

(2025) 07 OHC CK 1279
In the Orissa High Court
Case No : Writ Petition (C) No. 26805 Of 2022

Rasana Mallik & Anr

APPELLANT

Vs

State Of Odisha and Ors Vs

RESPONDENT

Date of Decision : 10-07-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 07 OHC CK 1279

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : Bijaya Kumar Nayak 3, B.K. Sahu

Final Decision : Allowed

Judgement

A.K. Mohapatra, J

1. In the present writ petition, the Petitioners have prayed for quashing of the report dated 10.03.2022 under Annexure-9 as well as the final order dated 17.06.2022 under Annexure-10 passed by the Collector-cum-D.M., Nayagarh whereby the prayer of the Petitioners for grant of ex-gratia compensation due to death of one, late Shri Krushna Chandra Mallik has been rejected.

2. The factual background leading to filing of the present writ application, in short, is that the Petitioner No.1 is the wife and the Petitioner No.2 is the son of one late Krushna Chandra Mallik. The abovenamed Krushna Chandra Mallik was engaged as a labourer in a road construction work in village Sirikibadi under Banigochha P.S. in the district of Nayagarh along with other workers. On 17.07.2013, while the work was going on, all on a sudden, a land slide took place due to heavy rainfall, as a result of which, the abovenamed Krushna Chandra Mallik died instantly at the spot due to such land slide. The matter was immediately reported to the local police. Accordingly, Banigochha PS UD Case No.1 of 2013 was registered which corresponds to UD GR Case No.7 of 2013. After completion of investigation, the I.O. has submitted a final report on

07.12.2014. In the final report, the I.O. has confirmed that the death of the abovenamed Krushna Chandra Mallik had occurred due to the land slide and fall of heavy material on the deceased. It has also been clarified in such report that there is no suspicion of any foul play.

3. Learned counsel for the Petitioners, further referring to the Post Mortem Report dated 17.07.2013, contended that the doctor has opined that the cause of death of the deceased was due to Asphyxia and due to fall of heavy material on the chest wall of the deceased. In the aforesaid factual background, learned counsel for the Petitioners contended that there exists no doubt whatsoever that the death of the deceased, Krushna Chandra Mallik, had taken place due to the aforesaid land slide due to rainfall while he was working as a labourer in the construction of the road work.

4. Learned counsel for the Petitioners further referring to the Govt. Policy dated 25.02.2012, contended that as per such policy the family of the deceased is entitled to a compensation amount of Rs.1,50,000/-. He further contended that although the Opposite Party No.2 is empowered to grant such compensation by virtue of the Resolution dated 25.02.2012. However, the Collector-cum-District Magistrate, Nayagarh did not forward the report and rejected the claim of the Petitioners at his level. He further referred to the report of the Tahasildar, Daspalla under Annexure-9 dated 10.03.2022, which confirms the land slide and the death of the deceased was due to the aforesaid land slide. However, in his final opinion, he has stated that the case of the deceased is not a fit case for sanction of any ex-gratia compensation.

5. Finally, learned counsel for the Petitioners, drawing attention of this Court to the impugned order dated 17.06.2022 under Annexure-10, contended that the Collector-cum-District Magistrate, Nayagarh has mechanically rejected the application of the Petitioners for grant of ex-gratia compensation. He further submitted that the claim of the Petitioners has been rejected on a vague ground i.e. by referring to para-3 of Odisha Relief Code i.e. the amount of the rainfall that had taken place in the locality is less than the minimum quantum of rainfall prescribed in the Odisha Relief Code. On such ground, learned counsel for the Petitioners further contended that the impugned rejection order is absolutely illegal and arbitrary. Accordingly, the same is liable to be quashed.

6. Learned counsel for the State on the other hand referred to the counter affidavit filed by the Opposite Party No.4. By referring to the counter affidavit, learned counsel for the State contended that the application submitted by the Petitioners was duly considered by the competent authority. She further contended that since the grant of ex-gratia compensation is guided by the Odisha Relief Code and the Odisha Relief Code prescribes the compensation to be paid in the event the rainfall exceeds the specified quantity, the case of the Petitioners was considered by taking into consideration the total rainfall in the locality. Since, the total rainfall in the locality was less than the quantity of the rainfall specified in the Odisha Relief Code, the application of the Petitioners has been rejected by

the Tahasildar, Daspalla as well as the Collector-cum-District Magistrate, Nayagarh. In such view of the matter, learned counsel for the State contended that the Opposite Parties have not committed any illegality in rejecting the application of the Petitioners for grant of ex-gratia compensation.

7. Having heard the learned counsel appearing for the Petitioners as well as learned counsel for the State, on a perusal of the pleadings of the respective parties, this Court finds that the only question that falls for determination in the present writ application is as to whether the family of the deceased are entitled to the ex-gratia compensation as claimed by them in the present writ application? To answer the aforesaid question, this Court is required to examine two questions; firstly, whether the incident had actually occurred and the late Krushna Chandra Mallik had died while he was engaged in the road construction work and he died due to the land slide? Secondly, whether there is any such provision notified by the State Govt. under which the Petitioners are entitled to such compensation?

8. In reply to the first question, this Court is of the view that there exists no doubt with regard to the factual position which is supported by such final report submitted by the I.O. in the UD Case, as well as the Post Mortem Report of the M.O. with regard to the cause of the death of the deceased, Krushna Chandra Mallik. Moreover, it has also been specifically mentioned that there is no suspicion of any foul play. Similarly, the incident that occurred on a particular date is supported by the report of the Tahasildar, Daspalla under Annexure-9 to the writ application. In such view of the matter, this Court has no hesitation in coming to a conclusion that the death of late Krushna Chandra Mallik had occurred due to the land slide while he was working as a labourer in a road construction projection in that particular village and such land slide was caused due to heavy rainfall.

9. With regard to the second question i.e. as to whether the Petitioners are entitled to any ex-gratia compensation, this Court referred to the Resolution of the State Govt. dated 25.02.2012 under Annexure-4 to the writ application. On perusal of the said resolution of the R & D.M. Dept., Govt. of Odisha, it appears that the State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF) for the period 2010-2015 has been revised and, basing on the recommendation of the 13th Finance Commission, corresponding amendments have been carried out in the Odisha Relief Code. As a result, Flood, Cyclone, Drought, Fire, Hail storm, Land slide, Earthquake, Tsunami, Cloud Burst, Avalanche and Pest Attack have been included in the category of natural calamities. Therefore, there is no doubt that the abovenamed, Krushna Chandra Mallik died due to a natural calamity and, as such, his case falls under the provisions of the Odisha Relief Code and, as such, his family members are entitled to the ex-gratia compensation. At the relevant point of time the ex-gratia compensation of such death that has occurred during a natural calamity was Rs.1,50,000/- (Rupees One Lakh Fifty Thousand). Accordingly, this Court holds

that the Petitioners are entitled to get ex-gratia compensation for the death of late Krushna Chandra Mallik to the tune of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand).

10. Additionally, on a close scrutiny of the impugned rejection order, it is observed that the claim of the Petitioners have been rejected only on the ground that the quantum of rainfall was less than the standard prescribed in the resolution. Indisputably, the death had occurred due to land slide. Having such a condition as a yardstick to grant compensation is highly arbitrary and unreasonable. Under the constitutional scheme, the State being a welfare state is required to act rationally and the policies are required to be reasonable. Viewed from the aforesaid constitutional perspective it can't be accepted that the decision in rejecting the prayer for grant of ex-gratia compensation is a reasonable one and in larger public interest.

11. In view of the aforesaid analysis of the factual position and keeping in view the well settled principles of law, as well as legal position, this Court is of the considered view that the Petitioners are entitled to the ex-gratia compensation Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) on account of the death of late Krushna Chandra Mallik in terms of the Odisha Relief Code. Accordingly, the present writ application is allowed with a direction to the State-Opposite Parties to pay the Petitioners compensation of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) along with interest from the date the application was made by the Petitioners to the competent authority, at the applicable rate, within a period of two months from the date of communication of a certified copy of today's judgment. It is further made clear that failure to pay such ex-gratia amount within the aforesaid time shall attract an interest to the tune of 12% p.a. till the entire amount is paid to the Petitioners. It is needless to say that the impugned orders rejecting the claim of the Petitioners are hereby quashed.

12. Accordingly, the Writ Petition is allowed. However, there shall be no order as to costs..

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