
(1995) 10 OHC CK 0001
In the Orissa High Court
Case No : O.J.C. No. 936 of 1955

Nanik Sewa

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 16-10-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1996 Ori 131 : (1996) 1 OLR 32

Hon'ble Judges : P.C. Naik, J;A. Pasayat, J

Bench : Division Bench

Advocate : S.P. Mishra, Additional Government Advocate, for the Respondent

Judgement

Pasayat, J.—Petitioner has by a letter moved this Court for a direction to the State Government to pay adequate compensation to her for the death of her son Dipak Behera who lost his life in an agitation protesting against implementation of Mandal Commission's recommendation. It was stated that while families of some deceased persons were paid rupees one lakh, others like petitioner were paid Rs. 25,000/-.

2. In a counter-affidavit filed the State Government had initially taken a stand that Rs. 1,00,000/- was paid in case of loss of life of a student and in case of others, it was fixed at Rs. 25,000/-. We had asked the State Government to justify the differentiation. The initial stand was that the amount was not paid as compensation, as question of compensation was not one of the terms of reference to the Commission headed by Hon'ble Justice G. B. Patnaik. The amount was paid on a compassionate ground out of Chief Minister's relief fund.

3. Compensation means anything given to make things equivalent, a thing given to or to make amends for loss, recompense. The expression "compensation" is distinct from damages. Former expression is ordinarily not used as an equivalent to the latter, although often both are measured by the same rule. The term "compensation" as pointed out in the Oxford Dictionary signifies that which is

given in recompense as equivalent rendered; damages on the other hand, constitute the sum of money claimed or adjudged to be paid in compensation for loss or injury sustained. Compensation essentially is a return for a loss or damage sustained. Justice requires that it should be equal in value, although not alike in kind. In Black's Law Dictionary compensation is described as an act which a Court orders to be done, or money which a Court orders to be paid, by a person whose acts or omissions have caused loss or injury to another in order that thereby the person damnified may receive equal value for his loss, or be made whole in respect of his injury. It is very difficult a task to put a value of human life. No wholesome formula can be provided to assess it.

4. Mr. S. P. Mishra, learned Addl. Government Advocate on instruction submits that State Government on principle has agreed to maintain a parity, and to pay Rs. 1,00,000/- to the family of each person who had lost his life on the basis of recommendation made by the Commission headed by Hon'ble Justice G. B. Patnaik. It is stated that differential amount shall be paid within four months.

5. The writ application is disposed of accordingly.

P.C. Naik, J.

6. I agree.