT, 1958 AND MLC, 2006 RECEIVED IN THIS OFFICE ON 08.01.2021 FROM THE DIRECTORATE GENERAL OF SHIPPING (VINOD-DGS@GOV.IN DATED 08.01.2021, 1224 HOURS) ALONG WITH ENCLOSURES AS PER MERCHANT SHIPPING ACT, 1958 AND MERCHANT SHIPPING (RECRUITMENT AND PLACEMENT OF SEAFARER) RULES, 2016

1. **COMPLAINANT:** Dr. Amrita Singh w/o Late Shri Sanjay Chaudhary, Old Address # House- 467, Sec # 06, Jagrati Vihar, Meerut City, Uttar Pradesh- 250 004. New Address: House- 36, Sec # 08, Raj Nagar. Opp. Vardan Eye Hospital, Ghaziabad, Uttar Pradesh- 201 002. Hereinafter referred as a 'Complainant'. The details of deceased:

Name	Late Shri Sanjay Chaudhary
Date of Birth	03.12.1972
CDC Number	MUM 121082
COC Number	UK CoC # CoC0048454
Vessel Details	MT ATLANTIC OLIVE, IMO N9354909, Hong Kong Flag.
RPSL Agent Details	M/s Anglo Eastern Ship Management (India) Pvt. Ltd, RPSL-MUM-088.
Ship Owner Details (As per Seafarer's Employment Agreement)	M/s Anglo Eastern Ship Management (Singapore) Pte Ltd, 200 Cantonment Road, 16-02 Southpoint, Singapore- 089763.
Registered Ship Owner Details (As per Seafarer's Employment Agreement)	M/s Heroic Pisces Inc, 15 th Floor, Tower One, Lippo Centre, 89 Queensway, Admiralty, Hong Kong.
Date of Commencement of Contract as per Seafarer's Employment Agreement and Place	23.02.2018, Mumbai, India.
Sign on Ship date as per updated online DGS Form-I record	26.02.2018
Date of death,time,location of ship	17.04.2018, 0740 LT – At sea en route Cape Verde Islands from Malta (As per First Report of Marine Casualty / Incident / Near Miss dated 17.04.2018 submitted to DG Comm centre).
Details of NOK	Dr. Amrita Singh w/o Late Shri Sanjay Chaudhary, Old Address # House- 467, Sec # 06, Jagrati Vihar, Meerut City, Uttar Pradesh- 250 004. New Address: House- 36, Sec # 08, Raj Nagar. Opp. Vardan Eye Hospital, Ghaziabad, Uttar Pradesh- 201 002.

2. **RESPONDENT:** M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd, RPSL-MUM-088, Unit # 303, 3rd Floor, Leela Business Park, Marol, Andheri Kurla Road, Andheri (E), Mumbai- 400 059 - Represented by Mr. Vineet Gupta, Managing Director (intimated this office vide e-mail from vineet@angloeastern.com dated 06.05.2023). Hereinafter referred as 'RPSL Company'.

3. The Director, Seamen's Employment Office, Mumbai has conducted an enquiry on 18.07.2022 on virtual platform on Microsoft Teams as per Section 95 of M.S. Act, 1958 and Rule 7(5) and Rule 12 of Merchant Shipping (Recruitment and Placement Service) Rules, 2016. The following were attended the virtual hearing:

- 3.1 Dr. Amrita Singh W/o Late Shri Sanjay Chaudhary, ex-C/E M.T. ATLANTIC OLIVE.
- 3.2 Shri Rejish Chacko, Welfare Manager, M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd.
- 3.3 Shri Vineet Gupta, Dy. Managing Director, M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd.
- 3.4 Miss Allena, Representative of M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd.
- 3.5 Miss Gayatri Singh, Daughter of Late Shri Sanjay Chaudhary, ex-C/E M.T. ATLANTIC OLIVE.
- 3.6 Shri Binish Chandra Varma M, Asstt. Director, SEO, Mumbai.
- 3.7 Shri Abhishek Dudvadkar, UDC, SEO, Mumbai.
- 3.8 Shri Gaurav Goel, UDC, GSO, Mumbai.

4. The Complainant has made her submission during the virtual hearing followed by written submission in this regard. Representatives of RPSL Company has requested time to furnish their reply against the submission of the Complainant. Accordingly, a draft minutes of hearing was prepared and circulated to both the parties for their comments vide this office e-mail dated 21.07.2022. Further, after considering the suggestions / requests of both the parties, final minutes of hearing were circulated to the Complainant and RPSL Company vide this office e-mail dated 26.07.2022. The Complainant vide her e-mail dated 26.07.2022 has acknowledged the receipt of final minutes of the hearing. The RPSL Company vide their e-mail dated 28.07.2022 has also acknowledged the receipt of finalized minutes of hearing. The submissions of the Complainant has recorded in the minutes of virtual hearing held on 18.07.2022 from Para 6.1 to Para 6.10, which are reproduced below:

Quote

6.1 RPSL agency intended to deposit the amount of compensation with ECA, Mumbai even though the same was not permitted under the law. She challenged the same & subsequently, an amount of INR 10 Lacs was deducted from the compensation amount & deposited with local ECA, i.e., ECA, Ghaziabad. She stated that Shri Rejish Chacko has misguided her on the subject. However, she confirmed that she has received approx. INR 1.10 Crores as compensation from the company.

6.2 Personal belongings of Late Shri Sanjay Chaudhary were never handed over to his family. In lieu of that an amount of US \$ 3,000/- (Approx. INR 2, 04,030/-) was deposited with ECA, Ghaziabad. The Complainant has alleged that the personal belongings were deliberately not handed over to the family as the gadgets might have some evidence in connection to his death. Hence, the said amount is stated to have been subsequently returned by her to RPSL agency.

6.3 Expressed dissatisfaction over response of RPSL agency post death of her husband. She also alleged that after a certain point, RPSL even stopped responding to her calls and e-mails.

6.4 Alleged several irregularities regarding joining and Seafarer's Employment Agreement (SEA) between RPSL and Late Shri Sanjay Chaudhary, regarding;

- (A) Signature of Late Shri Sanjay Chaudhary were forged on the Seafarer's Employment Agreement (SEA) shown to her. She claimed that same was confirmed by Forensic Science Laboratory (FSL), Ghaziabad.

- (B) Late Shri Sanjay Chaudhary was supposed to join onboard CITRUS, Maltese flagged vessel. How, his vessel changed to Hong Kong vessel, is never clarified to her.
- (C) SEA for Maltese flagged vessel was signed at Delhi on 10.02.2018 which has never been submitted by RPSL agency. Further, date & place of signing the agreement for M.T. ATLANTIC OLIVE was mentioned as Mumbai and 23.02.2018, respectively. Whereas, Late Shri Sanjay Chaudhary was at Singapore on said date and he never travelled to Mumbai as he had left for Singapore from Delhi only to join the vessel at foreign port.
- (D) TOE (TERMS OF EMPLOYMENT) of Anglo Eastern Ship Management Company India Pvt Ltd, which mentions about, "Any dispute as to the terms and conditions of the employment contract shall be resolved in accordance with the Maritime law and regulation of the flag state" and Ship Management Company is contradicting it's own Terms of Employment."

6.5 Payment of compensation is not as per Hong Kong regulations as quantum of compensation should have been decided by law of the land, which in instant case is Hong Kong. She also stated that Maritime Union of India (MUI) is not authorized to sign for Hong Kong flagged vessels. Compensation should be settled down as per relevant **National Regulations** not as per company policy or CBA as no company policy or CBA can supersede National Laws/Regulations. MUI being presented as an Insurance Agency for Seafarers. MUI is a Maritime Labour Union and is not registered in IRDA (Insurance Regulatory and Development Authority) as an Insurance Agency, hence this is illegal that it has been projected as Insurance Agency.

6.6 Points towards **Insurance Coverage of the seafarer of Form-2 [See rule 5 (3)]** by Ship Management Company. Submitted about three death cases in which the Ship Management Company made different entries in Column No. 12 Insurance Coverage of the seafarer of Form-2 [See rule 5 (3)](RPSL Rules-2016). In one it was **MUI/IBF**, in other it was **HKCBA**, and so forth. Objected regarding non-uniformity.

6.7 Disagreement and annoyance about **MOU and CBA** of her husband being signed by Mr. Vinay Singh from Anglo Eastern Ship Management Company India Pvt Ltd Mumbai and Mr. Amar Singh Thakur, General Secretary of Maritime Union of India. Called this MOU and CBA illegal.

6.8 Statement about **Regulation 2.1 of MLC- 2006** in which certain features/points are given which should be there in a ECA(Employment Contract Agreement) of a Seafarer. But her husband's employment contract's front page which was sent to her by Mr. Rejish Chako, Welfare Officer of Anglo Eastern Ship Management Company India Pvt Ltd, Mumbai through an email was devoid of all those mandatory features given in **Regulation 2.1**. *Any Contract which is not clear and legally enforceable should be considered zero.*

6.8 (to be read as 6.9) Stated that the amount of compensation as per Hong Kong regulations was 60 months earning of deceased seafarer which roughly makes it INR 9-10 Cr.

6.9 (to be read as 6.10) CBA formed herein is not in accordance with Clause (c) of sub-rule Rule 1 of Rule 2 of M.S. (R&PS) Rules, 2016 which defines CBA states *Quote "an agreement signed between the concerned trade unions and employers for an employment on board foreign flag ships, which is in conformity with the laws of the flag State concerned;" End Quote.*

5. Whereas, a second personal enquiry was held on 21.04.2023 at 1430 hours and given opportunity to both parties to furnish their submissions/defence on the matter. The following were attended the personal hearing:

- 5.1 Dr. Amrita Singh, w/o Late Shri Sanjay Chaudhary, ex-C/E M.T. ATLANTIC OLIVE.
- 5.2 Shri Rejish Chacko, Welfare Manager, M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd.
- 5.3 Shri Vineet Gupta, Dy. Managing Director, M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd.
- 5.4 Miss Allena, Representative of M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd.
- 5.5 Shri Nadeemuddin, Colleague of Dr. Amrita Singh
- 5.6 Shri Binish Chandra Varma M, Asstt. Director, SEO, Mumbai.
- 5.7 Shri Bablu Ram Meena, Asstt. Director, SEO, Mumbai.
- 5.8 Shri Gaurav Goel, UDC, GSO, Mumbai.

6. The above 10 submissions of the Complainant has been taken up with the RPSL Company. The reply received from the RPSL Company has been examined in detail and enumerated in the following paragraphs. The RPSL Company has been given enough opportunity to defend the case by issuing various letters and given two personal hearing, which is to be treated as the compliance of Rule 12 of Merchant Shipping (Recruitment and Placement of Seafarer) Rules, 2016 in letter and spirit.

6.1 The **FIRST SUBMISSION** of the Complainant (as per Para 6.1 of Minutes of Hearing): The RPSL agency intended to deposit the amount of compensation with Employees Compensation Commission, Mumbai even though the same was not permitted under the law. She challenged the same & subsequently, an amount of INR 10 Lacs was deducted from the compensation amount & deposited with local Employees Compensation Commission, i.e., Employees Compensation Commission, Ghaziabad. She stated to have been misguided on the subject by Shri Rejish Chacko. However, she confirmed that she has received approx. INR 1.10 Crores as compensation from the company.

Against the above submission, RPSL Company has stated vide Para 01 of their letter No. AEFPD/15/2022 dated 28.07.2022 has stated that as per the applicable Collective Bargaining Agreement MUI/IBF in respect of Late Shri Sanjay Chaudhary, death compensation entitlement was US \$ 102,308/- to the nominated beneficiary and additionally USD 20,462/- to each dependent child (maximum 04 under the age of 18). As per standard procedure the aforesaid entitled compensation was being processed by way of execution of the release and receipt agreement to safeguard the interest of the owners and as per statutory requirement, portion of the compensation was deposited with the Employment Compensation Commission under the Workmen Compensation Act 1923 and under the direction of Employment Compensation Commissioner; the deposited compensation amount was to be disbursed to the dependants / Next of Kin of Late Shri Sanjay Chaudhary. However, the Complainant refused to sign the Release and Receipt Agreement for reasons best known to her and thereby on her request the entire Compensation of USD 1,02,308/- and sum of USD 20,462/- in respect of each of the three (03) dependent children of Late Shri Sanjay Chaudhary was deposited with the Employment Compensation Commission, Ghaziabad. The RPS Company also stated that no deduction was made from compensation amount as claimed by the Complainant and that the entire composition aggregating to USD 163,694/- equivalent to INR 1,11,32,830 was deposited with the employment compensation commission Ghaziabad upon request of the Complainant.

- (a) Death Compensation amounting to USD 1, 02,308/- equivalent to INR 69, 57,967/-.
- (b) Compensation of USD 61,386/- equivalent to INR 41,74,863/- for 03 dependent children under the age of 18 years.

6.2 The **SECOND SUBMISSION** of the Complainant (as per 6.2 of Minutes of Hearing): Personal belongings of Late Shri Sanjay Chaudhary were never handed over to his family. In lieu of that an amount of US \$ 3,000/- (Approx. INR 2, 04,030/-) was deposited with Employees Compensation Commission, Ghaziabad. Dr. Amrita Singh alleged that the personal belongings were deliberately not handed over to the family as the gadgets might have some evidence in connection to his death. Hence, Dr. Amrita Singh has returned the said amount to RPSL agency.

The RPSL Company, vide Para 02 of their letter No. AEFDP/15/2022 dated 28.07.2022 has stated that an inventory list was prepared on the vessel of personal belongings of Late Mr Sanjay Chaudhary which were packed into two suitcases (red and black) and were sealed using locks. The personal belongings of Mr Sanjay Chaudhary were landed ashore along with his mortal remains after completion of investigation by the local authorities. Subsequently the personal belongings along with his mortal remains were brought to India after completing the necessary documentation and procedure for international transportation in compliance of the rules to repatriate the mortal remains and personal belongings in India. The personal belongings along with the mortal remains of the deceased reached Delhi airport on 02.05.2018 which were received by undertakers M/s. John Pinto International in the presence of relatives of Dr. Amrita Singh (Mr Naresh and Mr Digvijay Singh, brother of Dr. Amrita Singh who works with the Ministry of External Affairs) and company General Manager of Delhi Mr Rajeev Kumar. The sealed personal belongings {in locked condition} of the deceased were handed over to the family member, Mr. Shubham Singh along with the mortal remains in the presence of Dr. Amrita Singh vide his written acknowledgement on 02.05.2018 at 1800 hours. Later, the Complainant alleged that certain belongings of the deceased were missing from his suitcase. RPSL Company claimed to have checked with the various parties / agents involved in the transportation however, all the parties involved in the transportation of personal belongings declared that the suitcase were sealed and never opened at any stage and / or transit. In this regard, the RPSL Company has offered to compensate the family for loss of few personal belongings with USD 3,000/- and deposited with Employment Compensation Commission, Ghaziabad which was subsequently returned by Dr. Amrita Singh. This was also informed to Dr. Amrita Singh through RPSL Company email on 08.05.2018 & 31.05.2018.

6.3 The **THIRD SUBMISSION** of the Complainant (as per Para 6.3 of Minutes of Hearing): Expressed dissatisfaction over response of RPSL Company post death of her husband. She also alleged that after a certain point, RPSL even stopped responding to her calls and e-mails.

The RPSL Company vide Para 03 of their letter No. AEFDP/15/2022 dated 28.07.2022 has submitted that they are in regular contact with the Complainant, including personal visits on multiple occasions to her residence and that with utmost diligence and promptness transportation of mortal remains and personal belongings of Mr. Sanjay Chaudhary were done. However, the Complainant started making various false, baseless, malicious allegations to different authorities including Ministry of Shipping, DGS, CBI, DGS vigilance, Flag State, Ghaziabad police about the Company. Furthermore, the RPSL Company stated to have tried meeting of the Complainant with their Managing Director. However, she refused to meet with Managing Director. Further, the Complainant also resorted to threatening personnel of the Company.

6.4. The **FOURTH SUBMISSION** of the Complainant (as per Para 6.4 of Minutes of Hearing): Alleged several irregularities regarding joining and Seafarer's Employment Agreement (SEA) between the RPSL Company and Late Shri Sanjay Chaudhary, regarding;

- (A). Signature of Late Shri Sanjay Chaudhary was forged on the Seafarer's Employment Agreement (SEA) shown to her. She claimed that same was confirmed by Forensic Science Laboratory (FSL), Ghaziabad.
- (B). Late Shri Sanjay Chaudhary was supposed to join on board CITRUS, Maltese flagged vessel. However, his vessel changed to Hong Kong vessel, is never clarified to her.
- (C). SEA for Maltese flagged vessel was signed at Delhi on 10.02.2018 which has never been submitted by RPSL agency. Further, date & place of signing the agreement for M.T. ATLANTIC OLIVE was mentioned as Mumbai and 23.02.2018, respectively. Whereas, Late Shri Sanjay Chaudhary was at Singapore on said date and he never travelled to Mumbai as he had left for Singapore from Delhi only to join the vessel at foreign port.
- (D). TOE (TERMS OF EMPLOYMENT) of Anglo Eastern Ship Management Company India Pvt Ltd, which mentions about, "Any dispute as to the terms and conditions of the employment contract shall be resolved in accordance with the Maritime Law and regulation of the flag state" and Ship Management Company is contradicting its own Terms of Employment."

The RPSL Company vide Para 4.1 of their letter No. AEFPD/15/2022 dated 28.07.2022 has submitted that:

(A) : The RPSL Company has submitted the certified true copy of the employment contract of Late Shri Sanjay Chaudhary for M.T. ATLANTIC OLIVE and email from Mr. Sanjay Chaudhary with his joining papers for M.T. ATLANTIC OLIVE. The RPSL Company also stated that the Complainant has relied on the said employment contract to withdraw the deposited compensation amount of INR 1,11,32,830 from the Employment Compensation Commission, Ghaziabad. Furthermore, the Complainant has also filed an application before the Employment Compensation Commission wherein she relied on the employment contract for claiming compensation under Hong Kong CBA, which is currently under the jurisdiction of Court.

(B) & (C): Late Shri Sanjay Chaudhary had flown to Singapore on 10 February 2018 to attend briefing at their Principal office, Anglo-Eastern Ship management (Singapore) Pte Ltd and to meet his Non-Resident status wherein he was required to stay out of the country on employment for not less than 183 days of the financial year. He was to join M.T. Citrus (Maltese flagged vessel) initially but as the vessels itinerary was indefinite; the assigned vessel was changed to M.T. ATLANTIC OLIVE as per RPSL Company's Technical Office / Principal's requirement. Late Shri Sanjay Chaudhary has accepted this change of assigned vessel and he willingly signed the new contract to join on board M.T. ATLANTIC OLIVE. The RPSL Company has referred to the employment contract signed by Late Shri Sanjay Chaudhary for M.T. ATLANTIC OLIVE and e-mail communication from Mr. Sanjay Chaudhary with his joining papers for M.T. ATLANTIC OLIVE. RPS provider also claimed that there is no obligation on the part of the company to inform the Nok about the employment contract.

(D): The RPSL Company vide Para 4.4 of their letter No. AEFPD/15/2022 dated 28.07.2022 has submitted that they have complied with the provisions of Terms of Employment and Collective Bargaining Agreement as mentioned in the Employment Contract of Late Mr. Sanjay Chaudhary.

6.5. The FIFTH SUBMISSION of the Complainant (as per Para 6.5 of Minutes of Hearing): Payment of compensation is not as per Hong Kong regulations as quantum of compensation should have been decided by law of the land, which in instant case is Hong Kong. She also stated that Maritime Union of India (MUI) is not authorized to sign for Hong Kong flagged vessels. Compensation should be settled down as per relevant National Regulations not as per company policy or CBA as no company policy or CBA can supersede National Laws/Regulations. MUI being presented as an Insurance Agency for Seafarers. MUI is a Maritime Labour Union and is not registered in IRDA (Insurance Regulatory and Development Authority) as an Insurance Agency; hence, this is illegal that it has been projected as Insurance Agency.

The RPSL Company vide Para 5 of their letter No. AEFPD/15/2022 dated 28.07.2022 has stated that Late Shri Sanjay Chaudhary joined the vessel M.T. ATLANTIC OLIVE in the capacity of Chief Engineer on the terms and conditions of Employment Contract dated 23.02.2018 and applicable Collective Bargaining Agreement (CBA) MUI/IBF. The death compensation aggregated USD 163,694/- equivalent to INR 1,11,32,830 was settled with the nomination of beneficiary by depositing it with the Employment Compensation Commission, Ghaziabad on the request of the wife of Late Mr. Sanjay Chaudhary. The said death compensation amount of USD 163,694 equivalent to INR 1,11,32,830 was subsequently withdrawn by the the Complainant. Nevertheless, the Complainant contention that the Hong Kong regulations of Employees Compensation Ordinance Cap 282 (ECO) of the Laws of the Hong Kong Special Administrative Region, China being applicable, is incorrect and inappropriate. The Hong Kong Employees Compensation Ordinance, Section 5(1) clearly provides that if in any employment, death by ACCIDENT or PERSONAL INJURY BY ACCIDENT arising out of and in course of the employment is caused to an employee, his employer shall be liable to pay compensation in accordance with this Ordinance. The RPSL Company has stated that Shri Sanjay Chaudhary died of natural causes. He passed away on board on 17 April 2018 after a short bout of illness whilst the vessel was at sea and en route to Cape Verde. As per the autopsy report received from the authorities of Republic of Cape Verde, Late Shri Sanjay Chaudhary passed away due to

(direct cause) Acute myocardial infarction and (basic cause) Hyperthyroidism. Based on above, RPSL Company has stated that there is no question of applicability of Hong Kong Employees Compensation Ordinance in the instant case. The RPSL Company has clarified that the Article 22.1 of Hong Kong Collective Bargaining Agreement for vessel Atlantic Olive states that if a seafarer dies through any cause whilst in the employment of the Company under the Seafarer's Employment Agreement, the Company shall pay at least the minimum compensation specified in Annex IV. (i.e. the actual amount payable will be dependent on the Death in Service Compensation Law of the country of domicile of the seafarer (PRC, Philippines, India, etc.) whilst always retaining "a minimum payment of US \$ 80,000/- in all cases) to the seafarer's nominated beneficiary. Hence, the compensation settled with the nominated beneficiary is much higher than the compensation under Hong Kong Collective Bargaining Agreement.

6.6. The **SIXTH SUBMISSION** of the Complainant (as per Para 6.6 of Minutes of Hearing): Points towards Insurance Coverage of the seafarer of Form-2 [See rule 5 (3)] by Ship Management Company. Submitted about three death cases in which the Ship Management Company made different entries in Column No. 12 Insurance Coverage of the seafarer of Form-2 [See rule 5 (3)] (RPSL Rules-2016). In one it was MUI/IBF, in other it was HK CBA, and so forth. Objected regarding non-uniformity.

The RPSL Company vide Para 6 of their letter No. AEFDP/15/2022 dated 28.07.2022 has stated to be unaware of cases the Complainant was referring to. The RPSL Company however, referred to the Column No.12 at Form-II at Report of Death or Disability of a Seafarer is submitted to Directorate General of Shipping along with the other documents wherein the reference to Collective Bargaining Agreement (CBA) as mentioned in the respective Employment Contract has been made.

6.7. The **SEVENTH SUBMISSION** of the Complainant (as per Para 6.7 of Minutes of Hearing): Disagreement and annoyance about **MOU and CBA** of her husband being signed by Mr. Vinay Singh from Anglo Eastern Ship Management Company India Pvt Ltd Mumbai and Mr. Amar Singh Thakur, General Secretary of Maritime Union of India. Called this MOU and CBA illegal.

The RPSL Company vide Para 7 of their letter No. AEFDP/15/2022 dated 28.07.2022 has submitted that Late Mr. Sanjay Chaudhary had read, accepted and willingly signed the employment contract prior joining M.T. ATLANTIC OLIVE. It is not mandatory under the Maritime Labour Convention 2006 (MLC) for Seafarers to be employed under collective bargaining agreements (CBA), the ships under the management of principals generally apply ITF-IMEC IBF CBA for the Seafarers employed on board. The ITF-IMEC IBF CBA is a collective agreement concluded between the Joint Negotiating Group representing maritime employers who are members of IMEC, which includes RPSL Company and ITF representing their affiliated maritime seafarer unions, which includes MUI and NUSI. For Hong Kong registered ships, RPSL Company stated to have concluded a specific CBA with NUSI / MUI to provide better benefits and compensation entitlements for Indian seafarers than they would otherwise have under the standard Hong Kong Collective Bargaining Agreement (HK CBA) and Hong Kong Employees Compensation Ordinance (ECO) which would otherwise apply, such as:

1. Provident Fund and Gratuity payments
2. Death compensation at higher levels, i.e., USD 102,308/- plus USD 20,462/- for each minor child versus USD 80,000/- under HK CBA/ECO
3. Death compensation payable at the same level for death due to natural causes, which is not applicable under HK CBA/ECO

By providing for the NUSI/MUI CBA in the SEA for Ratings/Officers, its levels prevail over the HK CBA/ECO and benefit the Indian Ratings RPSL Company engaged for the Hong Kong registered ships. To sum up, on the HK registered vessels, for Ratings RPSL Company apply the NUSI CBA, and for Officers they stipulate MUI IBF CBA in their SEA. These benefits Indian Seafarers, both Officers and Ratings. The RPSL Company also stated that their computerized system generated the respective SEA, accordingly.

6.8. The **EIGHTH SUBMISSION** of the Complainant (as per Para 6.8 of Minutes of Hearing): Statement about **Regulation 2.1 of MLC- 2006** in which certain features/points are given which should be there in a EMPLOYEES COMPENSATION COMMISSION(Employment Contract Agreement) of a Seafarer. But her husband's employment contract's front page which was sent to her by Mr. Rejish Chako, Welfare Officer of Anglo Eastern Ship Management Company India Pvt Ltd, Mumbai through an email was devoid of all those mandatory features given in **Regulation 2.1**. Any Contract which is not clear and legally enforceable should be considered zero.

The RPSL Company vide Para 8 of their letter No. AEFPD/15/2022 dated 28.07.2022 has stated that the employment contract is in compliance with Title 2. Conditions of employment, Standard A2.1-Seafarers' employment agreements, stipulated in the Maritime Labour convention 2006 as mentioned below:

Quote

4. Each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by its national law.

Seafarers' employment agreements shall in all cases contain the following particulars:

- (a) the seafarer's full name, date of birth or age, and birthplace;*
- (b) the shipowner's name and address;*
- (c) the place where and date when the seafarers' employment agreement is entered into;*
- (d) the capacity in which the seafarer is to be employed;*
- (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;*
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;*
- (g) the termination of the agreement and the conditions thereof, including:*
 - i. if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the ship-owner than for the seafarer*
 - ii. if the agreement has been made for a definite period, the date fixed for its expiry, and*
 - iii. if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;*
- (h) the health and social security protection benefits to be provided to the seafarer by the ship-owner,*
- (i) the seafarer's entitlement to repatriation,*
- (j) reference to the collective bargaining agreement, if applicable; and*
- (k) any other particulars which national law may require".*

End Quote.

6.9. The **NINTH SUBMISSION** of the Complainant (as per Para 6.9 of Minutes of Hearing – (erroneously mentioned as 6.8 in circulated minutes): Stated that the amount of compensation as per Hong Kong regulations was 60 months earning of deceased seafarer which roughly makes it INR 9-10 Cr.

The RPSL Company vide Para 9 of their letter No. AEFPD/15/2022 dated 28.07.2022 has submitted that Mr. Sanjay Chaudhary joined the vessel M.T. ATLANTIC OLIVE in the capacity of Chief Engineer on the terms and conditions of Employment Contract dated. 23.02.2018 and applicable Collective Bargaining Agreement (CBA) MUI BF. RPSL Company stated to have settled the death compensation of USD 163,694/- equivalent to INR 1,11,32,830/- by depositing the same with the Employment Compensation Commission, Ghaziabad at the request of the wife of Late Mr. Chaudhary. RPSL Company stated that the Complainant has misinterpreted, misconstrued the compensation calculation as under Hong Kong regulation of Employees Compensation Ordinance Cap 282 of the Laws of the Hong Kong Special Administrative Region, China. The RPSL Company stated that the Hong Kong Employees Compensation Ordinance, (ECO) section 5(1) states that its applicability is only in cases of death by accident or personal injury by accident arising out of and in course of the employment caused to an employee. As can be seen from the records, Late Mr. Sanjay Chaudhary passed away due to natural causes. Hence, the entitlement as claimed under Employees Compensation Ordinance Cap 282 of the Laws of the Hong Kong Special Administrative Region, China does not arise. The RPSL Company understands that the assessment of the quantum of

compensation, under S6(1)(b) of the Hong Kong Employees Compensation Ordinance (ECO), and subject to section 6A (2) regarding apportionment, the amount of compensation payable to the members of the family of an employee shall be as follows:

S6(1)(b) For an employee age is over 40 years of age but under 56 years of age at the time of the accident, a lump sum equal to 60 months' earnings or 60 times the amount specified in the second column of the Sixth Schedule (ie. at the time HK\$28,360) shown opposite section 6(1)(b) specified in the first column of that Schedule, whichever is the less:

Further, 56(2) of the HK ECO requires that the compensation payable under S6 (1) shall not be less than the amount specified in the second column of the Sixth Schedule shown opposite section 6(2) specified in the first column of that Schedule, i.e., at that time, the minimum amount of compensation in fatal case is HK\$408,960.

The deceased passed away on 17 April 2018 and was 45 years old. At the time of the death happened, the amount specified in the second column of the Sixth Schedule shown opposite S6(1)(b) specified in the first column of that Schedule is HK\$28,360 which is less than the gross monthly wages. Hence, the monthly earning for computation of compensation is considered as HK\$28,360.

In nutshell, the maximum compensation, if any applicable, under HK ECO is HK\$1,785,300 (i.e. HK\$1,701,600 (monthly earning) + HK\$83,700 (funeral & medical expenses)), equivalent to US \$ 230,361.29. The Complainant claiming that amount of compensation as per Hong Kong regulations was 60 months earning of salary of deceased seafarer which roughly makes it INR 9-10 Crore is incorrect and devoid of reasoning.

Further, the RPSL Company vide their letter No. AEFPD/36/2022 dated 13.12.2022 has submitted that subject issue is pending hearing before the Labour Court, Ghaziabad. The RPSL Company has also stated therein that the Complainant's calculation of the benefits under the Hong Kong ECO is plainly incorrect as it applies only in the case of an 'accident' as defined under Hong Kong law. The RPSL Company has also contended that if the Complainant is entitled to compensation under the HK ECO then since the vessel is a Hong Kong flag vessel, the Hong Kong District Court only has jurisdiction to adjudicate upon this issue. With regard to letter of State Medical Legal Cell dated 22.03.2022 and letter of Office of Forensic Science Laboratory, the RPSL Company has stated that instead of producing these letters before the Hon'ble High Court at Allahabad in support of her allegations in the FIR, she has approached this office to adjudicate and pass appropriate orders thereon. Even though various investigating authorities are conducting investigation upon directions of Hon'ble High Court of Allahabad basis her FIR.

6.10. The **TENTH SUBMISSION** of the Complainant (as per 6.10 of Minutes of Hearing – (erroneously mentioned as 6.9 in circulated minutes):CBA formed herein is not in accordance with Clause (c) of sub-rule Rule 1 of Rule 2 of M.S. (R&PS) Rules, 2016 which defines CBA states *Quote* "an agreement signed between the concerned trade unions and employers for an employment on board foreign flag ships, which is in conformity with the laws of the flag State concerned;" *End Quote*.

The RPSL Company vide Para 10 of their letter No. AEFPD/15/2022 dated 28.07.2022 has stated that the Collective Bargaining Agreements (CBAs) for each vessel under the management of their principal companies are set in the computerized system and all Seafarer Employment Agreements (SEAS) are generated directly from the system, without any human intervention. Although it is not mandatory under the Maritime Labour Convention 2006 (MLC) for Seafarers to be employed under Collective Bargaining Agreements (CBAS), the ships under the management of their principals generally apply ITF-IMEC IBF CBA for the Seafarers employed on board. The ITF-IMEC CBA is a collective agreement concluded between the Joint Negotiating Group representing maritime employers who are members of IMEC, which includes RPSL Company, and ITF representing their affiliated maritime seafarer unions, which includes MUI and NUSI. It may be noted that Hong Kong laws and regulations recognize higher levels of compensation payable by contract, thus by providing for the NUSI CBA in the SEA for Ratings and MUI CBA in the SEA for Officers, its levels prevail over the HK CBA/ECO and benefits the Indian seafarers our Principal/Owners engage for the Hong Kong registered ships. To sum up, on the HK registered vessels, for Ratings their Principal / Owners apply

the above NUSI CBA, and for Officers they stipulate MUI IBF CBA in their SEA. This benefits the Indian Seafarers, both Officers and Ratings. For the case in point, it is not material that there was no MUI IBF CBA signed specific to the vessel, the terms of said CBA were incorporated by contract by virtue that their Principal stipulated it in the late Chief Engineer's SEA and accordingly, death compensation was settled in full. If this was not considered, then the death compensation amount payable under the HK CBA would have been USD 80,000 only, whereas the compensation actual settled to the next of kin was the higher amount of USD 102,308, which was enabled by the reference to the MUI IBF CBA in the late Chief Engineer's SEA. RPSL have stated that their Principal/Owners have been going to extraordinary lengths to garner better benefits and protection for the Indian Seafarers engaged and the next-of-kin of the late Chief Engineer are direct beneficiaries of this. The RPSL Company have reiterated that in compliance with the national laws and the Collective Bargaining Agreement full and final death compensation amount to a total of USD 163,694 (equivalent to INR 1, 11, 32,830) has already been settled with the nomination of beneficiary. The RPSL Company have stated to reiterate that the Hong Kong Employees Compensation Ordinance does not, in any event, require compensation at 60 times the deceased's wages even if the Complainant proves this was an 'accident' under the Hong Kong Employees Compensation Ordinance. The RPSL Company states that the Complainant is deliberately misleading all concerned authorities on this to suit herself and have requested to stop misleading all concerned on this and other issues replied to by the RPSL Company above.

7. FINDINGS:

7.1 (Refer Para 6.1 above): The RPSL Company has already paid the death compensation of INR 1,13,36,860/- as per the Collective Bargaining Agreement MUI/IBF to the Complainant through the Employee Compensation Commissioner, Ghaziabad vide his order No 18347-50/ वाद/ई.सी.ए धारा 8(5) 25/2018 dated 11-09-2018. However, it is observed that from the contract dated 23/02/2018 signed between the RPSL Company and Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE, crew agreement applicable is MUI/IBF. However, Shri Amar Singh Thakur, General Secretary of the Maritime Union of India vide his email dated 28.07.2022 addressed to the Complainant has stated that none of the CBA signed by MUI are applicable to the above vessel of Hong Kong Flag. Hence, it is clear that MUI IBF CBA is not applicable in this contract. Further, it is observed that Hong Kong CBA is also not incorporated in the contract dated 23.02.2018, hence the same is also not applicable in this case. The RPSL Company has not complied with the Rule 2 (c) (ii) of RPS Rules 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board ATLANTIC OLIVE.

7.2 (Refer Para 6.2 above): The allegation of the Complainant that the Personal belongings of Late Shri Sanjay Chaudhary were never handed over to his family, the RPSL Company and 09 Others have filed a Criminal Misc Writ Petition No.6025/2022 against State of Uttar Pradesh, Senior Superintendent of Police, Distt. Ghaziabad and Central Bureau of Investigation, New Delhi and Dr. Amrita Singh w/o Late Shri Sanjay Chaudhary before the Honourable High Court of Judicature at Allahabad. Since the matter is sub-judice, this office has no order to pass.

7.3 (Refer Para 6.3 above): The allegation of the Complainant is not with any supporting evidence. The RPSL Company has stated that they are in communication with her and even visited her house in multiple occasions. There is absence of any proof or records from either party, no order to pass on this grievance.

7.4 (Refer Para 6.4 above):

(A). The RPSL Company has not produced the original copy of the Seafarer's Employment Agreement (SEA) between the RPSL Company and Late Shri Sanjay Chaudhary to examine and verify the signature. It is observed that the Complainant has filed a FIR at Kavi Nagar Police Station, Ghaziabad vide Case No. 1705/2021 on the matter. Since the matter is subjudice, this office has no order to pass.

(B) & (C): The RPSL Company has not furnished any copy of request given by Late Shri Sanjay Chaudhary to stay out of the company to meet his NRI Status or any proof of acceptance of change of assigned vessel by Late Shri Sanjay Chaudhary and that he willingly signed the new contract for joining M.T. ATLANTIC OLIVE. Hence, the RPSL Company

miserably failed to produce the original contract signed by the Late Shri Sanjay Chaudhary, which is serious lapse of the the RPSL Company. Hence, it is clear that the RPSL Company has operated in violation of Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016.

(D). It is observed from the contract dated 23/02/2018 signed between the RPSL Company and Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE, crew agreement applicable is MUI/IBF. However, Shri Amar Singh Thakur, General Secretary of the Maritime Union of India vide his email dated 28.07.2022 addressed to Dr Amrita Singh has stated that none of the CBA signed by MUI are applicable to the above vessel of Hong Kong Flag. Hence, it is clear that MUI IBF CBA is not applicable in this contract. Further, it is observed that Hong Kong CBA is also not incorporated in the contract dated 23.02.2018, hence, the same is not applicable in this case. Hence, M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd. has violated the Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE.

7.5 (Refer Para 6.5 above): It is observed that as per Article 22.1 (Loss of Life During Employment) of Hong Kong CBA stating that *Quote "If a SEAFARER DIES THROUGH ANY CAUSE whilst in the employment of the company under a Seafarers' Employment Agreement, the company shall pay at least the minimum compensation specified in Annex IV (which is a minimum payment of US \$ 80,000/- in all cases)" End Quote, which is in utter violation of Section 5.1 of CAP 282 Hong Kong Employees Compensation Ordinance which speak about death by ACCIDENT or PERSONAL INJURY BY ACCIDENT arising out of and in course of the employment and is caused to an employee, his employer shall be liable to pay compensation in accordance with this Ordinance. Here the RPSL Company is manipulating the death compensation amount to the seafarers of PRC, Philippines and India etc by hiding the Section 5.1 of CAP 282 Hong Kong Employees Compensation Ordinance which is in violation of Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE. Hence, the claim of the RPSL Company that they settled the compensation with the nominated beneficiary is much higher than the compensation under Hong Kong Collective Bargaining Agreement is not valid as it is in violation of Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016. Therefore, the Complainant is entitled for compensation as per the flag state laws i.e Hong Kong regulations of Employees Compensation Ordinance Chpt 282 (ECO) of the Laws of the Hong Kong Special Administrative Region, China. In this regard, the Complainant has already filed an application No. 13/2021 at Labour Court, Ghaziabad for recovery of INR 8,00,60,400/- under HK Laws which is pending as on date and subjudice. Hence, this office is not issuing any order on the same.*

7.6 (Refer Para 6.6 above): It is observed from the FORM II submitted to the Directorate General of Shipping, Para 12 speak about the insurance coverage of the seafarers is as per MUI/IBF. Further, as per First Report of Marine Casualty / Incident / Near Miss, it is specified that P&I / Other Insurance cover for persons applicable is as per the applicable CBA. Type of CBA / Articles of Agreement is mentioned as MUI / IBF. It is observed from the contract dated 23/02/2018 signed between the RPSL Company and Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE, crew agreement applicable is MUI/IBF. However, Shri Amar Singh Thakur, General Secretary of the Maritime Union of India vide his email dated 28.07.2022 addressed to the Complainant has stated that none of the CBA signed by MUI are applicable to the above vessel of Hong Kong Flag. Hence, it is clear that MUI IBF CBA is not applicable in this contract. Further, it is observed that Hong Kong CBA is also not incorporated in the contract dated 23.02.2018, hence, the same is not applicable in this case. Hence, the submission of the RPSL Company are not valid and in has violation of Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE. The RPSL Company also violated the Rule 5 (3) of RPS Rule 2016 by furnishing wrong information to the Directorate in submitting Form II vide their letter No. AEFPD/31/2018 dated 17 April 2018.

7.7 (Refer Para 6.7 above): In accordance with Rule 2(1) (c) (ii) of M.S. (R&PS) Rules, 2016, Collective Bargaining Agreement means, "an agreement signed between the concerned trade unions and employers for an employment on board foreign flag ships, which is in conformity with the laws of the flag state concerned". It is observed from the contract dated 23/02/2018 signed between the RPSL Company and Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE, crew agreement applicable is MUI/IBF. However, Shri Amar Singh Thakur, General Secretary of the

Maritime Union of India vide his email dated 28.07.2022 addressed to the Complainant has stated that none of the CBA signed by MUI are applicable to the above vessel of Hong Kong Flag. Hence, it is clear that MUI IBF CBA is not applicable in this contract. Further, it is observed that Hong Kong CBA is also not incorporated in the contract dated 23.02.2018, hence, the same is not applicable in this case. Hence, the RPSL Company has violated Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE. Therefore Flag State i.e. Hong Kong regulations of Employees Compensation Ordinance Chpt 282 (ECO) applicable in this case.

7.8 (Refer Para 6.8 above): It is observed from the contract dated 23/02/2018 signed between the RPSL Company and Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE, crew agreement applicable is MUI/IBF. However, Shri Amar Singh Thakur, General Secretary of the Maritime Union of India vide his email dated 28.07.2022 addressed to Dr. Amrita Singh has stated that none of the CBA signed by MUI are applicable to the above vessel of Hong Kong Flag. Hence, it is clear that MUI IBF CBA is not applicable in this contract. Further, it is observed that Hong Kong CBA is also not incorporated in the contract dated 23.02.2018, hence, the same is not applicable in this case. Hence, the RPSL Company has violated the Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE. Rule 5 (d) of M.S. (R&PS) Rules, 2016 clearly specified that the Seafarer's Employment Agreement are in accordance with the applicable flag state laws and regulations and any Collective Bargaining Agreement that forms part of that Employment Agreement. Hence, in this case, the flag state law is Hong Kong regulations of Employees Compensation Ordinance Chpt 282 (ECO) of the Laws of the Hong Kong Special Administrative Region, China and the Complainant is entitled for compensation as per this flag state law.

7.9 (Refer Para 6.9 above): The Hong Kong Cap-282 Employee's Compensation Ordinance, wherein para 5(1) states *Quote "Employer's Liability for compensation for death or incapacity resulting from accident. Subject to Subsections (2) and (3), if in any employment, personal injury by accident arising out of and in the course of the employment is caused to an employee, his employer shall be liable to pay compensation in accordance with this ordinance" Unquote.* It is observed that as per the autopsy report received from the authorities of Republic of Cape Verde, Late Shri Sanjay Chaudhary passed away due to (direct cause) Acute myocardial infarction and (basic cause) Hyperthyroidism which was challenged by the Complainant. In this regard, this office has examined the submissions of both parties Company in details and observed that:

7.9.1 As per enquiry report regarding the death of Late Shri Sanjay Chaudhary submitted by Chief Medical Officer, Ghaziabad to Collector, Ghaziabad vide letter No. मु चि अ एस टी /सी -5/2023/1574 dated 17.03.2023, the Medical Board constituting Dr. Anil Yadav, M.D. (FMT), DCH Sanjay Nagar, Ghaziabad, Dr. Suryanshu Ojha, Consultant, DCH Sanjay nagar, Ghaziabad and Dr. R.P. Singh, Senior Consultant, Dist. M.M. G. Hospital, Ghaziabad opines as follows:

- (a) There is substantial evidence to suggest foul play in death of Shri Sanjay Chaudhary.
- (b) There is evidence to suggest suppression of facts and gross negligence in the treatment administered to Shri Sanjay Chaudhary on board the ship by Dr. Rohanas well as the ship's officers / management.
- (c) The Medico legal Autopsy findings of the thyroid gland and the heart do not correlate with the history, a normal complete medical examination and investigation reports of Mr. Sanjay Chaudhary before death.
- (d) The international standard protocol for conducting the autopsy and preservation of samples of tissues / organs for histopathological examination and chemical analysis, as described in renowned textbooks of Forensic Medicine & Toxicology, were not followed.
- (e) In light of the facts there was cyanosis and Prime Facie evidence of poisoning, there is substantial evidence to suggest that the death of Mr. Sanjay Chaudhary may have been caused as a result of combined effect of Asphyxia and Poisoning.

7.9.2 As per State Medico Legal Cell, Aishbagh, Lucknow, (U.P.)-226004 report vide letter No. MLC-54/2022/103 dated 22.03.2022, the Medical Board constituted of Dr. A.P. Tiwari, Joint Director, State Medico Legal Cell, Uttar Pradesh, Lucknow, Dr. K.V. Singh, Specialist Forensic Medicine, Civil Hospital, Lucknow and Dr. G. Khan, Additional Director, State Medico Legal Cell, Uttar Pradesh, Lucknow opined that this is the manner of death asphyxia due to airways obstructions rather than shock, myocardial infraction or Hyper Thyroidism.

7.9.3. The explanation and reasons given by RPSL company vide Para 11 of letter AEFPD/14/2023 dated 30.03.2023 for not shifting the Late Shri Sanjay Chaudhary to the Ship's Medical Room by the Master of the vessel is not acceptable as the same seems to be as per convenience of the Master.

7.9.4 It is observed from Dr. Rohan Mhamunkar e-mail (ma24x7@seabirdhf.com) dated 17.04.2018, 1112 AM Para 5 of treatment advised *Quote "If breathing difficult then start oxygen 6 liters per minute." End Quote*. This treatment direction of the doctor has not been complied by the Master.

7.9.5. Initial report of heart attack. Distance 100 NM. Why the vessel not diverted to nearest port on extreme medical emergency? The explanation / reasons furnished by the RPSL Company vide Para 2 of letter AEFPD/21/2023 dated 27.03.2023 (erroneously mentioned date in lieu of 27.04.2023) is not acceptable. It is observed that the Master of the vessel / RPSL Company / Ship owner has not taken action as per Para 19.4 (1) and Para 19.5 of Anglo-Eastern Group - Emergency & Contingency Manual by not raising request to nearest MRCC for a helicopter rescue / Emergency evacuation of patient by helicopter.

7.9.6. Why Late Shri Sanjay Chaudhary was not airlifted on extreme medical emergency? The explanation / reasons furnished by the RPSL Company vide Para 3 of letter AEFPD/21/2023 dated 27.03.2023 (erroneously mentioned date in lieu of 27.04.2023) is not acceptable. From 0315 LT to 0740 LT, 04 hours and 25 minutes of golden time to save life of Late Shri Sanjay Chaudhary was not effectively used by the Master of the vessel / RPSL Company / Ship owner which are in violation of Para 19.4 (1) and Para 19.5 of Anglo-Eastern Group - Emergency & Contingency Manual and Chapter-1, Chapter-14 and Chapter-25 of International Medical Guide for Ships (3rd Edition, 2007) issued by World Health Organization (W.H.O).

7.9.7. In view of the above, it is established beyond doubt that there is a negligence of Master of the vessel, Capt. Santosh Achuthan. He has the duty as Master to save the life of seafarer onboard as he has 4 hours 25 minutes of golden time which he failed to use diligently, thus caused the death of Late Shri Sanjay Chaudhary. As per enquiry report regarding the death of Late Shri Sanjay Chaudhary submitted by Chief Medical Officer, Ghaziabad to Collector, Ghaziabad, there was cyanosis and Prime Facie evidence of poisoning, there is substantial evidence to suggest that the death of Mr. Sanjay Chaudhary may have been caused because of combined effect of Asphyxia and Poisoning.

7.10 (Refer Para 6.10 above): It is observed from the contract dated 23/02/2018 signed between the RPSL Company and Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE, crew agreement applicable is MUI/IBF. However, Shri Amar Singh Thakur, General Secretary of the Maritime Union of India vide his email dated 28.07.2022 addressed to the Complainant has stated that none of the CBA signed by MUI are applicable to the above vessel of Hong Kong Flag. Hence, it is clear that MUI IBF CBA is not applicable in this contract. Further, it is observed that Hong Kong CBA is also not incorporated in the contract dated 23.02.2018, hence, the same is not applicable in this case. Hence, M/s Anglo Eastern Ship Mgmt (I) Pvt. Ltd. has violated the Rule 2 (c) (ii) and Rule 5 (d) of M.S. (R&PS) Rules, 2016 in the engagement of Late Shri Sanjay Chaudhary to serve on board M.T. ATLANTIC OLIVE. Rule 5 (d) of M.S. (R&PS) Rules, 2016 clearly specified that the Seafarer's Employment Agreement are in accordance with the applicable flag state laws and regulations and any Collective Bargaining Agreement that forms part of that Employment Agreement. Hence, in this case, the flag state law is Hong Kong regulations of Employees Compensation Ordinance Chpt 282 (ECO) of the Laws of the Hong Kong Special Administrative Region, China and the Complainant is entitled for compensation as per this flag state law.

8. The RPSL Company failed to produce the following original documents / clarification before the enquiry officer:

- 8.1 Original Citrus Seafarer's Employment Agreement.
- 8.2 Original Atlantic Olive Seafarer's Employment agreement.
- 8.3 Request from Late Shri Sanjay Chaudhary to go abroad for the purpose of NRI Status
- 8.4 The SEAs signed by Late Shri Sanjay Chaudhary, CE on 23.02.2018 at Mumbai as per SEA. However, he has flown to Singapore on 10.02.2018 and was in Company guesthouse till 23.02.2018 as per RPSL company e-mail dated 03.08.2021, then how the place of execution of SEA become at Mumbai, which is not clarified by the RPSL company.
- 8.5 Legal provisions under which the RPSL Company signed the SEA with Late Shri Sanjay Chaudhary, outside the India, is also not clarified by the RPSL Company.
- 8.6 Transcriptions of medical advice sought by the Master / vessel for managing Late Shri Sanjay Chaudhary on board ship before his death, The details of dosage / administration of the drug Ranitidine (150 mg) and Aspirin (325 mg) and all other medicines given to the Late Shri Sanjay Chaudhary on board, which are not submitted by the RPSL company.
- 8.7 Original Engine Log Book and VDR.
- 8.8 Flag State enquiry report about the death of Late Shri Sanjay Chaudhary.
- 8.9 P & I enquiry report about the death of Late Shri Sanjay Chaudhary.

9. CONCLUSIONS:

9.1 It is established that there is a negligence of Master of the Vessel, Capt. Santosh Achuthan. He has the duty as Master to save the life of seafarer onboard as he has 4 hours 25 minutes of golden time which he failed to use diligently, thus caused the death of Late Shri Sanjay Chaudhary. As per enquiry report regarding the death of Late Shri Sanjay Chaudhary submitted by Chief Medical Officer, Ghaziabad to Collector, Ghaziabad, there was cyanosis and Prime Facie evidence of poisoning, there is substantial evidence to suggest that the death of Mr. Sanjay Chaudhary may have been caused as a result of combined effect of Asphyxia and Poisoning. The State Medico Legal Cell, Aishbagh, Lucknow, (U.P.)-226004 also opined that this is the manner of death asphyxia due to airways obstructions rather than shock, myocardial infraction or Hyper Thyrodism.

9.2 The RPSL Company has violated Rule 2 (c) (ii), Rule 5(1)(d), Rule 5(1) (n), Rule 5(1) (v) and Rule 5(3) and of Merchant Shipping (Recruitment and Placement of Seafarer) Rules, 2016 read with Merchant Shipping Notice No. 06 of 2018 in the engagement of Late Shri Sanjay Chaudhary onboard M.V. ATLANTIC OLIVE.

9.3 Since, the death of Shri Sanjay Chaudhary happened on board due to the negligence of the Master of the vessel, the Complainant is entitled for death compensation as per the flag state Hong Kong regulations of Employees Compensation Ordinance Chpt 282 (ECO). In this regard the Complainant has filed an application No. 13/2021 before the Honourable Labour Court at Allahabad for the recovery of INR 8,00,60,400/- under the HK Laws which is subjudice as of now. Hence, this office not issuing any order on this matter.

10. ORDER


(a) In view of above, RPSL Company M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd, RPS Licence bearing No.RPSL-MUM-088 is suspended for 03 years with immediate effect under the Rule 12 of Merchant Shipping (Recruitment and Placement Service) Rules, 2016. However, the liabilities of the seafarers already recruited and presently on-board by the RPSL Company shall continue to be with M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd, RPSL-MUM-088. The Bank Guarantee in original is withheld by this office for the said purpose.

(b) Necessary action may be initiated against Capt. Santosh Achuthan as per Rule 2 (i) of Merchant Shipping (Cancellation or Suspension of Certificate of Competency) Rules, 2003 for incompetency, omission or commission of such acts by the holder of the Certificate, which lead to,

personal injury, death of Late Shri Sanjay Chaudhary, Chief Engineer onboard M.V. ATLANTIC OLIVE.

11. In view of above, the representation of Dr. Amrita Singh W/o Late Shri Sanjay Chaudhary ex-Chief Engineer died on board M.T. ATLANTIC OLIVE on 17.04.2018 has been disposed off.

12. If, M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd, RPS Licence bearing No.RPSL-MUM-088 / Complainant aggrieved by this order passed under M.S. (R&PS) Rules, 2016, may within period of thirty (30) days of receipt of this order, appeal to the Principal Officer, Mercantile Marine Department, Mumbai.


(T.K.Krishna Kumar)

Director

Seamen's Employment Office, Mumbai

To,

- 1) Dr. Amrita Singh, House # 36, Sec # 08, Raj Nagar, Opp. Vardan Eye Hospital, Ghazibad, Uttar Pradesh- 201 002.
- 2) M/s Anglo Eastern Ship Mgmt. (I) Pvt. Ltd, Unit # 303, 3rd Floor, Leela Business Park, Marol, Andheri-Kurla Road, Andheri (E), Mumbai- 400 059.

Copy to:

- 1) Directorate General of Shipping, Mumbai. [Kind Attention: Crew Branch & e-Governance Cell]
- 2) The Principal Officer, Mercantile Marine Department, Mumbai.