

# 2014-UNAT-435, Hushiyeh

## UNAT Held or UNDT Pronouncements

On appeal, UNAT noted that the Appellant had acknowledged in a Memorandum from 6 July 2002 that he was driving after duty hours when the accident occurred. UNAT held that the Appellant had failed to provide any documentary or other evidence to the contrary. UNAT held that UNRWA DT did not err in fact when it found that the Appellant was not on duty at the time of the accident and did not err in law when it determined he had no legal right to compensation under MTTI No. 6. UNAT further held that UNRWA DT did not make an error of law in discounting the Israeli court's evaluation of the Applicant's damages. UNAT held that, without specific criteria for awarding an ex-gratia payment, the Agency had the discretion to consider or not consider whether the Appellant was disabled from the accident. UNAT held that UNRWA DT did not err when it did not discuss the Agency's failure to consider that the Appellant may be 17 per cent disabled as a result of the accident. UNAT held that there were no errors in law in UNRWA DT's rationale finding the amount of an ex-gratia payment as totally discretionary and that it could not be determined as satisfactory or not, as long as the procedure to grant it was properly followed. UNAT dismissed the appeal and affirmed the

## Decision Contested or Judgment/Order Appealed

The Applicant filed an application to challenge the amount of the ex-gratia payment offered by the Agency for his vehicular accident. UNRWA DT issued judgment No. UNRWA/DT/2013/009, in which it dismissed the application.

## Legal Principle(s)

An ex-gratia payment is a payment that is made to an individual when, although no legal requirement exists for such payment by the Agency or the legal liability of the Agency is disputed, a moral obligation or other consideration exists that makes such payment desirable in the interests of the Agency. Organisation Directive No. 19 does not set forth any criteria for making an ex-gratia payment; it merely sets forth certain procedures to be followed.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Hushiyeh

Entity

UNRWA

Case Number(s)

2013-497

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Jun 2014

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Evidence

Compensation

Applicable Law

Laws of other entities (rules, regulations etc.)

Other UN issuances (guidelines, policies etc.)

UNAT RoP

- Article 15

Related Judgments and Orders

2013-UNAT-377

2013-UNAT-292