

(2021) 08 GAU CK 0071

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3421 Of 2020

Lakshan Ganju

APPELLANT

Vs

State Of Assam And 4 Ors

RESPONDENT

Date of Decision : 19-08-2021

Acts Referred:

Indian Penal Code, 1860 — Section 279, 304A, 427

Citation : (2021) 08 GAU CK 0071

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : R Deka

Final Decision : Disposed Of

Judgement

1. The court proceedings have been conducted through online court proceeding services.

2. Heard Mr. S.I. Akand, learned counsel for the petitioner. Also heard R. Borpujari, learned Standing Counsel, Revenue and Disaster Management

Department & Finance Department for respondent nos. 1 and 2 and Ms. M. Barman, learned Junior Government Advocate for respondent nos. 3, 4

and 5.

3. The present writ petition has been preferred seeking a direction to the respondent authorities to grant ex-gratia amount of Rs. 2,00,000/- to the

petitioner as the next of kin of a person killed due to accident in public places or in public carriers (other than killed by extremist / terrorist / miscreants

and due to firing of security forces) in terms of the policy formulated by the Revenue & Disaster Management Department, Government of Assam

notified vide a notification dated 15.11.2014.

4. It is projected on behalf of the petitioner that the petitioner is a brother of one Votka Ganju @ Bhutka Ganju. It is averred that at around 7:30 p.m.

on 29.08.2018, when Votka Ganju @ Bhutka Ganju was proceeding towards Geleki Chariali by walking on the left side of the National Highway-37,

he was hit from behind by the offending vehicle bearing registration No. AS-01/BG-3059, which was proceeding from Kohora side towards Bokakhat

side and was driven in rash and negligent manner. As a result of such accident, the brother of the petitioner sustained grievous injuries and he was

immediately taken to the nearest health facility, Bokakhat F.R.U for treatment. Finding his injuries serious, Votka Ganju @ Bhutka Ganju was referred

to Jorhat Medical College & Hospital for better treatment but he succumbed to his injuries there on 29.08.2018. The post-mortem examination of the

deceased was conducted at the Jorhat Medical College & Hospital on 30.08.2018 and thereafter, the dead body was handed over to the family

members for performing the last rites and rituals. As per the post-mortem examination report, the death was due to hemorrhage and shock as a result

of injuries sustained over the abdomen and the injuries were ante mortem and caused by blunt force impact. It is stated that in connection with the said

accident, a police case being Bokakhat Police Station Case No. 423/2018 came to be registered under Section 279/304A/427 of the Indian Penal Code

on 01.09.2018 and after completion of investigation, a charge-sheet was submitted against the driver of the offending vehicle. After death of the

deceased, the petitioner had submitted a representation on 26.08.2019 before the respondent no.3 i.e. the Deputy Commissioner, Golaghat seeking the

relief of ex-gratia grant as the next of kin of late Votka Ganju @ Bhutka Ganju who was stated to be killed in the road traffic accident in a public

place in terms of the policy formulated by the respondent Revenue (Relief & Rehabilitation) and Disaster Management Department.

5. It is submitted by the learned counsel for the petitioner that despite submission of the representation on 26.08.2019, no response was received.

Aggrieved thereby, the petitioner has approached this Court seeking the relief, mentioned above.

6. Both Mr. Borpujari and Ms. M. Barman have submitted that by the notification dated 15.11.2014, the Revenue and Disaster Management

Department, Government of Assam has formulated a policy whereby an ex-gratia to the next of kin of a person killed due to accident in public places

or in public carriers (other than killed by extremist/terrorist/miscreants and due to firing of security forces) is payable and the said amount is Rs.

2,00,000/-. They have further submitted that the veracity of the claim made by the petitioner as regards the death of the deceased, Votka Ganju @

Bhutka Ganju in a road traffic accident and the status of the petitioner as a next of kin of the said deceased are required to be verified at the end of

the respondent authorities and it is only thereafter, the claim of the petitioner can be accepted. It is further submitted by them that this writ petition can

be disposed of at this stage with a direction to the respondent authorities to verify and examine the claim of the petitioner with similar directions, as

have been made by this Court in other similar writ petitions.

7. The claim for the relief of ex-gratia grant under the policy calls for an expeditious consideration. Having regard to the submissions advanced by the

learned counsel for the parties and taking an overall view of the rationale behind the policy formulated by the Government of Assam in the Revenue

and Disaster Management Department by the notification dated 15.11.2014 which has provided for an ex-gratia grant of Rs. 2,00,000/- to the next of

kin of a person killed due to an accident in a public place or in a public carrier, this Court is of the considered view that the claim for the relief in the

form of ex-gratia to the petitioner is to be considered and verified first at the end of the concerned Deputy Commissioner and after such consideration

and verification by calling for report from the concerned Circle Officer, wherever found necessary, a proposal shall thereafter, be forwarded by the

Deputy Commissioner along with his report, to the Commissioner and Secretary to the Government of Assam, Revenue and Disaster Management

Department, for release of ex-gratia grant in terms of the notification dated 15.11.2014, if the petitioner is found entitled. The Commissioner and

Secretary to the Government of Assam, Revenue and Disaster Management Department, shall thereafter, release the quantum of relief to the

petitioner in terms of the notification dated 15.11.2014. It is accordingly directed. The entire exercise in respect of the case involved in this writ

petition should be completed by the above-mentioned respondent authorities within a period of 3 (three) months from the date of receipt of a certified

copy of this order by the office of the Deputy Commissioner, Golaghat along with a copy of the writ petition with annexures, from the petitioner. The

petitioner is directed to extend his assistance and cooperation during the process of such verification.

8. With the observations made and the directions given above, this writ petition stands disposed of. No cost.