

GAHC010119072021



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

Case No. : WP(C)/3840/2021

BIPAD BAISHYA
S/O LATE ANADHWA BAISHYA @ ANANDHABA BAISYA
VILLAGE 1 NO. DOULASHAL, PO DOULASHAL, PS MUKALMUA, DIST
NALBARI, ASSAM, 781312

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE (RELIEF AND REHABILITATION) AND DISASTER
MANAGEMENT DEPARTMENT, DISPUR GUWAHATI 781006

2:THE DEPUTY COMMISSIONER

NALBARI
ASSAM
781335

3:THE CIRCLE OFFICER

BARKHETRI REVENUE CIRCLE
PO AND PS MUKALMUA
DIST NALBARI
ASSAM
781126

4:THE OFFICER IN CHARGE
MUKALMUA POLICE STATION
NALBARI ASSAM
78112

For the Petitioner(s) : Mr. S. I. Akand, Advocate

For the Respondent(s) : Mr. B. J. Talukdar, Addl. Sr. Govt. Advocate
Mr. R. Borpujari, SC, Revenue
Mr. B. Choudhury, SC, Finance

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

04.10.2023

This is an application filed under Article 226 of the Constitution of India whereby the Petitioner is aggrieved for non-payment of the ex-gratia relief to which the petitioner being the father of the deceased is entitled in terms with the notification dated 15.11.2014.

2. The brief facts of the instant case are that on 25.11.2018 at about 8: 30 P.M. while the son of the petitioner namely Jahan Baishya @ Jon Baishya was proceeding on foot from Village Rampur to his residence on his left side at Hajo Doulashal Barpeta PWD Road and when he reached near Bamunbari Chowk, suddenly a Motor Cycle bearing registration No. AS-01-DV-9038 proceeding from the same direction which was ridden by its rider in a rash and negligent manner dashed him from behind as a result of which he sustained grievous injuries in person. Immediately he was admitted to the nearest Mukalmua P.H.C. for treatment, but doctors referred him to G.M.C.H. where he died on 27-11-2018.

3. The petitioner vide application dated 10.04.2021 addressed to the Respondent No.2 i.e. the Deputy Commissioner of Nalbari, Assam made a request to grant Ex-Gratia relief to the Next-of-Kin of

the deceased as per Government Notification dated 15-11-2014, issued by Government of Assam, Revenue (Relief & Rehabilitation Branch) and Disaster Management Department, Dispur, Guwahati-06. However, in spite of receipt of the said representation, the respondent No.2 till date, has not taken any action to release the relief and the Petitioner by filing this petition under Article 226 of the Constitution of India seeks a direction to the Respondents to release the amount of Rs. 2,00,000/(Two Lakhs only) as Ex-Gratia relief to the Next-of-Kin of the deceased.

4. Mr. R. Brpujari, learned Standing Counsel, Revenue Department appearing on behalf of Respondent No.1 submits that in similar matters this Court had issued directions for making payment after making due verification.

5. Taking into consideration the specific stand taken by the petitioner on the basis of the notification dated 15.11.2014 and also the submission of Mr. R. Borpujari, learned Standing Counsel, Revenue Department to the effect that in respect to similarly situated persons this Court had passed directions for making payment after making due verification, this Court is therefore of the opinion that it would be in the interest of justice that the instant petition be disposed of with a direction to the Respondent No.1 to consider the prayer of the petitioner as regards the entitlement in terms with the notification dated 15.11.2014 and after due verification as regards the petitioner's entitlement if it is found that the petitioner is entitled, the said ex-gratia payment of Rs.2,00,000/-

may be released to the petitioners.

6. It is further directed that the entire exercise be completed within a period of 3 (three) months from the date a certified copy of this order is served upon the Commissioner & Secretary, to the Government of Assam, Revenue (Relief and Rehabilitation) Disaster Management Department.

7. The petitioner is further directed to submit the Next of Kin Certificate to the Commissioner & Secretary, to the Government of Assam, Revenue (Relief and Rehabilitation) Disaster Management Department along with the certified copy of this order.

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

JUDGE

Comparing Assistant