

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.10289 of 2013**

=====

Gopal Pathak Son of Late Kesho Pathak, resident of flat No. 106, Taluka Apartment, Ram Jaipal Nagar, Bailey Road, Police Station- Rupaspur, District- Patna. .... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
  2. The Director General of Police, Bihar, Patna
  3. The Chief Secretary, Government of Bihar, Patna
  4. The Secretary to Govt. of Bihar (Home Department), Bihar, Patna
  5. The Deputy Director General of Police (Head Quarter), Bihar, Patna
  6. The Senior Superintendent of Police, Patna
  7. The Superintendent of Police, Nalanda, District- Nalanda..... Respondent/s
- =====

**Appearance :**

For the Petitioner/s : M/s Ram Naresh Sharma and Ram Narayan  
For the Respondent/s : M/s Prabhakar Jha, GP-27  
Umesh Narayan Dubey, AC to GP-27

=====

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 30-08-2016**

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is seeking relief of compensation on the ground that while discharging the duty, he was travelling on the Government jeep met with an accident, led to amputation of his one leg.

The facts are not in dispute, the petitioner was a member of Special Auxiliary Police (in short 'SAP'), was engaged by the State of Bihar for the purposes of maintaining the law and order, for protection of life and liberty of the citizen, including assisting in holding peacefully Lok Sabha Election 2009. The petitioner and other



persons were deputed in election duty for the purposes of patrolling. When he was returning from the 'Government' Vehicle No. BR21-9035 at about 9.15 P.M., one ten wheels' truck, coming from south side, rashly and negligently, dashed the said vehicle whereupon the petitioner sustained injury and in pursuance thereof, Silao P.S. Case No. 0045/09 was lodged against the offending vehicle for offences under sections 279, 337 and 338 of the Indian Penal Code. First the petitioner was treated at Primary Health Centre, later on, was referred to Patna Medical College and Hospital (P.M.C.H.) on 22.04.2009 for further better treatment where the Doctor advised him, on account of deep injury, it will be beneficial for his health for amputation of his one leg from the knee and accordingly, the petitioner has suffered 75% of disability. After treatment, the petitioner was released from the Hospital, he made an application for compensation of the amount which has been rejected on the ground that he is not covered under the Insurance Policy, as the person would be entitled for compensation subject to satisfaction condition mentioned in sub-clause 4 of clause-5, not otherwise. The case of petitioners is that he was injured while returning from the Jeep which suffered on account of accident, will not make a person entitled for any benefit.

The counsel for the State has vehemently placed reliance on sub-clause 4 read with clause 5 and has submitted that the

petitioner has not received injury on account of any War, Invasion, Act of Foreign enemy, Hostilities, Civil War, Rebellion, Revolution, Insurrection, Mutiny, Military or usurped Power, Seizure, capture, arrests, Restraints & Detainments of all kings, princes.

The State is a model employer must look to the welfare of person who suffered injury while discharging its duty. In democratic set up it is sovereign function of the State to hold free and fair election for that police forces are required. It is not the case of State that petitioner received the injury while performing his private duty, but received injury on account of discharging the duty of the State.

The case of the petitioner is not covered under the Motor Vehicle Act, on account of the fact that a 'Government' vehicle was involved in the accident, in such circumstance, loss suffered by the petitioner must be compensated as it is the duty of the State that it should take care of the welfare of the employee. Judgment reported in **(2000) 2 SCC 465** (*Chairman, Railway Board and others vs. Chandrima Das and others*) in which Bangladeshi lady suffered sexual assault by the staff of the Railway. The matter was brought to notice of Calcutta High Court, matter went to the Hon'ble Supreme Court has held that even the victim-lady, who is not an Indian citizen, received a perpetration from the employee of the Govt. of India, in

such circumstances, the suffering caused to the victim-lady should be compensated and the Court has directed for giving compensation amount to her.

Here the question is otherwise. If the person has suffered loss on account of injury while discharging the duty, certainly he will face the trouble in his life that can only be compensated in terms of rehabilitation, in such circumstances, this Court feels that the petitioner should be granted the relief/benefit of compensation in terms of loss that can be calculated under the Workman Compensation Act or Motor Vehicle Act.

The respondents are directed to calculate the amount and make payment to the petitioner within a period of three months from the date of receipt/production of a copy of this order. If any other grievance is there, the respondents are directed to look into the matter and redress the same in accordance with law.

Accordingly, this petition is allowed.

**(Shivaji Pandey, J)**

Mahesh/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N/A        |
| Uploading Date    | 14.09.2016 |
| Transmission Date |            |