

GAHC010113902021



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

**Case No. : WP(C)/3875/2021**

DHARA MILI @ DARA MILI  
S/O LATE SONADHAR MILI @ SUNADHAR MILI, VILL. UJANI CHEREPAI,  
P.O. AND P.S. JENGRAIMUKH, DIST. MAJULI, ASSAM, PIN 785105

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF  
ASSAM, REVENUE (R AND R) AND DISASTER MANAGEMENT DEPTT.,  
DISPUR, GUWAHATI 781006

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM  
FINANCE DEPTT.  
DISPUR  
GUWAHATI 781006

3:THE DEPUTY COMMISSIONER  
MAJULI  
ASSAM  
PIN 785110

4:THE SUPERINTENDENT OF POLICE  
MAJULI  
ASSAM  
PIN 785104

5:THE CIRCLE OFFICER  
MAJULI REVENUE CIRCLE  
KAMALABARI  
DIST. MAJULI  
ASSAM  
PIN 785106

6:THE OFFICER IN CHARGE

JENGRAIMUKH POLICE STATION  
ASSAM  
PIN 78510

**Advocate for the Petitioner** : MR. A MOBARAQUE

**Advocate for the Respondent** : SC, REVENUE

**BEFORE**  
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 01-02-2023**

Heard Mr. A. Mobaraque, learned counsel for the petitioner; Ms. P.R. Mahanta, learned Standing Counsel, Revenue Department for the respondent no. 1; Mr. B. Gogoi, learned Standing Counsel, Finance Department for the respondent no. 2; and Mr. M. Chetia, learned Junior Government Advocate, Assam for the respondent nos. 3 – 6.

2. The petitioner has instituted this writ petition under Article 226 of the Constitution of India seeking *inter alia* a direction to the State respondent authorities to disburse an amount of Rs. 2,00,000/- in terms of a Notification dated 15.11.2014 of the Revenue & Disaster Management Department, Government of Assam claiming that the petitioner is one of the Next of Kins [NoKs] of the deceased viz. Late Sonadhar Mili @ Sunadhar Mili. It is claimed that Late Sonadhar Mili @ Sunadhar Mili died in a road traffic accident occurred at a public place.

3. The petitioner has claimed to be the son of the said deceased person, Late Sonadhar Mili @ Sunadhar Mili.

4. The case projected by the petitioner, in brief, is that on 30.03.2017, Sonadhar Mili @ Sunadhar Mili was proceeding on foot by the PWD road within the territorial jurisdiction of Jengraimukh Police Station and when he reached a place nearby Ujani Serepai Village, a vehicle bearing registration no. AS-22/C-1556 [Dumper] came in a rash and negligent manner and knocked him down from backside. As a result of the accident, Sonadhar Mili @ Sunadhar

Mili died instantaneously on the spot. The Post-Mortem Examination [PME] on the dead body of the deceased was performed at the Sub-Divisional Civil Hospital, Garamur, Jorhat on 30.03.2017. As per the PME Report, the cause of death was due to hemorrhagic shock which was caused by excessive bleeding. In connection with the accident, the petitioner lodged a First Information Report before the Officer In-Charge, Jengraimukh Police Station on 31.03.2017 and the said FIR was registered as Jengraimukh Police Station Case no. 18/2017 under Sections 279/338/304A, IPC. After completion of investigation in connection with Jengraimukh Police Station Case no. 18/2017 [G.R. Case no. 54/2017], the Investigating Officer [I.O.] of the case submitted a charge-sheet under Section 173[2], CrPC vide Charge-Sheet no. 17/2017 dated 26.06.2017 against the driver of the offending vehicle bearing registration no. AS-22/C-1556 [Dumper] finding a *prima facie* a case under Sections 279/338/304, IPC. The petitioner has claimed that he has approached the office of the respondent no. 3 claiming **ex gratia** amount for the death of his father in the road accident occurred at a public place in terms of the Notification dated 15.11.2014.

5. Mr. Chetia, learned Junior Government Advocate has, however, submitted that there is no averment in the writ petition to the effect that any representation, in writing, had been submitted by the petitioner either before the respondent no. 3 or before the respondent no. 5. He has further submitted that in the event any such representation is filed by the petitioner accompanied by all the supporting documents necessary to consider such claim of the petitioner, then the claim of the petitioner for **ex gratia** in terms of the Notification dated 15.11.2014 will be considered accordingly.

6. The learned counsel for the petitioner has contended that the petitioner is one of the Next of Kins [NoKs] of the deceased person who died in a road traffic accident occurred on 30.03.2017 at a public place. It is further contended that as such Next of Kin [NoK] of the deceased person killed in such accident, he is entitled to receive the quantum of relief in terms of the policy formulated by the State Government, which has been notified by the Notification dated 15.11.2014.

7. On perusal of the said Notification bearing no. RR.33/2014/66 dated 15.11.2014, it is

noticed that the same has, inter-alia, made a provision for **ex gratia** grant to the Next of Kin [NoK] of persons killed due to accident in public place or in public carrier [other than killed by extremist/terrorist, miscreants and due to firing of security forces] and such relief has been quantified at Rs. 2,00,000/- for each deceased person in respect of accident which had occurred in the State on or after the date of the Notification i.e. 15.11.2014. It has been brought to the notice of the Court by the learned counsel for the parties that due to certain ambiguity with regard to the term, 'public place', another Notification bearing no. R.R.94/2003/288 dated 15.10.2014 came to be issued by the Revenue & Disaster Management Department, Government of Assam for removal of the ambiguity. As per the Notification dated 15.10.2014 [supra], the word 'public place' will mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public or any other place, which is open to the public view or to which public has access.

8. By issuing notice to the respondent on 19.08.2021, the respondents were put to notice, but till date, no response has been filed by any of the respondents.

9. Ms. Mahanta, Mr. Gogoi and Mr. Chetia are not in disagreement to the fact that in this writ petition, the petitioner has claimed that the alleged road traffic accident in question had occurred subsequent to 15.11.2014. It is submitted by Ms. Mahanta, Mr. Gogoi and Mr. Chetia, in unison, that before placing the matter before the Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department, the jurisdictional Deputy Commissioner shall have to examine the matter in order to verify the veracity of the claim of the petitioner, with regard to, firstly, the alleged road traffic accident which stated to have occurred at a public place resulting in the death of the person, mentioned above; secondly, the claim of the petitioner as one of the Next of Kins [NoKs] of the person who stated to have died as a result of the said alleged road traffic accident, and thirdly, the claim regarding occurrence of the accident at a public place.

10. This Court has already recognized the rationale behind the policy formulated by the State and notified vide the Notification dated 15.11.2014, in its order dated 04.05.2019 passed in the writ petition, W.P.[C] no. 2100/2019 [Gunalata Das vs. the State of Assam] and

similar other writ petitions, by observing that the dominant purpose of the policy is to provide some succour immediately in the form of financial assistance to the Next of Kin [NoK] of the deceased to tide over the initial shock and hardship before lodging claim for just compensation under the law. Thus, a claim for the relief of **ex gratia** grant under the policy calls for an expeditious consideration.

11. Though there might not any representation on behalf of the petitioner, in writing, claiming **ex gratia** benefit in terms of the Notification dated 15.11.2014, the petitioner may still approach the respondent authorities, more particularly, the jurisdictional Deputy Commissioner, the is, the Deputy Commissioner, Majuli seeking disbursal of **ex gratia** in terms of the Notification dated 15.11.2014 by submitting a Representation along with all the documents/certificates in support of claim, immediately.

12. 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 instead of keeping the writ petition pending for any further period, waiting for responses from the respondents, who have not filed any response since 19.08.2021, the same can be disposed of as the claim for relief in the form of **ex gratia** to the petitioner in this writ petition as one of the Next of Kin [NoK] of the person killed in a road traffic accident, the facts of which are briefly narrated above, is to be verified and considered first at the end of the jurisdictional Deputy Commissioner. After such verification and consideration on all relevant aspects including the three aspects, as highlighted by the learned counsel for the State respondents, by calling for reports from the other authorities, the proposal can thereafter, be forwarded by the jurisdictional Deputy Commissioner along with his report, to the Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department for release of *ex-gratia* amount in terms of the Notification dated 15.11.2014, if the petitioner is found entitled to receive the same. The Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department shall thereafter, examine and sanction the quantum of relief for disbursal to the petitioner and/or any other Next of Kins [NoKs] found entitled, in terms of the Notification dated 15.11.2014. It is accordingly ordered. The entire exercise in respect of the case involved in this writ petition

should be completed by the above respondent authorities within a period of 3 [three] months from the date of receipt of an application/representation in writing from the petitioner for **ex gratia** grant with all supporting documents along with a certified copy of this order by the office of Deputy Commissioner, Jorhat and a copy of the writ petition with the annexures. The petitioner and/or the other Next of Kins [NoKs] of the deceased person is/are directed to extend his/their assistance and cooperation during the process of such verification and shall furnish the relevant information/documents, available at his/their disposal, to facilitate the process of verification, as and when asked for.

13. With the observations made and directions given above, the writ petition stands disposed of. No cost.

**JUDGE**

**Comparing Assistant**