

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.3319 of 2020
(Through hybrid mode)**

Ganda Digal

....

Petitioner

Mr. P.C. Chhinchani, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. T. Pattanayak, ASC

CORAM: JUSTICE ARINDAM SINHA

ORDER

05.09.2022

I.A. No.10134 of 2022

Order

No.

4.

1. Mr. Chhinchani, learned advocate appears on behalf of applicants, who are seeking substitution as legal representatives of deceased petitioner. Applicants are the widow and three sons.
2. I.A. no.10134 of 2022 is allowed and disposed of. Consolidated cause title has already been filed.
3. Mr. Chhinchani submits, impugned order dated 31st August, 2019 is to be set aside and quashed and there be direction for payment of compensation as per entry-B in table at paragraph-10 in judgment of the Supreme Court in **Archbishop Raphael Cheenath S.V.D. v. State of Orissa** reported in **AIR 2016 SC 3639**.

4. He demonstrates from paragraphs 5, 7 and 27 of judgment dated 30th September, 2011 passed by Assistant Sessions Judge, Balliguda in, inter alia, S.T. 26 of 2010 (State of Orissa v. Tika Mallick) that deceased petitioner was grievously injured in the communal violence. As such there was direction by the Supreme Court for payment of Rs.30,000/- in cases of serious injury.

5. Mr. Pattanayak, learned advocate, Additional Standing Counsel appears on behalf of State. He submits, in paragraphs 7 and 8 of the counter it has been stated that on authorization for payment from the Chief Minister's Relief Fund, the additional compensation will be paid. On query from Court he submits, the deceased was described as informant in the judgment of the Assistant Sessions Judge.

6. There appears to be implied admission by State, in the counter. Nevertheless, following from impugned order is extracted and reproduced below:

“Whereas, it is seen from the contents of the representation that the applicant was injured in the violence but he has not reported the fact. Now he is found well and getting old age pension and ration also. No compensation has been given during the violence 2008. As such, as per WP(C) No.404/2008, addl. Compensation will be given only to the affected persons/NoKs observing the condition that they have been paid the original compensation.

Taking into the above fact, it is ascertained that the representation of the applicant Sri Ganda Digal has got no merit for consideration as per WP(C) No.404/2008 communicated by the Home Department (Spl. Section) vide Letter No.1050/C Dated 6.5.2017 and is hereby rejected.”

There is no doubt that the deceased was grievously injured as appearing from the judgment of the Assistant Sessions Judge. The Collector, in giving one of the reasons to reject being that deceased petitioner had not reported he was injured in the violence, appears to have not seen the wood for the trees. Furthermore, the Supreme Court directed payment of additional compensation of Rs.30,000/- in cases of serious injury. This additional compensation was directed, when no compensation had been granted.

7. State is directed to pay Rs.30,000/- along with interest thereon at 6% per annum simple commencing from 1st September, 2019 till date of payment to petitioner. The commencement date for calculation of interest is taken from date of impugned order. Payment must be made within three weeks of communication.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge