

GAHC010077052021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2951/2021

KAMALA SHAH
W/O LATE NATHUNI SHAH
RESIDENT OF LAKHI NAGAR, AKAKHI NAGAR, PO BAMUNIMAIDAM, PS
CHANDMARI, GUWAHATI, KAMRUPM ASSAM 781021

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPTL. DISPUR,
GUWAHATI 781006

2:THE DEPUTY COMMISSIONER
KAMRUP (M)
GUWAHATI
ASSAM
PO AND PS PANBAZAR
GUWAHATI 781001

3:THE CIRCLE OFFICER

DISPUR REVENUE CIRCLE
PO BELTOLA
PS BASISTHA
GUWAHATI
KAMRUP M ASSAM 781028

4:THE OFFICER IN CHARGE
CHANDMARI POLICE STATION
GUWAHATI
PO CHANDMARI
DIST KAMRUPM ASSAM 78100

For the Petitioner(s) : Mr. S. I. Akand, Advocate
For the Respondent(s) : Ms. P. R. Mahanta, Advocate
: Ms. M. Barman, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 14.08.2023

1. The Petitioner herein has filed the instant writ petition being aggrieved by the inaction on the part of the Respondent Authorities in making payment of Rs.2,00,000/- as Ex-gratia relief in terms with the notification dated 15.11.2014 issued by the Government of Assam, Revenue (Relief and Rehabilitation Branch) and Disaster Management Department, Dispur, Guwahati.

2. The facts of the instant case is that the Petitioner's husband while crossing the road at Bamunimaidam under Chandmari Police Station was hit by a motor cycle bearing Registration No.AS-01-BD-4854. The husband of the Petitioner sustained grievous injuries and subsequently expired on 12.08.2014. On 12.01.2015, the death certificate of the husband of the Petitioner was issued by the Additional District Registrar of Births and Deaths, Kamrup (M), Guwahati. The Petitioner thereupon submitted an application before the Circle Officer, Dispur Revenue Circle, Guwahati for granting Ex-gratia relief. However, the same was not granted for which the Petitioner submitted another application before the Deputy Commissioner, Kamrup (M) at Guwahati. It is on account of the non-consideration of the requests by the concerned Respondent Authorities for payment of the Ex-gratia, the Petitioner has approached this Court under Article

226 of the Constitution.

3. It appears from the records that this Court had issued notice vide an order dated 13.07.2021.

4. The records further reveals that an affidavit-in-opposition was filed by the Respondent No.1 through the Joint Secretary in the Revenue and Disaster Management Department. It was mentioned in paragraph No.3 of the said affidavit-in-opposition that the accident as regards the husband of the Petitioner took place on 31.07.2014 and as such the claim of the Petitioner would not fall within the purview of the notification dated 15.11.2014. In paragraph No.4, it was stated that the Petitioner in the instant case is entitled to Rs.1,00,000/- only as per the notification No.RR.86/2005/22 dated 24.04.2007. It was further mentioned in paragraph No.5 that upon receipt of the order dated 13.07.2021 passed by this Court, the Deputy Commissioner, Kamrup (M) had been already requested regarding submission of necessary proposal/sanction order for the Ex-gratia in respect of the Petitioner. However, the response was still awaited from the Revenue and Disaster Management Department, Government of Assam.

5. I have heard the learned counsels for the parties and have perused the materials on record. The fact that the Petitioner is entitled to an Ex-gratia on account of the death of the husband is not in dispute taking into account the clear admission made by the Respondent Authorities in the affidavit-in-opposition. However, the question arises as to whether the Petitioner would be entitled to in terms with the notification dated 15.11.2014 or in terms with the notification dated 24.04.2007. The answer to the same is apparent from a reading of the notification dated 15.11.2014 wherein it has been mentioned that the revised rates shall be applicable in respect of the incidents which may occur

in the State as on or after the date of issuance of the notification in supersession of the previous notifications in that regard. It was also mentioned in the said notification that the incidents prior to 15.11.2014 will be governed by the OM/notifications relevant to that period concerned.

6. As in the instant case, the accident which led to the death of the husband of the Petitioner occurred on 31.07.2014, it is the opinion of this Court that the Petitioner would be only entitled to the Ex-gratia in terms with the notification dated 24.04.2007 i.e. an amount of Rs.1,00,000/-.

7. Accordingly, this Court therefore disposes of the instant writ petition with a direction to the Respondent Nos. 1 and 2 to take appropriate steps so that the Petitioner is paid the Ex-gratia amount of Rs.1,00,000/- within a period of 45 days from the date of submission of the certified copy of the instant order to the Commissioner and Secretary to the Government of Assam, Revenue (Relief and Rehabilitation) and Disaster Management Department as well as to the Deputy Commissioner, Kamrup (M).

8. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant