

GAHC010190082021



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

Case No. : WP(C)/6055/2021

RITA SHARMA @ RITA SARMAH
W/O LATE MADHAB CH. DEKA
RESIDENT OF LACHIA PATHAR, PATARKUCHI, NEAR MANIPURI HARI
MANDIR, PO BELTOLA, PS BASISTHA, DIST KAMRUP (M) ASSAM 781028

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
KAMRUP(M) GUWAHATI
PO AND PS PANBAZAR
781001

3:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
PO AND PS BASISTHA
GUWAHATI
KAMRUP (M) ASSAM
781029

4:THE OFFICER IN CHARGE
BASISTHA POLICE STATION
PO BASISTHA
DIST KAMRUP(M) ASSAM
78102

Advocate for the Petitioner : MR. R Deka

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 02.06.2023

Heard Mr.S.I. Akand, the learned counsel for the Petitioner. Mr. N. Goswami, the learned counsel appears on behalf of the Respondent Nos. 2 to 4 and Mr. S. Dutta, the learned counsel appears for the Respondent No. 1.

2. Taking into account the facts as well as the question involved, the instant writ petition is taken up for disposal at the motion stage itself.

3. The facts of the instant case is that the Petitioner is the wife of one Madhab Ch. Deka(since deceased), who unfortunately expired in a road accident which took place on 17/9/2020 at about 8.30 PM. Pursuant to the said accident, the postmortem examination was conducted by the doctors of the Gauhati Medical College, wherein the cause of death has been mentioned "death was due to coma as a result of head injuries sustained over the head as described. All the injuries were ante mortem caused by blunt force impact." It has also been mentioned that pursuant to the said accident, Basistha P.S. Case No. 1207/2020 was registered under Sections 279/338/304(A)/427 of the Indian Penal Code.

4. The Petitioner thereupon on 13/7/2021 submitted a representation to the Respondent No. 2 i.e. the Deputy Commissioner, Kamrup(Metro) making a request to grant the amount of Rs. 2,00,000/- (Rupees two lakhs) as ex gratia relief to the Petitioner, being the next of the kin (NOK) of the deceased in terms with the Government Notification dated 15/11/2014. However, in spite of submission of the said representation, as the Respondent Authorities did not take any steps for granting the entitlement to the Petitioner, the Petitioner therefore approached this Court under Article 226 of the Constitution.

5. It appears from the records that the Notification dated 15/11/2014 has been

enclosed as Annexure-5 to the writ petition. In Serial No. 3 of the said Notification, it has been mentioned that the next of the kin (NOK) of person killed due to accident in public places or in public carriers (other than those killed by extremist/terrorist/miscreants and due to firing of security forces) would be entitled to an ex gratia compensation of Rs. 2,00,000/- (Rupees two lakhs).

6. It further appears from the records that an additional affidavit was filed by the Petitioner bringing on record the Next of the Kin Certificate issued by the Office of the Deputy Commissioner, Kamrup (Metro) dated 20/3/2021 wherein it is also seen that the Petitioner has been shown as the wife of Lt. Madhab Ch. Deka.

7. It is further relevant to take note of that the Respondents till date have not filed their affidavit and as the instant writ petition has been taken up at the stage of motion, this Court is therefore of the opinion that the claim of the Petitioner requires to be verified by the authorities concerned.

8. Considering the above, this Court therefore disposes of the writ petition directing the Respondent No. 2 to make necessary verification as regards the entitlement of the petitioner in terms with the Notification dated 15/11/2014. This Court further directs that upon verification, if it is found that the Petitioner is the next of the kin (NOK) of Late Madhab Ch. Deka, who expired in the accident, the Respondents shall make payment of the amount of Rs. 2,00,000/- (Rupees two lakhs) to the Petitioner as it is the mandate of the Notification dated 15/11/2014.

9. The said exercise be completed within a period of 4(four) months from the date a certified copy of the instant order along with the necessary particulars are submitted before the Respondent No.2.

JUDGE

Comparing Assistant