

AD-24
Ct No.09
06.06.2023
TN

WPA No. 1403 of 2023

Shaahin Khatun and another
Vs.
The State of West Bengal and others

Mr. R.N. Chakraborty,
Mr. Mahaboob Ahmed

.... for the petitioners

Mr. Nilotpal Chatterjee,
Mr. D. Gomes

.... for the State

Heard learned counsel for the parties.

The grievance of the petitioners, who are the widow and the son of a deceased Md. Jahangir, who was apparently the victim of custodial death, is that the amount of compensation granted on such demise, that is, to the tune of Rs.3 lakh is meagre. That apart, although the said amount was ascertained by the respondent-authorities themselves as long back as on November 18, 2020, not a single paisa out of the same has been disbursed as yet in favour of the petitioners, who are the only surviving legal heirs of the deceased.

Learned counsel appearing for the State-respondent adopts an extremely fair stand and accepts the situation that the amount of compensation was granted by the authorities themselves.

However, in spite of the mellow approach of learned counsel, the illegality committed by the State-respondents in delaying the disbursal of the meagre amount of Rs. 3 lakh to the heirs of the deceased, a victim of custodial death, is deplorable.

Be that as it may, although the petitioners have not prayed for interest on the amount of compensation in specific terms, the relief (d), which is an omnibus prayer, is sufficient to put in motion the discretion of the court in granting interest on the amount of Rs. 3 lakh payable to the petitioners, due to the unnecessary delay in payment of the same by the respondents.

Hence, WPA No. 1403 of 2023 is allowed, thereby directing the respondent-authorities to disburse, at the earliest, the amount of Rs. 3 lakh ascertained to be the compensation payable to the heirs of the deceased Md. Jahangir on November 18, 2020 in favour of the petitioners, positively within July 01, 2023.

The respondent-authorities shall also pay interest @ 18 per cent per annum on such amount calculated till the date of such payment, beginning from November 18, 2020.

In the event the amount is not disbursed to the petitioners by the said date, that is, by July 01, 2023,

the amount shall be paid to the petitioners with interest calculated on the total amount, including the principal due and the interest as on July 01, 2023, also @ 18 per cent on such composite amount till the date of such disbursal. Irrespective of the above, the petitioners would be at liberty to move this court for contempt in the event the disbursal is not effected as per direction of this court by July 01, 2023, including the interest thereon as directed.

Nothing in this order and/or the order of November 18, 2020 annexed at page-26 of the writ petition shall prevent the petitioners from moving independent civil proceeding for further appropriate damages/compensation before the appropriate forum for the demise of Md. Jahangir in custody. If so approached, the said forum/court will decide the issue independently, irrespective of the *ad hoc* amount of Rs. 3 lakh awarded on the death of Md. Jahangir, without being fettered by the said adjudication dated November 18, 2020.

It is further clarified that although by the order dated November 18, 2020, the compensation of Rs. 3 lakh was awarded to Md. Yunus, the father of deceased Md. Jahangir, in the meantime Md. Yunus has expired and it is the present petitioners who are the sole legal heirs of the deceased Md. Yunus and are

entitled to get the quantum of compensation and interest thereon as directed by this court.

Parties shall act on the server copy of this order without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)