

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

213

**CWP-17180-2018 (O&M)
Date of Decision: 11.10.2022**

Savita and others

... Petitioners

VERSUS

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rajesh Goyal, Advocate
for the petitioners.

Mr. Vivek Chauhan, AAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition raises the issue of compensation owing to death of an under-trial while in custody and the obligation of the sovereign to ensure safety of an under-trial prisoner.

2. The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950, for seeking issuance of a writ in the nature of Mandamus directing the respondents to pay compensation to the tune of Rs.30 lakhs on account of death of Vikas @ Dodhiya.

3. Briefly summarised, the facts of the present case are that Vikas @ Dodhiya, the husband of petitioner No.1 was arrayed as an accused in FIR No.522 dated 06.12.2015 registered under Sections 186, 353 and 307 of the

Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Section 25/27 of the Arms Act, 1959. He was in police custody and during pendency of the trial, he informed his brother Ved Pal that his life is in danger from Sandeep Bedvasni and his accomplices.

4. An application was also moved by Vikas @ Dodhiya before the Chief Judicial Magistrate, Sonipat for providing special protection to him on 09.12.2015. The said application was allowed by the Chief Judicial Magistrate, Sonipat and the Superintendent, District Jail, Sonipat was directed to take appropriate steps and necessary action as per Rules.

5. Despite the aforesaid direction, it is alleged that the proper protection was not extended and that Vikas @ Dodhiya, the husband of petitioner no.1, was killed on 11.03.2016 while being brought to the Court for the trial. FIR No.0104 dated 11.03.2016 was registered under Sections 120-B, 148, 149, 186, 302, 307, 333 and 353 IPC and under Section 25 of the Arms Act, 1959.

6. It is contended that the husband of petitioner no.1 was killed while in police custody and that despite the order having been passed by the Chief Judicial Magistrate, Sonipat, on an apprehension expressed by the deceased. The petitioner No.1 thus claims compensation for death of her husband while in police custody claiming that it was the responsibility of the State to take appropriate steps and measures to protect the life of the deceased husband of the petitioner No.1 and that occurrence of the event clearly shows that steps taken by the respondent authorities were inadequate.

7. Written statement by way of affidavit of Sandeep Kumar, DSP, Ganaur, Sonipat, has been filed on behalf of the respondents wherein

participation of the police officials in the said incident has been denied. It was also pointed out that armed police personnel were deputed for protection of life of Vikas @ Dodhiya, however, on the date of incident, when they had reached near the veranda of the Court room, the accused fired gunshots upon Vikas @ Dodhiya along with their 5-6 companions. Constable Bhoop Singh also sustained pellet injuries.

8. It is pointed out that ASI Dayanand had also nabbed one assailant namely Gaurav @ Mitra while another assailant namely Rupender @ Nanha was apprehended by ASI Ajmer. It is contended that the investigation in the matter was conducted by the State Crime Branch and no participation of the police officials was discerned and allegations to the said aspect were found to be incorrect. Polygraph test of Inspector Kanwal Singh and ASI Bhagat Singh was also got conducted at CFSL Delhi on 09.02.2018 and their version was found to be truthful. It is also indicated that pursuant to complaint submitted on the C.M. Window dated 04.12.2017, a thorough inquiry was conducted separately and the allegations against the police officials were not found to be correct. The names of Inspector Kanwal Singh and ASI Bhagat Singh were deleted from the array of accused at the stage of filing of the final report under Section 173 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.'). An application under Section 193 Cr.P.C. was filed by the complainant, however, even the said application was dismissed by the Additional Sessions Judge, Sonipat, vide order dated 04.11.2016. Even as per said response, the State authorities do not dispute the occurrence of the event in question, however, they only refuted that there was no participation or connivance of the police officials in the said occurrence.

9. Another affidavit of Sandeep Singh, DSP, Ganaur, was also filed on behalf of respondents No.1 to 3 wherein the facts noticed above were reiterated and it was pointed out that the deceased Vikas @ Dodhiya was having criminal antecedents and was involved in as many as 12 different criminal incidents which are detailed as under:-

- “(i) FIR No.100 dated 28.07.2009, under Sections 307/506/34 IPC, Police Station Chandni Bagh, Panipat.*
- (ii) FIR no.320 dated 13.12.2011, under Sections 148/149/302 IPC, Police Station Sadar, Sonipat.*
- (iii) FIR no.226 dated 16.09.2011, under Sections 148/149/302 IPC and Section 25 of Arms Act, Police Station Sadar, Sonipat.*
- (iv) FIR no.442 dated 13.12.2011, under Sections 285/338/308 IPC and Section 25 of Arms Act, Police Station Sampla, Rohtak.*
- (v) FIR no.262 dated 30.07.2012, under Sections 302/307/34 IPC and Section 25 of Arms Act, Police Station Sadar, Rohtak.*
- (vi) FIR no.132 dated 30.04.2012, under Sections 201/120-B IPC and Section 42 Prisoner Act, Police Station Shivaji Colony, Rohtak.*
- (vii) FIR no.203 dated 26.05.2013, under Section 42 of Prisoner Act, Police Station Shivaji Colony, Rohtak.*
- (viii) FIR no.31 dated 02.02.2014, under Sections 420 IPC and Section 42 of Prisoner Act, Police Station Shivaji Colony, Rohtak.*
- (ix) FIR no.185 dated 01.08.2011, under Sections 307/452/34 IPC, Police Station Murthal, Sonipat.*
- (x) FIR no.19 dated 20.01.2012, under Section 25/54/59 Arms Act, Police Station Phase-III, Gurugram.*
- xi) FIR no.444 dated 06.10.2015, under Section 380 IPC and Section 25 of Arms Act, Police Station Kharkhoda, Rohtak and*

xii) FIR No.462 dated 20.11.2014, under Sections 392/397/420/465/411/202 IPC and Section 25 of Arms Act, registered in Police Station Ganaur, Sonipat.”

10. The matter has remained pending and the question arose regarding the payment of compensation to the petitioners under the Victim Compensation Policy whereupon the Haryana Victim Compensation Scheme, 2013, was filed by the respondent- State. An affidavit of Vinay Singh, Secretary to the Government of Haryana, Department of Home Affairs was also filed, wherein it was submitted that there was no order passed by the competent Court under Section 357-A Cr.P.C. and the Haryana Victim Compensation Scheme, 2020 and that in the absence of any such order/recommendation directing the payment of compensation the amount could not be awarded and that the authorities were pursuing the matter with the District Legal Services Authority, Sonipat.

11. Learned counsel appearing on behalf of the petitioners has argued that the deceased husband of petitioner no.1 was in police custody as on the date of occurrence of the event. He contends that even though it may not be an incident of custodial death in the nature where the deceased is extended harassment, humiliation and torture by the Prison Authorities, however, it remains an instance of unnatural death while in custody.

12. He further contends that a responsibility was cast upon the State to ensure that adequate safety measures are put in place to protect the life of Vikas @ Dodhiya. The State cannot be allowed to disown the liability against loss of life of the deceased husband of petitioner No.1 at the time when he was in the custody of the State.

13. Per contra, learned counsel appearing on behalf of the State contends that there was no laxity, negligence or collusion on the part of the State Agencies and as such, the State cannot be held liable for the custodial death of Vikas @ Dodhiya and that attack on the deceased was due to his own criminal antecedents.

14. I have heard the learned counsel for the respective parties and have gone through the record of the present case with their able assistance.

15. Even though, it has been alleged by the petitioners that Vikas @ Dodhiya had died on account of collusion of police officials, however, the responses have been filed by the State taking a specific stand that the State police officials were duly subjected to polygraph tests and the test results were also appended along with the affidavits filed by the State. They were also not arrayed as an accused in the final report filed by the Investigating Agency and an application moved under Section 193 Cr.P.C. for summoning of the said police officials was also dismissed by the trial Court vide order dated 04.11.2016.

16. Counsel appearing on behalf of the petitioners has not disputed the said claim and has nowhere pointed out that the said order has attained finality. Even though responses had been filed way back in the November 2018, and reiterated subsequently, however, no rejoinder controverting the aforesaid factual aspect had been filed by the petitioners.

17. Consequently, this Court has no option but to assume that the petitioners do not have any objection against the said factual aspect. Resultantly, there is no basis available with the Court to assume that the

police officials named as suspects by the petitioners were involved in the commission of the offence.

18. The question which, however, still survives for consideration of this Court, is as to whether the State would still be liable and responsible to compensate the heirs of the deceased who met an unnatural death while in police custody. It must be kept in mind that a person who is confined to judicial custody is lodged under orders of the Court and it is the obligation of the State to prevent any untoward incident leading to pre-mature termination of life of said person while in the protective custody of the police under the orders of the Court.

19. The Hon'ble Supreme Court had discussed the compensation for unnatural deaths in custody in the matter of **Writ Petition (Civil) No.406 of 2013 titled as 'Re: Inhuman Conditions in 1382 Prisons.'** The relevant extract is reproduced hereinafter below:-

“Compensation for unnatural deaths

40. The issue of compensation for unnatural deaths in custody is no longer res integra.

41. One of the earliest cases where this Court granted compensation in a petition under [Article 32](#) of the Constitution is [Rudul Shah v. State of Bihar](#). That case was not one of a custodial death but was a case of illegal detention even after acquittal in a full dress trial. This Court held that the petitioner was entitled to compensation for the illegal detention and it rejected the stale and sterile objection of the State Government that the petitioner may if so advised file a suit to recover damages. This Court took the view that the refusal to pass an order of compensation would be doing mere lip service to the fundamental right of liberty of the petitioner under [Article 21](#) of

the Constitution which the State Government had so grossly violated. This Court observed that “if civilization is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy.”

42. A little later, this Court dealt with [Sebastian M. Hongray v. Union of India](#) which concerned itself with the disappearance of some persons while in custody. This Court was convinced that enabling the respondents to trace or locate the two missing persons at such a late stage would be to shut its eyes to reality and to pursue a mirage. It appeared to this Court that the two missing persons had actually met a tragic end in an encounter amounting to an unnatural death. This Court ordered the registration of an offence and an investigation and also directed payment of compensation to the next of kin.

43. [Nilabati Behera v. State of Orissa](#) was a case where a person who was taken into police custody for investigation of a theft, was found dead near a railway track the next day. On the basis of injuries and handcuffs on his wrists, this Court concluded that it was a custodial death and compensation was awarded under [Article 32](#) of the Constitution. It was held that a public law remedy was certainly available to claim compensation for the contravention of human rights and fundamental rights which are protected as a guarantee by our Constitution. A reference was also made to [Article 9\(5\)](#) of the International Covenant on Civil and Political Rights, 1966 which reads: “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

44. An unnatural death in judicial custody where one person was killed by a co-prisoner was the subject matter of discussion in [Kewal Pati v. State of Bihar](#). It was held that as a consequence of imprisonment, a prisoner does not cease to have constitutional rights, except to the extent he or she has been

deprived of them in accordance with law. Therefore, even a prisoner is entitled to protection and if he is killed while in prison, it results in a deprivation of his life contrary to the law, for which the next of kin are entitled to compensation.

45. *In D.K. Basu v. State of West Bengal* this Court recognized that at the time of ratification of the International Covenant on Civil and Political Rights, 1966 in 1979, the Government of India made a specific reservation to the effect that the Indian legal system does not recognize a right to compensation for victims of unlawful arrest or detention and only became a party to the covenant, subject to this reservation. It was noted however, that the reservation has lost its relevance in view of the law laid down by this Court in several cases wherein compensation has been awarded for the infringement of a fundamental right of a citizen. It was also noted that while there is no express provision in the Constitution for grant of compensation, this right has been judicially evolved in cases of established unconstitutional deprivation of personal liberty or life. This Court summed up the law in the following words:-

“Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same

matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit.”

46. [Ajab Singh v. State of U.P., Murti Devi v. State of Delhi](#) and more recently [Rohtash Kumar v. State of Haryana](#) illustrate that custodial death is a clear violation of the prisoner's rights under [Article 21](#) of the Constitution and relief could be moulded by granting compensation to the next of kin of the deceased.

47. In addition to the above decisions and several others rendered by this Court, almost every High Court in the country has, at one time or another, also granted compensation for the unnatural death of a person in custody, whether an undertrial or a convict. A few such illustrations may be noted:

a. [Nina Rajan Pillai & Ors. v. Union of India.](#)

The husband of the petitioner died in judicial custody due to inadequate medical treatment given by the jail authorities. The Lt. Governor of Delhi even appointed a Commission of Inquiry headed by Justice Leila Seth, a former Chief Justice of the Himachal Pradesh High Court to inquire into the circumstances that led to the death of the petitioner's husband. The Delhi High Court awarded compensation for the unnatural death in custody.

b. [Kewalbai v. The State of Maharashtra.](#)

The victim was shot dead by a constable while in custody. The Bombay High Court awarded compensation for the unnatural death in custody.

c. [Bheduki Buragohain v. State of Assam.](#)

The undertrial victim died in judicial custody under suspicious circumstances. The post mortem report indicated that the cause of death was asphyxia as a result of strangulation and ante mortem injuries by blunt weapons. The Gauhati High Court awarded compensation for the unnatural death in custody.

d. **Madhuben Adesara v. State of Gujarat.**

The deceased was brutally tortured by police officers while in custody and succumbed to his injuries during treatment. The post-mortem report revealed that the victim had multiple injury marks which were ante mortem in nature. The Gujarat High Court awarded compensation for the unnatural death in custody.

e. **Banalata Dash v. State of Orissa & Ors.**

The deceased was found hanging from a tree with his hands behind his back, tied at the wrist with a towel. Since the victim was in the custody of the prison authorities, compensation was awarded by the Orissa High Court for the unnatural death in custody.

f. **Amandeep v. State of Punjab & Anr.**

The deceased was assaulted by a co-prisoner and succumbed to injuries in the hospital. Due to the unnatural death in custody, the Punjab & Haryana High Court awarded compensation to the next of kin of the deceased.

g. **Tmt. Rohini Lingam v. State.**

The victim was murdered by his enemies while in prison. Due to the unnatural death in custody the Madras High Court awarded compensation to his next of kin.

h. **Sabu & Anr. v. State of Kerala & Ors.**

The victim was tortured in a police station and succumbed to his injuries. In view of the unnatural death in custody the Kerala High Court awarded interim compensation to the next of kin of the deceased until the

criminal trial against the concerned police officers was concluded.

i. **Ravindra Nath Awasthi v. State of U.P.**

The victim was an advocate held guilty of contempt of court. While he was undergoing his sentence, he was severely beaten up by the prison authorities and succumbed to his injuries in hospital. Due to the unnatural death in custody, the Allahabad High Court directed payment of compensation to the next of kin of the deceased.

j. **Mst. Madina v. State of Rajasthan & Ors.**

The victim died in police custody on account of the use of third degree methods. Due to the unnatural death in custody, compensation was awarded by the Rajasthan High Court to the next of kin of the deceased.

k. **Dukharam v. State of Chhattisgarh & Ors.**

The deceased was taken from the police station in order to recover stolen articles alleged to have been hidden by him at a secret place. He was brought to a pond and compelled to dive into the pond. At that time he was handcuffed and in chains. Subsequently, the dead body of the deceased was found floating in the pond. In view of the unnatural death while the deceased was in the custody of police officers, the Chhattisgarh High Court awarded compensation.

l. **Santosh Kumari v. State of H.P. & Ors.**

The victim died while he was in police custody and it was found that he had injuries on his head, shoulders, eyes, knees and private parts. He died in hospital as he was not given medical assistance in time. In view of the unnatural death while in custody, the Himachal Pradesh High Court awarded compensation to the next of kin of the deceased.

m. **State of Jammu & Kashmir v. Sajad Ahmad Dar.**

The victim died due to cardio pulmonary arrest while detained in the District Jail under the Jammu and

Kashmir Public Safety Act, 1978. It was held that death was due to carelessness, non-seriousness and negligence in not extending medical treatment. In view of the unnatural death in custody the Jammu & Kashmir High Court awarded the compensation to the next of kin of the deceased.

n. **Mrs. Meena Singh v. State of Bihar.**

The victim was attacked and killed by co-prisoners by the use of chhura, iron rods and belts etc. The next of kin of the deceased were awarded compensation by the Patna High Court for the unnatural death of the victim in custody.

o. **Lawyers for Justice (Non-Government Organization) v. State of M.P.**

The victim was facing trial for offences under Section 302 of the Indian Penal Code. While he was undergoing treatment in a hospital he was shot dead by an unknown person. In view of the unnatural death while in custody the Madhya Pradesh High Court awarded compensation to the next of kin of the victim.

48. *There are several such cases – documented and undocumented - all over the country but in spite of repeated decisions delivered by this Court and perhaps every High Court there seems to be no let up in custodial deaths. This is not a sad but a tragic state of affairs indicating the apparent disdain of the State to the life and liberty of individuals, particularly those in custody. The time to remedy the situation is long past and yet, there seems to be no will and therefore no solution in sight.”*

20. Furthermore, this Court in **CWP No.11695 of 2020 titled as Ram Lal and others Vs. State of Punjab and others' decided on 28.04.2022,** has observed as under:

[11]. It is a settled principle of law that the Court can grant appropriate relief in case of deprivation of constitutional

guarantee of life and personal liberty. A claim in public law of compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights. Though such claims are based on strict liability, by resorting to constitutional remedy provided for enforcement of fundamental rights which is distinct from, and also in addition to, the remedy in private law for damages i.e. torts resulting from contravention of the fundamental right.

*[12]. In **Phoolwati vs. State (Union Territory of Chandigarh) and others, 2008 (1) R.C.R. (Criminal) 167**, while deciding such cases, the parameters as laid down in motor accident claim cases can be relied. The multiplier as provided in Motor Vehicle Act, 1988 can be applied to the cases of custodial death as well. In order to calculate the compensation to be awarded to the dependants of the deceased, the parameters as laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) R.C.R. (Civil) 77 (SC)** and **National Insurance Company Limited vs. Pranay Sethi and others, 2017 (4) R.C.R. (Civil) 1009 (SC)** can be relied.*

[13]. The annual income of the deceased as per income tax returns (Annexures P-2, P-3 and P-4) has been relied upon by learned Senior counsel for the petitioners. According to the aforesaid documents, annual income of the deceased is prima facie proved to be Rs.3,52,588/-.

[14]. As per legal position, future prospects @ 25% are to be considered while assessing the compensation. The amount of Rs.88,147/- has to be assessed towards future prospects of the deceased. In this manner, total annual income comes out to be Rs.4,40,735/-. Out of the aforesaid amount, deduction towards personal expenses to the tune of 1/4th has to be applied. In this way an amount of Rs.1,10,184/- has to be deducted from Rs.4,40,735/- and the annual loss of dependency would come out to be Rs.3,30,551/-. Since the deceased Mohinder Pal @ Bittu was aged about 49 years at the time of the occurrence,

*therefore, as per ratio of **Sarla Verma and others's** case (supra) on the basis of age of the deceased, multiplier of 13 can be applied to the aforesaid annual loss of dependency and the amount comes out to be Rs.42,97,163/-.*

*[15]. In view of ratio of **National Insurance Company Limited vs. Pranay Sethi and others's** case (supra) an additional amount of Rs.70,000/- has to be assessed under the conventional heads i.e. funeral expenses, loss of estate and consortium is to be considered. In this way the total amount of compensation comes out to be Rs.43,67,163/- (42,97,163/- +70,000/-)."*

21. Reference is also to be made to the judgment of this Court passed in the matter of **Gurbaj Singh Vs. State of Punjab and others** reported as **(2016) 4 RCR (Criminal) 951**. The relevant extract thereof is quoted hereinafter below:

"9. Since it is not disputed that the deceased died as a convict in custody and preliminary investigation suggests that there was negligence of the warder and it is provided under Section 55-A of the Code of Criminal Procedure, 1973 that it is the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused, it would be just and expedient to award compensation of Rs.7 lacs to the dependents of the deceased Hardev Singh and keeping in view the report of the Chief Judicial Magistrate, Sri Muktsar Sahib dated 07.08.2013, it is further directed that the Director General of Police, Punjab, shall constitute a SIT with high officials and action taken report be submitted to the Court within a period of six months from today."

22. Additionally, reliance can also be placed on the judgment of the Hon'ble Supreme Court passed in the matter of **Kewal Pati Vs. State of U.P.**

and others reported as **(1995) 3 SCC 600**. The relevant extract of the same is reproduced hereinafter below:

*“2. Ramjit Upadhayaya was a convict and was working as a Nambardar in the jail. He was strict in maintaining discipline amongst the co-accused. It was due to this strictness in his behaviour as Nambardar that he was attacked and killed by Happy, a co-accused. Even though Ramjit Upadhayaya was a convict and was serving his sentence yet the authorities were not absolved of their responsibility to ensure his life and safety in the jail. A prisoner does not cease to have his constitutional right except to the extent he has been deprived of it in accordance with law (see **Francis Coralie Mullin v. The Administrator, Union Territory of Delhi and others, AIR 1981 Supreme Court 746** and **A. K. Roy v. Union of India, AIR 1982 Supreme Court 710**). Therefore, he was entitled to protection. Since the killing took place when he was in jail, it resulted in deprivation of his life contrary to law. He is survived by his wife and three children. His untimely death has deprived the petitioner and her children of his company and affection. Since it has taken place while he was serving his sentence due to failure of the authorities to protect him, we are of opinion that they are entitled to be compensated.”*

23. The perusal of the judgments referred to above and extracted in the preceding paragraphs of this judgment, squarely hold that Article 21 of the Constitution of India, 1950 comes in operation with full force at a time when life and liberties of a person in the custody of State are taken away without law. The agencies and instrumentalities of the State cannot be obviated of their obligation to ensure protection of a life and the liberty of an individual when he is confined to prison/jail under the orders of a Court. It cannot be left open to the State Agencies to wash off their responsibility by

holding it as an event of private dispute amongst two private individuals and seek exoneration from all obligations to ensure safety and security of inmates while in prison. The assessment of danger, the possibility of a fight and the maintenance of law and order within the jail premises is the responsibility of the State. It was in the aforesaid background and recognising the settled legal principles that writ jurisdiction of the Court has been regularly invoked and exercised repeatedly to strike a balance in the equitable relief for the next of the kin of the deceased.

24. I am therefore, of the opinion that the State would be obligated to compensate the petitioners who are next of kin of the Vikas @ Dodhiya. The mere absence of active participation of jail/police authorities does not absolve the sovereign of its obligation to ensure protection of life of inmates. Absence of participation shields the officials against criminal prosecution and cannot be cited as the basis to wriggle out of the civil and tortuous liabilities.

25. Having held as above, the next question which arises for determination is the quantum of compensation to be awarded to the petitioners. It has been claimed by the petitioners that the minimum wages as were in force at the relevant point of time were Rs.240/- per day. Upon consideration, number of days when a daily wager may be in a position to get work in a year is approximately 200 days. The annual income of deceased Vikas @ Dodhiya could thus be assumed as Rs.48,000/- per year. By applying a deduction of $\frac{1}{3}$ rd i.e. Rs.16,000/-, the annual dependency of deceased would work out to Rs.32,000/- per annum. The age of the deceased was 27 years and taking into consideration the parameters and yardsticks enshrined in the Motor Vehicle Act, 1988, the multiplier of 17 would be attracted as per the law laid down by the Hon'ble Supreme Court in the matter

of *Ms. Sarla Verma and others Vs. Delhi Transport Corporation and another* reported as *(2009) 6 SCC 121*. The amount of compensation thus comes to Rs.5,44,000/-. An additional amount of Rs.70,000/- is also awarded under the Conventional Heads i.e. litigation expenses, loss of estate and consortium. Even though the judgments in relation to the compensation under the Motor Vehicles Act, 1988 take into consideration the future prospects of a person, however, taking into consideration the criminal antecedents and the possibility of the petitioner being convicted, the aforesaid aspects for assessing compensation is not being considered at this stage.

26. Resultantly, a consolidated amount of compensation of Rs.6,14,000/- (Rs.5,44,000/- on the basis of annual dependency with the multiplier of 17 + Rs.70,000/- payable towards the conventional heads) is awarded.

27. Learned counsel for the petitioners has claimed that there is no other claimant and has suggested that the compensation in question may be disbursed equally amongst the petitioners.

28. Accordingly, the bifurcation of the amount of compensation amongst the petitioners is worked out as under:

Petitioners	Share in percentage	Total payable amount
Petitioner No.1	1/3 rd	Rs.2,04,666/-
Petitioners No.2 and 3	1/3 rd each	Rs.2,04,667/- each

29. The proportionate share of the minors shall be deposited in a Nationalised Bank in an FDR under a scheme that would earn maximum rate of interest to be released in the favour of minors upon attaining majority. The needful shall be done at the earliest and preferably within a period of three months from the date of receipt of certified copy of this order failing which

the amount of compensation so assessed shall carry interest @ 6% per annum from the date of filing of the petition till actual realization.

30. The petition stands allowed accordingly.

October 11, 2022.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

: **Yes/No**

Whether reportable

: **Yes/No**