

(2018) 01 GAU CK 0093
In the Gauhati High Court
Case No : 5806 of 2011

SMTI PUNYA CHUTIA

APPELLANT

Vs

THE STATE OF ASSAM AND ORS

RESPONDENT

Date of Decision : 11-01-2018

Acts Referred:

Citation : (2018) 01 GAU CK 0093

Hon'ble Judges : Suman Shyam

Bench : Single Bench

Advocate : A R SHOME, S. Chouhan, T.C. Chutia

Final Decision : Dismissed

Judgement

1. Heard Mr. S. Chouhan, learned counsel for the petitioner. I have also heard Mr. T.C. Chutia, learned Addl. Sr. Govt. Advocate, Assam

appearing on behalf of all the respondents.

2. The facts of the case, in a nutshell, is that the petitioner's husband was serving as Havildar under the State police department. He was assigned

duty of Personal Security Officer (PSO) attached to the Chairman of Jute Mill, Silghat and while traveling in the same vehicle along with his

protectee in an Ambassador car bearing No. AS-02A-3791, the vehicle met with an accident and the petitioner's husband late Padma Kanta

Chutia died on the spot. The petitioner being the widow had made application before the authorities for payment of compensation, family pension

and to provide a job on compassionate ground.

3. It is the admitted position of fact that the petitioner is receiving family pension and she is also not interested to press her claim for appointment on

compassionate ground. An amount of Rs. 50,000/- in terms of the Govt.

notification dated 29-07-2006 has also been paid to the petitioner as compensation on account of death of her husband. The present writ petition has been filed claiming an amount of Rs. 5,00,000/- as ex-gratia compensation, which amount, according to the petitioner, is payable to her under the Govt. notification dated 29-07-2006.

4. The respondent No. 2 has filed counter affidavit resisting the claim of the petitioner, inter alia, contending that the amount of Rs. 5,00,000/- is payable only in case of Police Personnel suffering death in connection with duty assigned in counter insurgency operation, but not in case of other categories of duties. Since the petitioner's husband was not discharging duty in counter insurgency operation or any matter connected therewith, hence, the amount of Rs. 5,00,000/- would not be payable in case of the petitioner's husband.

5. By placing reliance upon a decision of this Court rendered in the case of Smti. Sumitra Bala Roy Vs. The State of Assam and Ors. in Civil Rule No. 3331/1998 decided on 28-02-2001, Mr. Chouhan submits that a similar argument raised by the departmental authority seeking to deny the ex-gratia compensation to the widow of the deceased therein was turned down by this Court and a direction was issued to make payment of ex-gratia compensation within a period of 03 months. According to Mr. Chouhan, the case of his client is also covered by the said decision and hence, he submits that this writ petition be disposed of accordingly.

6. There is no dispute about the fact that the petitioner's husband was discharging duty as PSO, in ordinary course, which had nothing to do with insurgency operation. Since the claim of the petitioner is based on the office memorandum dated 29-07-2006 (Annexure-K) to the writ petition, it would be necessary to reproduce the relevant paragraph of the notification which deals with ex-gratia compensation of Rs. 5,00,000/-.

The Governor of Assam is pleased to order that, the families of the State Government employees, Home Guards, personnels of Army and Central Para Military Forces (CPMF) engaged in counter-insurgency operation in the State if killed while on duty or in connection with discharging of duly, as also the families of the Driver, Handyman and other employees of vehicles requisitioned by competent authority for law and order and other emergency duty if killed due to attack of extremists or antisocial elements and

families of State Government employees killed due to hazardous nature of duty, shall be paid ex-gratia grant at the rates mentioned against each category below.

7. The notification dated 29-07-2006 also makes provision for payment of ex-gratia compensation to the families of the Government employees

who are killed while discharging their duties otherwise than those related to insurgency operation. The said clause is reproduced here-in-below for

ready reference:

In addition to above, families of the Government employees killed while engaged in discharge of duties or for reasons connected with discharge of

duties shall be entitled to ex-gratia grant of Rs. 1.00 lakh for Gazetted Government employees and Rs. 50,000/- for non-gazetted Government

employees, as prescribed in Finance (APF) Department Office Memorandum No. FMP.13/85/6, dated 14-06-85.

8. From a plain reading of the first clause of the notification dated 29-07-2006, it is evident that the same is applicable only in case of death of

police personnel and other category of personnel mentioned therein who were engaged in counter insurgency operation or matters connected

thereto. Since the petitioner's husband was admittedly not involved in insurgency operation when he was killed, hence, the said clause in the

notification dated 29-07-2006 shall not be applicable in his case.

9. The respondents had paid an amount of Rs. 50,000/- to the petitioner by relying upon the other clause of the aforesaid notification. From a

reading of the relevant paragraph of the notification, I find that the said clause is of general nature and would be applicable to the police personnel

killed while discharging their duties of any nature. Since the respondent authorities had already paid an amount of Rs. 50,000/- to the petitioner

which she had accepted without any protest, I do not find any justifiable ground to direct any further amount of ex-gratia compensation to be paid

to the petitioner in this case.

10. Mr. Chouhan has relied upon the decision rendered in the case of Sumitra Bala Roy (Supra) but I find that, that was a case where the

deceased police personnel was killed in a car accident while trying to chase extremist who were travelling in an Ambassador car with arms and

ammunition. The department had taken a stand that the death of the deceased

was to be treated as an accidental death rather than in an counter insurgency operation, which contention was rejected by the learned Single Judge. Having regard to the facts and circumstances of the cases, I am of the view that the ratio of the decision rendered in the case of Sumitra Bala Roy (Supra) would not have any bearing in the present case. For the reasons stated hereinabove, I am of the view that there is no merit in this writ petition. In the result, the petition fails and is hereby dismissed. There would be no order as to cost.