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**(2014) 09 MAN CK 0005**

**In the Manipur High Court**

**Case No :** Writ Petition(C) Nos. 751, 752, 753 of 2010 and 51, 52, 53 and 54 of 2011

Moirangthem Gulapi Singh

APPELLANT

Vs

The Union of India

RESPONDENT

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**Date of Decision :** 01-09-2014

**Acts Referred:**

Arms Act, 1959 — Section 25

**Citation :** AIR 2014 Manipur 41

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

**Bench :** Division Bench

**Advocate :** Ishmail Khan, Advocate for the Appellant; R.S. Resiang, Sr. G.A., Shyam Sharma, G.A. and S. Rupachandra, ASG, Advocate for the Respondent

**Final Decision :** Disposed Off

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## **Judgement**

Laxmi Kanta Mohapatra, C.J.—An incident of firing that occurred on 20.9.2003 at about 4:20 p.m. between some unknown Underground elements and CRPF personnel at Sugnu near Sugnu Pukhri Achouba has given rise to these 7(seven) Writ Petitions claiming for payment of compensation.

2. The brief facts of the cases are that on 20.9.2003 at about 4:20 p.m. some unknown extremists attacked 132nd Bn. D Coy CRPF personnel at Sugnu near Sugnu Pukhri-Achouba and there was heavy exchange of fire between the extremists and the CRPF Jawans resulting in death of one CRPF Jawan, 4(four) civilians and also resulting in injuries to 5(five) civilians. The civilians who died in course of cross-firing are -(i) (Late) Thangjam Tomba Singh, aged about 67 (ii) Late Seikholun Baite (45 yrs), (3) (late) Moirangthem Bijenti Devi, aged about 24 and (4) (late) Jamkholet Mate, aged about 35 yrs. The 5(five) injured persons who received bullet injuries are -(1) Athokpam (O) Mema Devi, 49 years, (2) Athokpam Ratan Singh, aged about 17 years (3) Smt. Kongkham Ongbi Bilashini Devi, aged about 30 years, (4) Athokpam Malem Nganba, aged about 15 years and (5) Thangjam Ibomcha Singh, aged about 42 years. The Officer in-Charge of

Sugnu P.S. registered a regular case vide FIR No. 15(9) 03 Sugnu PS u/s. 121/121-A/302/307/326/34, 25(1-C) A. Act and 130(P) Act read with Section 25 Arms Act and investigation was taken up.

3. In Writ Petition(C) No. 751 of 2010 the petitioner is the father of (Late) Moirangthem Bijenti Devi, who died in course of cross-firing.

In Writ Petition (C) No. 752 of 2010 there two petitioners. The respective husband of both the petitioners namely Seikholun Baite and Jamkholet Mate had been killed in course of cross-firing.

In Writ Petition(C) No. 753 of 2010 the petitioner is the wife of Late Th. Tomba Singh, who also died in cross firing. In rest of the writ petitions, petitioners are injured persons who received injuries in course of cross firing.

4. Earlier the matter was before this Court in Writ Petition(C) No. 663 of 2007 claiming an enquiry to be conducted into the incident and the said writ petition was disposed of on 10.9.2007 directing a Magisterial enquiry into the incident. In pursuance of the said direction, a Magisterial enquiry was conducted by the Addl. District Magistrate, Thoubal and report was submitted after conclusion of the enquiry. The relevant part of the enquiry report is quoted below:

"From the above facts the report may be reorganized in according with the terms of reference as follows:-

(1) Facts and circumstances leading to the incident:-As stated in the 1st page of the report the fact of the case is the unfortunate attack of the underground elements on the CRPF Jawans on duty at Sugnu Bazar on 20.9.2003 at about 4.20 p.m. A Jawan was killed by the underground people. Four other civilians were also killed in the cross firing that took place after the incident of firing on the CRPF Jawan.

(2) Persons responsible for causing the death and injuries:-As stated in the last para of page 6 of the report the Jawan was killed by the underground and the 4 civilians were killed in the cross firing that took place after the incident. As stated in the 1st para of page 7 of this report it is difficult to say whose bullet has killed the civilians even though the witnesses and the petitioners claimed that the civilians were killed by the bullets of the CRPF."

As is evident from the above enquiry report, it was not possible to find out as to whose bullet killed the civilians or injured them. In absence of any such evidence and relying on the said report, these writ petitions have been filed claiming compensation.

5. Undisputedly, 4(four) civilians died in the cross firing between the extremists and the CRPF personnel which has given rise to W.P.(C) Nos. 751, 752 and 753 of 2010 claiming compensation. From the report of the Addl. District Magistrate, Thoubal it appears that 4 deceased civilians are within the age group of 24 to 67. From the report also it is evident that the 4 civilians who lost their lives in the

cross firing had no role to play and were innocent civilians who were present at the spot and died after receiving bullet injuries in course of such cross firing.

Similarly, all the 5 injured petitioners were only present at the spot and they also had no role to play at the time of the incident. Unfortunately they received injuries in course of such cross firing between the extremists and the CRPF personnel. The deceased and the injured persons being the victims of the unfortunate incident, having no role to play therein, are entitled to compensation as has been decided in a number of cases disposed of by this Court. So far as the role of CRPF personnel is concerned, it is clear from the report that there was no intention on the part of the CRPF personnel in either causing injuries or death to any civilian and they had only retaliated to the firing from the side of the extremists. Be that as it may, in course of such firing, the innocent 4 civilians lost their lives and 5 other civilians sustained injuries. Since the Addl. District Magistrate has specifically found that it was not possible to ascertain as to whose bullet caused either death or injury, the compensation is to be paid by the CRPF.

6. Considering the circumstances under which 4 civilians lost their lives and 5 other civilians sustained injuries and their respective age, we are of the view that in case of death compensation of Rs. 2.50 lakh will be appropriate and in case of injuries, compensation of Rs. 75,000/- would be appropriate.

7. Accordingly, we direct the Director General of CRPF and the Commandant, 132nd Bn. CRPF, respondent Nos.-2 and 3 in WP(C) No. 751 of 2010 to pay compensation of Rs. 2.50 lakh to each of the petitioners in WP(C) Nos.-751, 752 and 753 of 2010 and also compensation of Rs. 75,000/- to each of the petitioners in W.P.(C) Nos.-51, 52, 53 and 54 of 2011.

All the writ petitions are disposed of accordingly.