

(2012) 05 OHC CK 0017

In the Orissa High Court

Case No : Writ Petition (C) No. 2072 of 2009

Bhramarbar Barik and Another

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 03-05-2012

Acts Referred:

Citation : (2012) 114 CLT 964 : (2012) 134 FLR 868 : (2013) 1 SCT 603

Hon'ble Judges : C.R. Dash, J

Bench : Single Bench

Advocate : B.R. Sarangi, for the Appellant; Satyabrata Mohanty-1 and T.K. Kamila, M/s. Bikram Senapati and M.K. Panda, for the Respondent

Judgement

C.R. Dash, J.—Pursuant to Order Dated 14.03.2012, Opp. Party No. 6, widow of late Nimain Charan Barik filed her affidavit on 21.03.2012. Petitioner No. 1 has also filed affidavit on 14.03.2012, on the date of his personal appearance. It is found from the affidavits filed by both the contesting parties, i.e., both the Petitioners & Opp. Party No. 6 & the calculation sheet supplied by Orissa Lift irrigation Corporation Limited (Opp. Party No. 2) that, out of the death-cum-retiral benefit of Rs. 10,72,144 (ten lakhs seventy two thousand one hundred forty four), Opp. Party No. 6, widow of late Nimain Charan Barik has already received one-time refundable amount of G.I.S. Rs. 2,500, assured amount of Rs. 50,000 & arrear salary of Rs. 1,79,126. Besides the aforesaid amount, the legal heirs of late Nimain Charan Barik are entitled to receive C.P.F. Gratuity & unutilized leave encashment of Rs. 6,13,106, Rs. 1,18,922 & Rs. 1,08,490 respectively aggregating to Rs. 8,40,518. The amount, Opp. Party No. 6 has already received, if added total amount of death-cum-retiral benefit of late Nimain Charan Barik, comes to Rs. 10,72,144, which, according to law, has to be apportioned between the Petitioner No. 2, mother of late Nimain Charan Barik, Opp. Party No. 6, widow of late Nimain Charan Barik & the minor son of late Nimain Charan Barik, & each of them are entitled to receive Rs. 3,57,381 as share out of such death-cum-retiral benefit.

2. Opp. Party No. 6 in her affidavit has prayed for payment of some more amount for the benefit & study of her minor son, whom she is not able to provide adequate assistance.

3. As the parties have fairly come forward for amicable settlement of the matter, the matter is disposed of on the basis of the affidavits filed by the Petitioners & Opp. Party No. 6. Mr. B.R. Sarangi, Learned Counsel for the Petitioners fairly submits that the minor son of late Nimain Charan Barik is after all, the grandson of the Petitioners & he does not object for payment of some amount from the share of Petitioner No. 2 for study of the minor son of late Nimain Charan Barik.

4. Admittedly Opp. Party No. 6 shall receive the amount as apportioned supra for herself & on behalf of her minor son. She having already received some amount, such amount has to be subtracted from her share. On such subtraction, Opp. Party No. 6 & her minor son together are entitled to receive Rs. 4,83,137 & Petitioner No. 1 is entitled to receive Rs. 3,57,381. Taking into consideration the prayer of Opp. Party No. 6 for payment of some more amount towards study of her minor son & fair submission of Mr. Sarangi, Learned Counsel for the Petitioners, I propose to confine the payment to Petitioner No. 2 at Rs. 3,30,000. An amount of Rs. 27,381 from the entitlement of Petitioner No. 2 shall be adjusted as a contribution by her (Petitioner No. 2) towards study of her grandson (minor son of late Nimain Charan Barik). Similarly out of Rs. 4,83,137, Opp. Party No. 6 is entitled to receive for herself & on behalf of her minor son, an amount of Rs. 83,137 be set apart for study of the minor son. Regard being had to the aforesaid facts & submissions, Opp. Party No. 2 is directed to pay Rs. 4,00,000 (rupees four lakh) to Opp. Party No. 6, widow of late Nimain Charan Barik, who shall receive the amount on behalf of her minor son & on her own behalf over & above the amount which has already been received. Opp. Party No. 2 is further directed to pay Rs. 3,30,000 (rupees three lakh thirty thousand) to Petitioner No. 2, mother of late Nimain Charan Barik. Rest amount of Rs. 1,10,518 (rupees one lakh ten thousand five hundred & eighteen) shall be paid in favour of the minor son of late Nimain Charan Barik, which shall be kept in a fixed deposit in a National Bank with renewable terms till the minor son of late Nimain Charan Barik attains majority or till the money is required for his higher study, whichever is earlier according to discretion of Opp. Party No. 6, the widow of late Nimain Charan Barik. Opp. Party. No. 6 widow of Nimain Charan Barik shall have the authority to defray the interest accrued on the fixed deposit after a term of three years towards the study expenses of her minor son. The interest accrued within three years be added with the principal amount & the interest accrued thereon shall be paid quarterly to Opp. Party No. 6 for meeting the study expenses of her son till the final withdrawal, as per the discretion of Opp. Party No. 6 which must not be before expiry of five years.

The Writ Petition is accordingly disposed of.