
(2014) 08 MAN CK 0002

In the Manipur High Court

Case No : Writ Petition(C) Nos. 646 and 647 of 2007

Asem Ongbi Damayanti Devi

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Citation : AIR 2014 Manipur 43

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J;N. Kotiswar Singh, J

Bench : Division Bench

Advocate : M. Rakesh, Advocate for the Appellant; Amarjit Naorem, CGSC,
Advocate for the Respondent

Final Decision : Allowed

Judgement

Laxmi Kanta Mohapatra, C.J.—These two writ petitions relate to an incident that took place on 9.4.2002 in which two persons died having received bullet wounds. The petitioner in WP(C) No. 647 of 2007 is the mother of deceased Y. Robita Devi and petitioner in WP(C) No. 646 of 2007 is the mother of the deceased Asem Romajit Singh. Both the writ petitions have been filed claiming payment of compensation. Since the two deceased persons died in course of same incident that took place on 9.4.2002, on the consent of the learned counsel for the parties, both the cases were taken up for hearing and are disposed of in this common judgment and order.

2. The brief facts of the case are that on 9.4.2002 at about 2.30 p.m. some personnel of 121 Bn CRPF and 134 Bn. CRPF were returning on Pangei road in four vehicles from Koirengei after fetching drinking water. When the said vehicles were negotiating a sharp turn from Pangei bazar towards east, they were attacked by some unknown armed persons who were in a Tata Truck parked on the road facing towards north. After indiscriminate firing, the said unknown persons fled away in their Tata truck towards north. Due to such firing by the unknown armed persons, 4 CRPF personnel were killed at the spot and two other CRPF personnel sustained bullet injuries. Immediately after the said firing by the

unknown persons other CRPF personnel got down from the vehicle and started firing indiscriminately and assaulting innocent civilians who were moving around Pangei bazaar area. Subsequently a large number of CRPF personnel rushed to the spot and also started firing at innocent people by surrounding the place. Thereafter, they made search of each individual house and tortured number of civilian. During such attack Asem Romajit Singh, who was waiting for his turn in a hair cutting saloon took shelter in the salon but was dragged by some CRPF personnel from out of the Saloon and assaulted. Thereafter the said Asem Romajit Singh was shot dead from a close range in front of the hair cutting saloon by the CRPF personnel.

3. Similarly, Y. Robita Devi was waiting for a passenger bus. On hearing the sound of gun firing she lied down on the floor to save herself but she was shot dead by the CRPF personnel.

On these allegations both the writ petitions have been filed for payment of compensation.

4. During pendency of the writ petitions, an order was passed directing the District Judge, Manipur East Imphal to conduct an enquiry and submit report. The learned District Judge, Manipur East submitted the report on 2.5.2012 holding that the CRPF personnel are responsible for death of the above two deceased persons. The relevant portion of the report is quoted below:

"17. In the result, I have decided that Asem Romajit Singh, son of the petitioner, was killed by the personnel of 121 Bn. CRPF on 09.04.2002 at about 2.30 p.m. at the Hair cutting saloon at Pangei Bazar by firing between insurgents and CRPF personnel of 121 Bn. And 134 Bn. CRPF.

The facts and circumstances leading to the death of Asem Romajit Singh on 9th April, 2002 at about 2.30 p.m. at Pangei Bazar are that he came to the Pangei Bazar along with his friend, Ng. Rameshor Singh, P.W. No. 3, for cutting hair and while he was waiting his turn there was an incident of firing upon by some unidentified insurgent to the convoy of CRPF personnel when they return after fetching drinking water from Koirengei side and as a result, 4 personnel of CRPF succumbed to their injuries and 2 other CRPF personnel sustained bullet injuries. Thereafter, the CRPF personnel got down from their vehicle and started firing indiscriminately and also thrashing innocent civilians who were found in and around the said Pangei Bazar area and a large number of CRPF personnel also came out from their camp and joined in the act of firing and torturing the people at Pangei Bazar. Asem Romajit Singh along with his friend and others were lying down inside the hair cutting saloon for safety but the CRPF personnel entered inside the said hair cutting saloon by breaking the door and started firing inside the hair cutting saloon and as a result, Asem Romajit Singh was killed by the CRPF personnel."

5. Shri M. Rakesh, learned counsel appearing for both the writ petitioners, relying on the report of the learned District Judge, submitted that both the

deceased persons were innocent civilian and were mercilessly shot dead by the CRPF personnel without any provocation from their side and therefore report of the learned District Judge should be accepted by the Court and both the petitioners should be paid compensation.

6. Mr. Amarjit Naorem, learned CGSC has not filed any objection to the report of the learned District Judge, Manipur East. However, it was submitted by Mr. Amarjit Naorem that at 2.30 PM of 9.4.2007 indiscriminate firing was made by unknown persons from a Tata Truck resulting in death of four CRPF personnel and injury to two others. In retaliation the CRPF personnel started firing. It was further submitted by Mr. Naorem that there is no evidence as to whether the two deceased persons died because of bullet injury shot from the gun of the CRPF personnel or the militants.

7. We have carefully perused the report of the learned District Judge. There is no dispute that in the incident of 9.4.2002 the above two persons died of bullet injury. From the report we find that 7(seven) witnesses were examined on behalf of the petitioners and several documents were also placed before the District Judge. The respondents examined five witnesses, but did not produce any document. On analysis of the evidence adduced from both sides, both oral and documentary, the learned District Judge came to the conclusion as quoted earlier. It is clear from the report of the learned District Judge that the first part of the incident took place at about 2.30 P.M. in which there was firing by some unknown persons who were inside a Tata Truck and immediately after firing they left the spot. The second part of the incident is that after the unknown persons fired at the CRPF personnel left the spot; the other CRPF personnel in the four vehicles got down from the vehicles and started firing indiscriminately. They were joined by another group of CRPF personnel who came from the CRPF camp and in course of such indiscriminate firing, the two deceased persons died.

8. The evidence laid on behalf of the respondents is that while firing in retaliation, the two deceased persons died. From the evidence, it is clear that by the time the two deceased persons were killed by the unknown persons who fired at the CRPF personnel moving in the four vehicles had left the spot. Therefore, we are of the view that by the time the two deceased persons were shot dead, the unknown persons who had fired at the CRPF personnel, had already left the spot. The death of the two deceased persons could be only because of the firing by the CRPF personnel. Since there was no provocation from the side of the two deceased persons and they died because of bullet injury sustained by them shot from a close range by the CRPF personnel, they are entitled to compensation.

9. It was submitted by the learned counsel for the petitioners that one of the deceased persons was very young and was prosecuting studies. Considering the age of the two deceased persons and the manner in which they were killed, we are of the view that both the writ petitioners are entitled to compensation. In absence of any material as to what could be the earning of the two deceased persons, a lump sum amount of Rs. 3.5 lakh to each should be paid as

compensation to both the petitioners. We, accordingly, allow the writ petitions and direct the respondents-1, 2 and 4 to pay compensation of Rs. 3.5 lakh to each of the petitioners in both the writ petitions within three months from the date of communication of this order. If the petitioners are not satisfied with the compensation allowed by the Court, they shall be at liberty to seek for higher compensation by approaching competent civil Court.