

GAHC010098432023



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

Case No. : WP(C)/2652/2023

MANJUBALA DEKA @ MANJU DEKA AND 2 ORS.
W/O- LATE KANDARPA DEKA, R/O- VILL.- NIZ-CHENGA, P.O. CHENGA, P.S.
TARABARI, DIST. BARPETA, ASSAM, PIN- 781305.

2: SAYANIKA DEKA
D/O- LATE KANDARPA DEKA
R/O- VILL.- NIZ-CHENGA
P.O. CHENGA
P.S. TARABARI
DIST. BARPETA
ASSAM
PIN- 781305.

3: SMTI. PRABHABALA DEKA
W/O- LATE RAMA KANTA DEKA
R/O- VILL.- NIZ-CHENGA
P.O. CHENGA
P.S. TARABARI
DIST. BARPETA
ASSAM
PIN- 781305

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE (RELIEF AND REHABILITATION)
AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-
781006.

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR

GUWAHATI-06.

3:THE DEPUTY COMMISSIONER OF BARPETA
ASSAM
P.O. AND P.S. BARPETA
PIN- 781314.

4:THE CIRCLE OFFICER
CHENGA REVENUE CIRCLE
P.O. CHENGA
P.S. TARABARI
DIST. BARPETA
ASSAM
PIN- 781305.

5:THE OFFICER-IN-CHARGE
TARABARI POLICE STATION
P.O. TARABARI
DIST. BARPETA
ASSAM
PIN- 781302

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

For the respondent (s) : Ms. N. Bordoloi, SC, Revenue
Mr. S. Baruah, Govt. Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

19.08.2024

Heard Mr. S. I. Akand, the learned counsel appearing on behalf of the petitioner. Also heard Mr. S. Baruah, the learned Government Advocate, Assam appearing on behalf of the State respondents and Ms. N. Bordoloi, the learned Standing Counsel appearing on behalf of the Revenue Department, Government of Assam.

2. The petitioner No.1 is the wife; the petitioner No.2 is the married daughter and the petitioner No.3 is the mother of the deceased Kandarpa

Deka, The petitioners herein have approached this Court being aggrieved by the inaction on the part of the respondent authorities in releasing the ex-gratia amount of Rs.2,00,000/- in terms with the Notification dated 15.11.2014.

3. This Court duly takes note of the materials on record including the FIR which has been filed. In the said FIR, it is seen that a Bajaj Maxima car bearing Registration No.AS01-LC-1740 had hit the husband of the petitioner No.1 from the back side and, thereupon, the husband of the petitioner No.1 succumbed to the injuries and expired.

4. This Court takes note of the judgment passed by a Coordinate Bench of this Court dated 21.06.2024 in the case of ***Monisa Khatun @ Monisha Khatun Vs. the State of Assam and 5 Ors.*** (WP(C)No.2700/2023). In the said judgment, the Coordinate Bench of this Court categorically held that the Notification dated 15.11.2014 cannot be read to be applicable in respect to all accidents except hit and run case where the offending vehicle remain unidentified in the Final Form after the police investigation. Paragraph Nos.16 and 17 of the said judgment being relevant are reproduced hereinunder:

“16) The question is whether petitioner is entitled for ex gratia compensation under notification dated 15.11.2014, when just and fair compensation for accident involving motor vehicle accident can be otherwise claimed before the Motor Accident Claims Tribunal.

17) The notification dated 15.11.2014, envisaging grant of compensation is found to be relatable to provide ex gratia and financial assistance to the persons who were killed/ injured due to extremist violence/ terrorist violence/ acts of miscreant/ communal violence/ ethnic violence/ group-clash/ firing of security forces/ accident, etc., who were kidnapped/

abducted by the extremist/ terrorist/ miscreants and whose dwelling houses are fully burnt/ damaged whether due to acts of extremist/ terrorist/ miscreants or during communal violence/ ethnic violence/ group clash. Therefore, accident must be in connection with acts committed by extremist, terrorist, or miscreants, or accidents arising out of group clash, communal violence, and ethnic violence. The said notification dated 15.11.2014, cannot be read as if all persons suffering from any accident except hit and run case where the offending vehicle remain unidentified in the Final Form after police investigation, would become entitled to ex gratia where other statutory remedy is available."

5. Taking into account the above proposition as laid down by the Coordinate Bench and the fact that the vehicle in question which had caused the accident has been duly identified, the petitioner herein would not be entitled to the benefit in terms with the Notification dated 15.11.2014. Be that as it may, this Court observes that the instant order shall not preclude the petitioners to avail other statutory remedies as provided under the Motor Vehicles Act, 1988.

6. Accordingly, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant