
(2010) 01 SC CK 0077

In the Supreme Court Of India

Case No : Civil Appeal No. 140 of 2010 (Arising out of SLP (C) No. 16714 of 2006)

Parasnath Tiwari and Another

APPELLANT

Vs

Central Reserve Police Force and Another

RESPONDENT

Date of Decision : 11-01-2010

Acts Referred:

Citation : AIR 2010 SC 693 : (2010) AIRSCW 825 : (2010) AIRSCW 7307 : (2010) 2 ALLMR 481 : (2010) 4 AWC 4193 Supp : (2010) 1 JT 326 : (2010) 158 PLR 697 : (2010) 3 RLW 2234 : (2010) 1 SCALE 325 : (2010) 3 SCC 111 : (2010) 1 SCC(L&S) 801 : (2010) 1 SCR 635 : (2010) 2

Hon'ble Judges : V. S. Sirpurkar, J;Mukundakam Sharma, J

Bench : Division Bench

Advocate : Sarabjeet Dutta, I.J. Yadav and P.P. Singh, for the Appellant; Indira Jaising, ASG, Binu Tamta, S.N. Tedol and Sushma Suri, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, J.—Leave granted.

2. In this appeal the scope for consideration is restricted only to actual quantum of compensation payable to the appellants. The appellants herein filed a Writ Petition in the High Court of Chhattisgarh at Bilaspur seeking for a direction to the respondents to pay to them compensation of Rs. 5 lakhs on account of mental agony and loss suffered by the appellants due to death of their son while in service.

The High Court after hearing both the parties issued an order directing for payment of compensation of Rs. 1 lakh to the appellants but in respect of their prayer for payment of liberalised pension, the Writ Petition was dismissed.

3. The present SLP was filed by the appellants, who are the parents of the deceased, Sunil Kumar Tiwari, a Constable with the Central Reserve Police Force [for short 'CRPF'] who died while in service at Mizoram.

4. In order to fully appreciate the contentions it would be necessary to set out certain facts leading to the filing of the Writ Petition in the High Court of Chhattisgarh. The deceased was employed as a Constable in 66 Battalion of CRPF at Bhubaneshwar. However, at the relevant point of time he was working in the CRPF at Mizoram. On 01.02.1982, the appellant received information from the office of Respondent No. 2 that his son died on 01.02.1982 at Mizoram and that his last rites were performed at the place where the deceased was working at the relevant point of time, but no such intimation or information was given to the parents.

5. The respondents intimated the appellants that a fellow Constable - Desh Raj while being on sentry duty in the residence of the Development Commissioner at Aizwal saw a man climbing a guava tree in the moonlight and consequently shot four rounds of bullets within a distance of 15 yards as a result of which the deceased died on the spot. In the Writ Petition, the appellant stated that they made several representations to the Respondent No. 2 for sending the last photograph of the deceased, which, however, were not received by them despite such representations. It was, however, stated that the appellant received a letter dated, 18.12.1982 from a friend of the deceased, viz., Ravindra Kumar Sharma, wherein it was stated that the death of the deceased was not an accident but it was a brutal murder by his fellow constables. Being aggrieved, the appellant filed a Writ Petition in the High Court praying for the following reliefs: 1) to direct the respondents to inquire into the matter and report to the Court and the appellant, 2) to direct the respondents to take action to book the culprit, 3) that an independent inquiry be ordered by the CBI or some other responsible authority to look into the case of the death of the appellant's son and 4) if the Hon'ble High Court comes to the conclusion that the death of the appellant's son was not by an accident, then, the appellant be suitably compensated by the respondents. The respondents be directed to pay Rs. 5 lakhs as compensation to the appellants.

6. In the said Writ Petition, the respondents replied stating inter alia that the death of the deceased was an accident on the intervening night of 30th November/1st December, 1982. The Constable-Desh Raj, who had fired on the deceased was arrested by the Civil Police, Aizwal and a criminal case was registered against him. It was also stated that a departmental inquiry was conducted against Constable-Desh Raj who was responsible for the death of the deceased, and LNK Ranjit Singh Yadav, who was the Guard Commander. It was also mentioned that pursuant to the aforesaid departmental inquiry, Constable-Desh Raj was dismissed from service and Guard Commander-LNK Ranjit Singh Yadav was punished with reversion to the post of Constable for 16 months, However, while disposing of the Writ Petition the High Court observed that the appellant had suffered mental agony for more than 20 years, particularly, when the fact of the cause of death was not informed to the appellant, his wife and relatives and further by sending a photograph of a person not being the deceased. The High Court was of the view that the appellant, his wife and other

family members had been denied proper information consequent to which they have suffered mental agony and financial difficulties for a long period.

7. Accordingly, the High Court allowed the Writ Petition and directed the respondents to pay a sum of Rs. 1 lakh with costs of Rs. 5,000/- to the appellant and his wife for the mental agony and loss suffered by them.

8. Being aggrieved by the aforesaid order passed by the High Court, the present SLP was filed on which we have heard the learned Counsel appearing for the parties. Counsel appearing for the appellants restricted his argument only to the issue of enhancement of quantum of compensation awarded. No submission was made against the order denying liberalised pension. As such, the order passed by the High Court denying liberalised pension is not considered and interfered with.

9. Counsel appearing for the appellants submitted that the amount of Rs. 1 lakh, which is directed to be paid is too meager an amount to be paid for loss and mental agony caused to the appellant and his wife. He has drawn our attention to paragraph 24 of the judgment passed by the High Court wherein it is observed by the High Court that the appellant has suffered mental agony for more than 20 years. Relying on the said observation, the counsel submitted that the amount of compensation should have been at least Rs. 5 lakhs and in support of the said submission he relied upon the decision of the Supreme Court in Smt. Charanjit Kaur Vs. Union of India and others, .

10. Mrs. Indira Jaisingh, learned Additional Solicitor General appearing on behalf of the respondent, however, submitted that in the facts and circumstances of the case payment of Rs. 1 lakh compensation should be held to be justified as there was no negligence on the part of the CRPF in the entire incident and that the incident had happened because of a mistaken identity only for which the family is being suitably compensated.

11. The son of the appellant was working in a sensitive area. Constable Desh Raj who was in the sentry duty at the residence of Development Commissioner, Aizwal mistook the deceased as an intruder to the house and as a measure of safety he fired upon the deceased. On facts, it turns out to be a case of accident and wrong identity. However, the death of son of the appellant, is definitely not only a personal loss to the family but also financial. The deceased was a victim of an unfortunate incident and this has caused a heavy loss and mental agony to the family members of the deceased. The aforesaid findings recorded by the High Court have not been challenged by the respondents before us by filing any independent appeal.

12. That being the position, we are of the considered opinion that the amount of Rs. 1 lakh directed to be paid to the appellants towards compensation and damages is meager. Therefore, we are to consider what would be an appropriate amount of compensation which is payable to the appellants.

13. The case of Charanjit Kaur (Supra) relied upon by the learned Counsel

appearing for the appellants is clearly distinguishable on facts and, therefore, the ratio of the aforesaid decision cannot be made applicable to the facts and circumstances of the present case. The son of the appellant was a Constable and, therefore, in our considered opinion there would have to be some surmises and conjectures in arriving at the amount of compensation payable by the respondents to the appellants. We have been informed that the appellant No. 1 is an old man and that the deceased was the only earning member of the family. The earnings of the deceased were a source of sustenance for the family. Besides, loss of a son at such a young age creates a void in the family, which cannot be filled up by making payment of any compensation. Considering these facts and being alive to the escalating cost of living, we deem it appropriate to enhance the amount of compensation fixed by the High Court. We, therefore, direct that respondents shall pay to the appellant an amount of Rs. 2 lakhs as compensation instead of Rs. 1 lakh fixed by the High Court. The said amount of Rs. 2 lakhs shall be paid within a period of six weeks from today. The amount already paid towards compensation fixed by the High Court shall in natural course be deducted while complying with this order. If the amount is not paid within six weeks from today, the balance amount payable shall earn interest at the rate of 12 per cent per annum from expiry of date of six weeks till the date of payment.

14. The appeal stands disposed of in terms of the aforesaid order.