

CWP No.19349 of 2015

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.19349 of 2015
Date of decision:25.01.2018**

Rekha Rani and another

...Petitioners

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. S.S.Jattan, Advocate,
for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Rakesh Kumar Jain, J. (Oral)

Petitioner no.1 is the widow of Vineet Kumar alias Monu S/o Naresh and petitioner no.2 is the minor daughter. They have made the prayer for grant of adequate compensation on account of death of Vineet Kumar in judicial custody as an under-trial prisoner, while confined in the District Jail, Bhondsi at Gurugram.

In brief, petitioner no.1 got married to Vineet Kumar on 08.03.2007 and they were blessed with the girl child (petitioner no.2 herein) on 01.12.2007. Vineet Kumar was allegedly doing agricultural work and driving a goods carrier to support his family. One FIR No.208 dated 11.06.2013, under Sections 302/34/2016/201 of IPC and 25 of the Arms Act was registered at Police Station Badshahpur, in which husband of petitioner no.1 was arrested on 01.07.2013 and was lodged in the District Jail, Bhondsi on 05.07.2013. While he was facing trial in the said FIR, on 07.10.2014, some co-prisoners

caused him severe beatings resulting into his death. The post-mortem was conducted and, thereafter, the Superintendent, District Jail, Gurugram, reported the matter to the Police Station Bhondsi, on the basis of which FIR No.283 dated 07.10.2014, under Section 148, 323, 324, 303, 120-B read with Section 149 IPC was registered at Police Station Bhondsi, District Gurugram against the persons who have allegedly killed Vineet Kumar in the judicial custody. Challan in the said FIR No.283 dated 07.10.2014 has already been presented before the Judicial Magistrate on 04.01.2015 and the alleged accused are facing trial for the commission of murder of Vineet Kumar.

The death of Vineet Kumar in judicial custody is not denied by the respondents. The petitioners have claimed compensation on account of his death as he was their sole bread winner.

After notice, reply on behalf of respondents no.1 to 5 has been filed in which it is not denied that Vineet Kumar was done to death in the judicial custody by co-prisoners. However, it is denied that he was earning ₹25,000/- per month by doing agricultural work and driving goods carrier.

In the reply filed by Rattan Singh, Superintendent, District Jail, Gurugram, dated 31.08.2017, it is submitted that a sum of ₹3 lacs has already been paid to the next of the kin of the deceased Vineet Kumar.

Counsel for the petitioners has submitted that ₹3 lacs has been paid to the father of the deceased Vineet Kumar and no compensation has been paid to the petitioners. It is also submitted that the petitioners have been thrown out of the matrimonial home by the father of the deceased Vineet Kumar and that petitioner no.1 has not been re-married. Further, he referred to two decisions of this Court rendered in the cases of **Manjit Kaur and another**

vs. State of Punjab and others, 2016(2) RCR (Criminal) 383 and **Harjit Kaur vs. State of Punjab and others**, 2016(2) SCT 816 for the purpose of claiming compensation.

Learned counsel for the respondents, however, did not cite any judgment to the contrary and did not deny that the death of Vineet Kumar had taken place while he was in judicial custody facing trial in a pending criminal case.

I have heard learned counsel for the parties and examined the available record with their able assistance.

In this case, the facts are not disputed that the death of Vineet Kumar had occurred as an under-trial prisoner while in judicial custody. In **Manjit Kaur's case (supra)**, this Court had referred to the decision of the Supreme Court rendered in the case of **Smt. Neelabati Behera @ Lalita vs. State of Orissa and others**, 1994(1) RCR (Criminal) 18, in which it has been held that the prisoners or the under trials are not denuded of their rights under Article 21 of the Constitution of India and further it is obligatory on the part of the State to ensure that there is no infringement of the indefeasible rights of a citizen to life except in accordance with law. In the said case, this Court had awarded compensation to the tune of ₹15 lacs.

Similarly, in **Harjit Kaur's case (supra)**, in which widow of the deceased, who was 22 years of age having one minor child and died in judicial custody, was awarded compensation of ₹12 lacs over and above the amount already paid.

In the present case also, since deceased Vineet Kumar was 29 years of age and left behind his widow and a minor daughter, therefore,

following the aforesaid two decisions rendered in **Manjit Kaur's case (supra)** and in **Harjit Kaur's case (supra)**, the petitioners are hereby held entitled to the compensation of ₹12 lacs over and above the compensation of ₹3 lacs already paid to the next to the kin of the deceased as compensation. It is further directed that the amount of compensation of ₹12 lacs shall be paid to petitioner no.1 within a period of one month from the date of receipt of certified copy of this order and in case the amount is not paid, as directed by this Court, the respondents shall pay the interest thereon @ 9% per annum from the date of death of the deceased till the date of actual realization of the amount of compensation.

January 25, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No