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Court : Patna

Decided On : Nov-30-1995

Judge : D.P. Wadhwa, C.J. and S.K. Chattopadhyaya, J.

Appeal No. : Criminal W.J.C. No. 495 of 1994 (R)

Appellant : Somari Devi

Respondent : State of Bihar and ors.

Advocate for Pet/Ap. : Mr. Prasad

Disposition : Petition Allowed

Judgement :

D.P. Wadhwa, C.J. and S.K. Chattopadhyaya, J.

1. In this writ application under Article 226 of the Constitution of India, the petitioner, who is a widow, has claimed a sum of Rs. 1 lakh towards damages on account of death of her husband, Gade Oraon, while in custody. The husband of the petitioner was involved in some criminal case and while in judicial custody he died because proper medical assistance was not given to him during the course of his illness.

2. We issued notices to the respondents numbering six. Counter-affidavits have been filed by respondent Na 3 Superintendent of Police, Gumla and respondent

No. 4, Jail Superintendent, Gumla. They both blame each other for the negligence which resulted in the death of Gade Oraon. In the affidavit filed by the State of Bihar, it has been stated that it was on account of negligence either on the part of Superintendent of police Gumla or the jail superintendent that the death took place for which enquiry was being held. On the face of this stand taken by the State of Bihar, we need not go into the question as to whose negligence it was which resulted in the death of Gade Oraon while in jail. We, however, find that there has been serious breach of fundamental rights guaranteed under Part III of the Constitution and that Gade Oraon has been deprived of his life without due process of law. The petitioner is, therefore, entitled to damages/compensation. This would be apart from the punishment that may be awarded to the guilty officers who, it appears, have no regard for the life of an individual.

3. On the last date of hearing i.e. 27.1.1995 when the matter was listed before us, we directed appearance of the petitioner. She has appeared in Court today and we have questioned her. She is accompanied with her son Jagannath Oraon and daughter Muni Kumari. Both children agree that the compensation amount may be given to their mother and kept in fixed deposit to be utilised for maintenance of all the dependents of deceased Gade Oraon.

4. It was, however pointed out by Mr. Iqbal that in somewhat similar case, a Government servant who died in custody, the Supreme Court granted compensation amounting to Rs. 1 lakh. Perhaps, argument was that a lesser amount could have been granted in the present case and not Rs. 1 lakh as claimed by the petitioner. We are unable to appreciate that human life can be weighed in this way. The deceased has left a widow and two children.

5. In the circumstances of the case and considering the whole aspect of the matter, we are inclined to allow this application and grant Rs. 1 lakh as compensation to the petitioner which shall be payable by the State of Bihar. This amount shall be deposited in the State Bank of India, Sisai branch, in the name of the petitioner. The petitioner shall open a Bank account in the Sisai branch of the State Bank of India and shall communicate the account number to Mr. Eqbal, G. A. who shall in turn inform the State of Bihar who in turn shall deposit Rs. 1 lakh in

that account within one month from the date of receipt of the information by Mr. Eqbal.

6. We make it clear that the amount so deposited in the accounts of the petitioner in the State Bank of India shall be converted into a fixed term deposit in the name of the petitioner and the monthly interest accrued from that fixed would go to the account of the petitioner which she would be entitled to withdraw for meeting necessary expenses for herself and for the upbringing of her children. The fixed deposit so made should be renewable as per Banking Rules in the name of the petitioner and in case of necessity either for the marriage of her daughter or for any emergent situation, the petitioner shall be entitled to withdraw a part of the fixed deposit amount on being permitted by the District Judge, Gumla only and for that purpose she shall be entitled to apply there. We also make it clear that in case the State Government does not deposit Rs. 1 lakh within the time stipulated by us, interest @ 12% per annum shall be paid to the petitioner till such time the amount is deposited in the Bank.

7. As regards other relief claimed by the petitioner that a job may be provided to her son Jagannath Oraon, we are unable to give any relief on that account. We are happy to note that his son, Jagannath Oraon, has done his Intermediate this year, However, we hope that when he applies for a job in the State Government, his applicate shall be considered sympathetically. In any case, we are informed by Mr. Prasad, learned Counsel for the petitioner that, perhaps, High Court may come to the help of Mr. Jagannath Oraon and employ him in Class IV position in the district of Gumla as and when vacancy may arise and subject to the Rules that may be applicable at that time. That may also be considered. But all this may not be taken as any direction issued by us.

8. This petition, therefore, is allowed, Rule is made absolute. There shall, however, be no order as to costs.