

26. 24.03.2023
Court No.13
Tanmoy Ghosh

WPA 14304 of 2017

**Rabiya Bibi & Ors.
-Versus-
The State of West Bengal & Ors.**

**With
IA No: CAN/1/2022
With
IA No: CAN/2/2023**

Mr. Raghunath Chakraborty, Adv.

...for the petitioners/applicants.

Mr. Kaushik Gupta, Adv.,
Ms. Srimoyee Mukherjee, Adv.

...for the SLSA.

In Re: IA No: CAN/1/2022

Sufficient grounds are available to explain the absence of the petitioner on September 15, 2022. The said order is recalled.

The writ petition is restored to its original file and number.

The application being IA No: CAN/1/2022 is disposed of

In Re: IA No: CAN/2/2023

This is an application for substitution of the petitioner No.4, namely, Ashalata Ghosh, who died during the pendency of the writ petition on May 31, 2019. She has left behind her two daughters being the legal heirs, namely, Saraswati Ghosh and Ahladi Ghosh.

Since the son-in-law, namely, Chittaranjan Ghosh, cannot be a legal heir of the deceased petitioner no.4, the prayer for including the name of Chittaranjan Ghosh, in the substitution application, stands rejected.

The application being IA No: CAN/2/2023, however, shall stand allowed-in-part.

Let Saraswati Ghosh and Ahladi Ghosh, daughters of Ashalata Ghosh, be substituted in place and stead of the original petitioner no.4.

Learned Advocate-on-Record for the petitioners/ applicants shall effect amendment to the cause title in course of the day.

The abatement of the writ petition insofar as the four petitioners concerned, shall stand set aside.

The application being IA No: CAN/2/2023 is disposed of.

In Re: WPA 14304 of 2017

The respective husbands of the original petitioners were victims of violence and were killed on November 19, 1987.

The persons who are accused of killing the husbands in violence were charge-sheeted and convicted under Sessions Trial No.1 of 1990, arising out of Sessions Case No. 64 of 1989, passed by the learned Sessions Judge, Birbhum. The accused persons challenged the conviction before a Division Bench of this Court in CRA 284 of 2009.

The said appeal was dismissed on July 6, 2015 by a Division Bench of this Court in a detailed judgment.

On the question of victim compensation, the Division Bench had also pronounced that the families of the victims of the murder, named at page 71 of the writ petition, were entitled to compensation in terms of the victim compensation scheme stipulated in Section 357A of the Code of Criminal Procedure, 1973. It was held that a sum of Rupees two lakhs, given to the writ petitioners, who are the wives of and legal heirs of the deceased, is insufficient compared to the loss of lives. It has been ordered that compensation should be paid to the family of the victims in terms of Second Schedule of the Motor Vehicles Act, 1988.

The Secretary, DLSA, Birbhum was directed to pay the compensation. *Interim* compensation was directed to be paid within a month of the said judgment. Final compensation was to be fixed by DLSA, Birbhum, within a month thereafter.

The petitioners have received *interim* compensation. Final compensation has not been made available to them.

In those circumstances, the Member Secretary, DLSA, Birbhum is directed to ensure that the compensation payable to the petitioners in terms of the judgment dated July 6, 2015, is calculated and paid to them positively within one month from date. The final compensation shall carry interest from September 2015

till the date of actual payment at the rate of 7% per annum.

The writ petition being WPA 14304 of 2017 is disposed of.

(Rajasekhar Mantha, J.)