

# **THE PUBLIC TRUSTEE PRACTICE CIRCULAR 1 OF 2010**

## **ADMINISTRATION OF ACCIDENT COMPENSATION MONIES UNDER THE MOTOR VEHICLES (THIRD-PARTY RISKS AND COMPENSATION) ACT (CAP 189)**

### **INTRODUCTION**

- 1 The Public Trustee administers motor accident compensation monies in respect of death or bodily injury pursuant to sections 6 and 9 of the Motor Vehicles (Third-Party Risks and Compensation) Act (Cap. 189) ("the Act"). Under sections 6(3) and 9(9) of the Act, the Public Trustee is to distribute the monies directly to the persons entitled, after payment of costs and fees.
- 2 Solicitors and plaintiffs are advised to follow the guidelines set out in this Practice Circular when extracting judgments and orders of court, in order to facilitate a more efficient and timely distribution of monies to their clients and other persons entitled.

### **PROPER SEGREGATION INTO CATEGORIES OF CLAIM**

#### **Out-of-Court Settlement**

- 3 The compensation amounts, interest, costs and disbursements and all claims settled globally should be properly and clearly segregated into the following categories of claim:
  - General Damages (Please give a breakdown of the amount of compensation for each injury)
  - Special Damages
  - Interest
  - Costs
  - Disbursements, including Public Trustee's Fees

Proper and clear segregation of the above enables the Public Trustee to determine whether he should administer the case (ie. whether the aggregate compensation monies exceeds the relevant amount under the Act). It also enables the Public Trustee to assess the adequacy of the compensation amounts in exercise of his duty under section 6(2) of the Act.

## **Orders/Judgement of Court**

- 4 The compensation amounts, interest, costs and disbursements and all claims settled globally should be properly and clearly segregated into the following categories of claim:
  - General Damages
  - Special Damages
  - Interest
  - Costs
  - Disbursements, including Public Trustee's Fees

## **CASES INVOLVING PERSONS UNDER DISABILITY**

- 5 Under Order 76 of the Rules of Court (ROC), minors and patients (meaning, persons who are incapable of managing themselves or their affairs) are persons under disability, and are, by virtue of Order 76 Rule 2 of the ROC, unable to bring, make a claim in, defend, make a counterclaim in, or intervene in any proceedings, or appear in any proceedings under a judgment or order notice of which has been served on him, except by his litigation representative.
- 6 Please note that Section 36 of the Civil Law Act (Cap. 36) does not apply to legal proceedings in connection with a motor vehicle accident. In such proceedings, plaintiffs who have attained 18 years of age but are below the common law age of majority would still be regarded as minors for the purposes of Order 76 of the ROC.
- 7 Please note that pursuant to Order 76 rule 10 of the ROC, where proceedings have been brought, all settlements reached by or on behalf of plaintiffs who are persons under disability in such proceedings are invalid unless they have been approved by the Court. Solicitors acting for plaintiffs who are persons under disability are therefore reminded to obtain the approval of the court in any settled proceedings of motor accident claims. The Public Trustee may not distribute compensation monies in cases he administers where no such approval has been obtained.
- 8 Under Order 76, Rule 12 of the ROC, it is provided that, where in any proceedings, money is recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, a person under disability, the money must be dealt with in accordance with directions given by the Court, including directions as to any payment to be made to the plaintiff or to the litigation representative in respect of moneys paid or expenses incurred for or on behalf or for the benefit of the person under disability or for his maintenance or otherwise for his benefit or to the plaintiff's solicitor in respect of costs.

- 9 In all cases involving plaintiffs who are persons under disability, if the intention is for the compensation monies, or any part of them, to be paid to the Litigation Representative, the Order of Court/Judgment should specify this. An example of an Order of Court to this effect is as follows:

“The Public Trustee is to pay, out of the damages awarded to the plaintiff, the sum of [amount of money] to the Litigation Representative.”

- 10 If the intention is for the compensation monies to be held in trust by the Public Trustee for benefit of the plaintiff, the Order of Court/Judgment should specify this. An example of an Order of Court to this effect is as follows:

“The Public Trustee to hold the monies in trust for [the Plaintiff].”

In addition, if it is intended for the Public Trustee to apply or deal with the monies held in trust for the benefit of the plaintiff who is a person under disability, the Order of Court should specify this, including how the monies are to be applied or dealt with, and under what circumstances.

**Committee of Person and/or Estate (Deputy/Donee under the Mental Capacity Act) Suing on Plaintiff’s Behalf**

- 11 Where the plaintiff is a patient (as defined in the ROC) and a Committee of Person and/or Estate (or Deputy/Donee under the Mental Capacity Act) is suing on his behalf as Litigation Representative, it is recommended that the heading in the Order of Court/Judgment reflects the names of the plaintiff and his Litigation Representative. An example of such a heading is as follows:

“[Plaintiff’s Name] ([NRIC No.]) (A Patient) Suing by (Litigation Representative’s Name) ([NRIC No.]) (Litigation Representative).”

**Guardian Suing on Behalf of a Plaintiff who is a Minor**

- 12 Where the plaintiff is a minor, and a third party is suing as the plaintiff’s Litigation Representative, it is recommended that the heading in the Order of Court/Judgment reflects the name of the plaintiff and the Litigation Representative. An example of such a heading is as follows:

“[Plaintiff’s Name] ([NRIC No.]) (A Minor) Suing by [Litigation Representative’s Name] ([NRIC No.]) [relationship] (Litigation Representative).”

## **CASES INVOLVING OTHER CLAIMANTS**

### **Administrators/Executors**

- 13 In cases where administrators/executors are suing on behalf of the estate of a deceased person, it is recommended that the heading of the Order of Court/Judgment specifies this. An example of such a heading is as follows:

"1a) [Administrator's/Executor's Name] ([NRIC No.]

1b) [Administrator's/Executor's Name] ([NRIC No.]

Both as Administratrix/Executrix of the Estate of [Deceased's Name] ([NRIC No.]) (Deceased)."

### **Dependants**

- 14 In cases where claimants are suing in their capacity as dependants of the estate of a deceased person, it is recommended that the heading of the Order of Court/Judgment specifies this. An example of such a heading is as follows:

"[Dependant's Name] ([NRIC No.]) suing as dependant of the estate of [Deceased's Name] ([NRIC No.]) (Deceased)."

## **CASES INVOLVING MORE THAN ONE SET OF CLAIMANTS**

- 15 The compensation amount and all costs due to each claimant should be clearly apportioned. The Order of Court/Judgment should also clearly state the amount of costs each party is responsible for, failing which the Public Trustee will apportion the costs equally.

## **MAKING PAYMENT TO A THIRD PARTY/DONEE UNDER A POWER OF ATTORNEY**

- 16 Sections 6(3) and 9(9) of the Act require the Public Trustee to make payment of the compensation sum directly to the persons entitled. The Public Trustee is not empowered to make any payment of compensation monies to a Third Party/Donee appointed via a Power of Attorney as he is not a person entitled to payment unless specifically ordered by a court as a person who would be able to give a good and valid discharge for payment to the plaintiff. Furthermore, as the Public Trustee's statutory function involves the administration of compensation monies payable to the plaintiff, including the estate or dependants, in respect of death or bodily injury, he will not have the power to distribute compensation moneys, which would otherwise be payable to such a plaintiff, to persons such as motor workshops, accident surveyors,

hospitals and clinics, even if this is specifically stated in the Order of Court/Judgment.

### **INTERIM PAYMENT MADE**

- 17 It is recommended that if any interim payment has been made, this is to be clearly stated in the Order of Court/Judgment. An example of such an order is as follows:

“It is ordered that the sum of [amount of money] includes the sum of [amount of money] being interim payment previously made by the Defendant to the Plaintiff.”

### **INTEREST TO BE AWARDED**

- 18 It is recommended that the interest payable be recorded in the Order of Court/Judgment. An example of such an order is as follows:

“It is ordered that the sum of [amount of money] being interest at [rate of interest] per annum from the date of the accident to [the date of Court Order/Judgment or specify date] is to be paid on the sum of [amount of money].”

### **AMENDED ORDER OF COURT/JUDGMENT**

- 19 If the Order of Court/Judgment does not contain clear instructions for the Public Trustee to act on, solicitors may be requested to amend the Order of Court/Judgment and furnish a copy of the sealed amended Order of Court/Judgment to the Public Trustee. To avoid inconvenience and to facilitate the timely administration and payment of motor accident compensation monies to the persons entitled, solicitors are advised to adhere to the guidelines in this Practice Circular.
- 20 This Practice Circular will take effect from 1 Feb 2010.

### **CONTACT PERSON FOR ENQUIRIES**

- 21 For queries regarding this Practice Circular, please contact Ms Ching Wee Ling (Manager, Trust Division) at Tel: 63251496 or by e-mail at [ching\\_wee\\_ling@ipto.gov.sg](mailto:ching_wee_ling@ipto.gov.sg).

### **PRACTICE CIRCULAR 1 OF 2004**

- 22 This Practice Circular is to be read concurrently with the Practice Circular 1 of 2004.

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PUBLIC TRUSTEE  
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25 Jan 2010

(This Practice Circular is also available on The Insolvency & Public Trustee's Office website at <http://www.ipito.gov.sg>)