

(2021) 07 GAU CK 0064
In the Gauhati High Court

Case No : Writ Petition (Civil) No. 4741 Of 2020

Uhobala Rabha And 3 Ors.

APPELLANT

Vs

State Of Assam And 5 Ors

RESPONDENT

Date of Decision : 14-07-2021

Acts Referred:

Indian Penal Code, 1860 — Section 279, 304A

Citation : (2021) 07 GAU CK 0064

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : R Deka

Final Decision : Disposed Of

Judgement

1. The Court proceedings have been conducted through online court proceeding services.

2. Heard Mr. S.I. Akand, learned counsel for the petitioner; Mr. R. Borpujari, learned Standing Counsel, Revenue and Disaster Management

Department for respondent no. 1 and Ms. M. Barman, learned Junior Government Advocate for respondent nos. 2-6.

3. The case projected in this writ petition is that the petitioner no. 1 is the mother and the petitioner nos. 2-4 are the brothers of one Sukleswar Rabha.

It has been stated that Sukleswar Rabha met with a road traffic accident at about 10-30 p.m. on 12.09.2011 when he was proceeding on foot from

Basistha Chariali towards Lalmati on National Highway. It has been further stated that an unknown truck had knocked down Sukleswar Rabha from

back side and after causing the accident, it fled away from the scene. After the accident, Sukleswar Rabha was admitted in the Gauhati Medical

College and Hospital (GMCH) where he was declared dead on 13.09.2011. The

post-mortem examination of the deceased was conducted at the GMCH and thereafter, the dead body was handed over to the family members of the deceased.

4. A First Information Report (FIR) (Annexure-3) regarding the said accident dated 12.09.2011 was lodged before the Basistha Police Station and a case being Basistha Police Station Case No. 792/2011, was registered under Sections 279/304A, Indian Penal Code. As per the Post-Mortem Examination Report (Annexure-1), the death was due to hemorrhage and shock as a result of injuries sustained, mentioned therein, and all the injuries were ante mortem in nature. It was further opined that injuries were caused by blunt force impact. A death certificate dated 31.10.2011 (Annexure-2) was also issued as regards the death of the deceased on 13.09.2011.

5. After the death of the deceased, the petitioners submitted a representation (Annexure-4) before the respondent no. 4 on 05.05.2012 seeking the relief of ex-gratia grant in terms of a notification dated 24.07.2007 (Annexure-7) issued by the Revenue and Disaster Management Department, Government of Assam. As the said representation was not responded to in the desired manner by the respondent authorities, the petitioners submitted further representations before the respondent authorities. As no relief has been granted, the petitioners aggrieved thereby, have preferred the instant writ petition.

6. As per the notification dated 24.04.2007, the relief in the form of ex-gratia payable in respect of a person who met an accidental death was Rs. 1,00,000/-. The dominant purpose of the policy formulated by the State Government is to provide some succour immediately to the next of kin of the deceased to tide over the initial shock and hardship. A claim for the relief of ex-gratia grant under the policy calls for expeditious consideration.

Though the petitioners had preferred representations within a reasonable time period after the accidental death of the deceased, there was no consideration of those representations.

7. Taking an overall view of the submissions advanced by the learned counsel for the parties and the rationale behind the policy so formulated, this Court is of the considered view that the claim of the petitioners in this writ petition for the relief in the form of ex-gratia grant as the next of kins (NoK) of the deceased person, Sukleswar Rabha killed in road traffic accident,

the facts of which are briefly narrated above, is to be verified and considered first at the end of the respondent no. 3. After such verification and consideration by calling for reports from the concerned Circle Officers as well as the respondent no. 2, wherever found necessary, a proposal shall thereafter, be forwarded by the respondent no. 3 along with his report to the Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department for release of ex-gratia grant if the petitioners are found entitled in terms of the notification dated 24.04.2007. The Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department shall thereafter, release the ex-gratia grant amount to the petitioners if found so entitled, in terms of the notification dated 24.04.2007. The entire exercise in respect of this writ petition should be completed by the above respondent authorities within a period of 3 (three) months from the date of receipt of a certified copy of this order by the respondent no. 3 along with a copy of the writ petition with the annexures from the petitioners. The petitioners are directed to extend their cooperation during the process of such verification.

8. With the observations made and the directions given above, this writ petition stands disposed of.