

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3167 of 2018**

1. Aasho Bai, Aged About 51 Years, W/o Late Asharam Sahu,
2. Sohanlal Sahu, Aged About 30 Years, S/o Late Asharam Sahu,
3. Tekchand Sahu, Aged About 25 Years, S/o Late Ashram Sahu,

All R/o Amlipara, Ward No. 12, Khairagarh, Tahsil And Thana Kairagarh, District- Rajnandgaon, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Its Secretary, Public Works Departement, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh.
2. The Collector Rajnandgaon, Chhattisgarh.
3. Chief Executive Engineer Public Works Department, Khairagarh, District- Rajnandgaon, Chhattisgarh.
4. Sub Divisional Officer, (Revenue), Khairagarh, District- Rajnandgaon, Chhattisgarh.

---- Respondents**FA No. 37 of 2015**

1. Aasho Bai, Aged About 47 Years, W/o Asharam Sahu,
2. Sohanlal, Aged About 26 Years, S/o Late Asharam Sahu,
3. Tekchand Sahu, Aged About 21 Years, S/o Late Asharam Sahu

All R/o Amlipara Ward No. 12, Khairagarh, Tahsil And Thana Khairagarh, Distt. Rajnandgaon, District : Rajnandgaon, Chhattisgarh

---- Petitioners

Versus

1. Chief Executive Engineer, Public Works Department, Khairagarh, Distt. Rajnandgaon.
2. State Of Chhattisgarh Through Collector, Rajnandgaon.

---- Respondents

For Appellants/
Petitioners:-

Shri Parag Kotecha, Advocate

For Respondent/State:-

Ms. Aastha Shukla, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Hon'ble Smt. Justice Vimla Singh Kapoor

14/12/2018

The following judgment/order of the Court was delivered on Board by ***Prashant Kumar Mishra, J.***

1. This order shall govern disposal of FA No.37/2015 and WPC No.3167/2018. The first appeal would assail the legality and validity of the judgment and decree passed by the District Judge, Rajnandgaon, in Civil Suit No.16-B/2012 dismissing the appellants' suit for damages. The appellants claimed damages for loss of life of Asharam Sahu (since deceased) husband of appellant No.1 Aasho Bai and father of appellants No.2 and 3 Sohan Lal and Tekchand Sahu, respectively.
2. The suit was filed alleging negligence on the part of Department of Public Works who had not properly maintained the bridge over a river near Khairagarh as railing was not erected/installed on either side of the bridge due to which deceased/Ashram Sahu fell into the river along with bicycle and succumbed to death.

3. The trial Court dismissed the suit on the ground that the deceased died on account of injuries sustained because of fall and not because of drowning in the river and further that the plaintiffs have failed to prove as to at which particular part of bridge the deceased fell into the river, therefore, in view of the defendants evidence that as per the Government rule railing/iron grill is ordered to be installed from 16th October to 15th June every year, the respondents negligence is not proved.
4. During pendency of the appeal, the petitioners have preferred WPC No.3167/2018 seeking compensation on the basis of the circular dated 09.06.2015 issued by the Department of Revenue and Disaster Management, Government of Chhattisgarh.
5. In the writ petition the petitioners would contend that even if respondents negligence is not proved, the petitioners are entitled for compensation because the circular provides for payment of compensation due to fall or drowning in the river, tank, dam, well, nahar or nallah.
6. Admittedly the petitioners/appellants are the legal representatives of Late Asharam Sahu who died due to haemorrhage which was due to injury sustained by him on account of fall into the river through the bridge near Amlipara, Khairagarh, District Rajnandgaon.
7. Having considered the arguments made by the learned counsel for the parties, no relief can be granted to the petitioners/ appellants in FA No.37/2015 because for awarding compensation due to tortuous act or negligence petitioners/appellants have to prove by leading evidence as to

the exact nature of negligence committed by the defendants which is apparently lacking in this case, therefore, the first appeal is dismissed, however, at the same time when the State Government has itself issued the circular for awarding compensation to the nearest dependent/legal representative of a person who died on account of natural calamity or due to fall in river, tank, dam, well, nahar, or nallah, there is no reason as to why the appellants should not be allowed to avail the benefit of the circular of the State Government. If a person falls through the bridge and suffers injuries after falling into the river or nallah the same would amount accidental death attracting clause Five (5) of the circular dated 09.06.2015.

8. In view of the foregoing, the respondents are directed to make payment of compensation of Rs.4,00,000/- (Rupees Four Lacs Only) to the petitioners, who are the legal representatives of the deceased, in terms of the circular dated 09.06.2015 within a period of three (3) months from the date of production of certified copy of this order.
9. In the result, FA No.37/2015 is dismissed and WPC No.3167/2018 is allowed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Vimla Singh Kapoor

Gowri