

**(2016) 04 AHC CK 0022**

**In the Allahabad High Court**

**Case No :** Civil Misc. Writ Petition No. 52052 of 2004.

Smt. Vimal Singh

APPELLANT

Vs

Managing Director U.P. State Agro Industrial Corp Ltd. and  
Others

RESPONDENT

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**Date of Decision :** 07-04-2016

**Acts Referred:**

**Citation :** (2016) 5 ADJ 530

**Hon'ble Judges :** Sudhir Agarwal; Shamsheer Bahadur Singh, JJ.

**Bench :** Division Bench

**Advocate :** Arvind Singh, Advocates, for the Appellant; Ved Byas Mishra and SC,  
for the Respondent

**Final Decision :** Allowed

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## **Judgement**

1. Heard Sri Arvind Singh, learned counsel for petitioner and Sri V.B. Mishra, learned counsel appearing for respondents.
2. Petitioner is widow of Ram Autar Singh who was appointed as Regional Manager on 19.6.1971 and died on 3.3.2001 in harness.
3. Petitioner claims leave encashment, medical allowance, gratuity and other dues payable to the dependent of deceased-employee. She is seeking a writ of mandamus for payment of aforesaid dues.
4. Respondents have filed counter affidavit stating therein that there were some dues recoverable from petitioner's husband. She was found entitled to the following amount after death of her husband :

Gratuity : Rs.1,73,683/-

Medical Reimbursement : Rs.49,695/-

Leave Encashment : Rs.79,427/-

Total : Rs.3,02,805/-

5. It is said that aforesaid amount payable to the petitioner has been attached against outstanding dues of petitioner's husband and still Rs.51,579/- is recoverable for which letter has been issued by the District General Manager.

6. When asked, learned counsel for respondents could not dispute that there is no order of recovery passed during life time of deceased-employee, after inquiry. He, however, said that certain amount advanced to deceased-employee which were not accounted for and caused loss to the corporation, was recoverable. Aforesaid amount has been mentioned in order dated 24th February, 2005. Details of alleged outstanding dues against petitioner's husband is as follows :

1- iqjkuk xsgwWa and cht vo"ks"k ij vUrj dh /kujkf"k dk 10 izfr"kr 90]796-64

2- iqjkuk /kku and cht vo"ks"k ij vUrj dh /kujkf"k dk 10 izfr"kr 2]08]580-17

3- iqjkuk /kku cht 17]364-37

;ksx % and 3]16]741-00

4- esllZ ftUny izksMDV] cktiqj dks vf/kd Hkqxrkfud /kujkf"k dk 10 izfr"kr 34343-20

5- ldyMhgk dsUnz ij vukf/kd`r vof/k dk xksnke fdjk;s dk 50 izfr"kr 3300-00

dqy ;ksx% and 3]54]384-32

7. From bare perusal of aforesaid shows that alleged recovery is in respect to some alleged loss incurred by respondent, U.P. State Agro Industrial Corporation Ltd. but if there was a loss on account of any act or omission on the part of deceased-employee, it could have been recovered in the life time of employee, after passing an order of recovery pursuant to an inquiry and consistent with principle of natural justice. It is admitted that for the alleged loss no departmental inquiry was conducted during life time of deceased-employee and no order for recovery was passed. Arbitrarily and unilaterally neither any order for recovery can be passed nor recovery is possible against a deceased-employee when no such action has been taken against him. The action taken subsequently is illegal, unauthorized and contrary to law.

8. Writ petition is, therefore, allowed. Respondents are directed to pay admitted dues, payable to petitioner towards medical allowance, gratuity, etc. i.e. 3,02,805/-, details whereof has been given above, along with simple interest at the rate of 10% per annum from the date writ petition was filed i.e. 3rd December, 2004 till actual payment is made.

9. Petitioner is also entitled for cost against respondents which is quantified to Rs.10,000/-.