



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.2077 OF 2022

1. Savita wd/o Dhanraj Kinekar
Age - 31 years, Occupation – Farming
2. Sanidhya s/o Dhanraj Kinekar
Age – 4 years, Occupation – Nil
3. Dhanshri D/o Dhanraj Kinekar
Age – 3 years, Occupation – Nil
4. Narayan s/o Soma Kinekar
Age – 76 years, Occupation – Farming
5. Bhagratha w/o Narayan Kinekar
Age – 72 years, Occupation – Farming

(Petitioner Nos.2 & 3 are minor through
their Natural Guardian mother
i.e. petitioner No.1)
All the petitioners are
R/o At Minthur, Po Nawegaon Pandav,
Tal. Nagbhir, District Chandrapur
Maharashtra - 441205

...PETITIONERS

VERSUS

1. The State of Maharashtra,
through its Principal Secretary
Revenue and Forest Department
Mantralaya, Mumbai – 400032
2. The Regional Forest Officer,
At. Nagbhir, Tah. Nagbhir,
District Chandrapur (M.S.) 441205

...RESPONDENTS

Ms Sonali D. Choudhari, Advocate for the petitioners.
Mr. M.K. Pathan, AGP for the respondents/State.

CORAM : **AVINASH G. GHAROTE &**
URMILA JOSHI-PHALKE, JJ.
RESERVED ON : **SEPTEMBER 04, 2023**
PRONOUNCED ON : **SEPTEMBER 20, 2023**

JUDGMENT (Per Urmila Joshi-Phalke, J.)

RULE. Rule made returnable forthwith. Heard finally with the consent of learned Counsel for the parties.

2. The petitioner has challenged the communication of the respondents dated 23/12/2020 by which the application for compensation of the petitioners is rejected.

3. The petitioners have applied for the compensation amount on account of death sustained by Dhanraj s/o Narayan Kinekar in a wild boar attack. The petitioners are wife, children and parents of the deceased. On 06/11/2020, deceased Dhanraj was proceeding on his motorcycle from his home to his workplace. When he was passing through Kodepar – Jankapur road, it is claimed that one wild boar from the adjoining forest area attacked on his motorcycle due to which he sustained injuries. During his treatment in the hospital, he died on

16/11/2020. As per the contention of the petitioners, the petitioners were completely dependent upon the earning of the deceased. Due to the death of the deceased they have suffered mentally and financially. In view of the Scheme of the Government vide Notification dated 26/08/2019, the present petitioners are entitled for compensation, therefore, they applied for the compensation by issuing communication to the Forest Officer, Nagbhid region, but the Divisional Officer of Forest Department, Nagbhid region has rejected the said application on the ground that the deceased has not died due to the attack but he died due to the accident, and therefore, the petitioners are not entitled for any compensation. As per the contention of the petitioners, said action of the respondents is arbitrary, illegal and liable to be set aside and the directions are required to be given to the respondents to award the compensation to the present petitioners.

4. Learned Assistant Government Pleader opposed the petition on the ground that in view of the Government Resolution dated 26/08/2019 only the persons who are injured or relatives of the deceased who died in the attack of wild animals are entitled for the said compensation. The merged report and various statements of the witnesses shows that the deceased died due to the accident, and therefore, the petitioners are not entitled for any compensation.

5. Heard learned Counsel for the petitioners. She reiterated the contention and submitted that in view of the Government Resolution dated 26/08/2019, present petitioners are entitled for compensation. She also placed reliance on the communication of the respondents, which shows that the deceased fell from the motorcycle as his motorcycle was dashed by the wild boar. She submitted that in view of the said communication also it is crystal clear that the deceased died due to the attack by the wild boar, however, the respondents misinterpreted the Government Resolution and rejected the application for compensation.

6. Learned Assistant Government Pleader submitted that as the deceased died due to the accident, the petitioners are not entitled for any compensation.

7. Having heard learned Counsel for the parties, on perusal of the record it reveals that regarding the said accident, merg report was filed at Nagbhid police station, District Chandrapur. After the incident, the police have drawn the spot-panchnama. Death summary and postmortem report are also filed on record. Thus, there is no dispute that on 06/11/2020 when the deceased was proceeding on his motorcycle, he fell down and sustained injuries, and during treatment, he

succumbed to the injuries. Now only question arises is whether the petitioners are entitled for any compensation on account of accidental death of the deceased. It is submitted by the petitioners that the wild boar has dashed against the motorcycle, and therefore, the deceased fell down and sustained the injuries.

8. Before entering into the question whether the petitioners are entitled for compensation or not, it is necessary to see the Government Resolution dated 26/08/2019 which is as under :

"शासन निर्णय :-

१. वन्यप्राण्यांच्या हल्ल्यात मृत झालेल्या व्यक्तीच्या वारसांना शासन निर्णय दिनांक २८/११/२०१८ मधील तरतूदीनुसार देय रू. १५.०० लक्ष अर्थ सहाय्याच्या रकमेपैकी रू. ५.०० लक्ष धनादेशाने तात्काळ वापरासाठी योग्य वारसांना देण्यात यावे व रू. ५.०० लक्ष ५ वर्षाकरिता फिक्स डिपॉझिटमध्ये ठेवावे आणि उर्वरित ५.०० लक्ष १० वर्षाकरिता फिक्स डिपॉझिट मध्ये ठेवावे. दहा वर्षांनंतर वारसांना पूर्ण रक्कम मिळेल.

२. सदर फिक्स डिपॉझिट देय असलेल्या व्यक्तींच्या नावे किंवा एका पेक्षा जास्त वारसदार असल्यास सर्व वारसदारांचे मिळून एक संयुक्त खात्यात राष्ट्रीयकृत बँकेत ठेवावी. अज्ञान अपत्याबाबतीत देय रक्कम अज्ञान अपत्ये व संबंधीत वनपरिक्षेत्राचे वन परिक्षेत्र अधिकारी यांच्या संयुक्त नावे ठेवण्यात यावे. वारसांना अर्थ सहाय्य देण्याचे निकष शासन निर्णय, महसूल व वन विभाग क्र. डब्ल्यूएलपी- २०१२/प्रक्र.३३७/फ-१, दिनांक २९/०५/२०१३ प्रमाणे कायम राहिल.

३. वन्यप्राणी हल्ल्यामुळे व्यक्ती मृत झाल्यास मृत व्यक्तीच्या वारसांना अर्थसहाय्य देण्यासाठी असलेल्या इतर अटी व शर्ती शासन निर्णय, महसूल व वन विभाग क्र. डब्ल्यूएलपी-१०.०८/प्रक्र.२७०/फ-१, दिनांक ०२/०७/२०१०, शासन निर्णय, महसूल व वन विभाग क्र. डब्ल्यूएलपी-२०१२/

प्रक्र.३३७/ फ-१, दिनांक | ३०/०३/२०१३, शासन निर्णय, महसूल व वन
विभाग क्र. डब्ल्यूएलपी- २०१२/प्रक्र.३३७/फ-१, दिनांक २९/०५/२०१३
प्रमाणे कायम राहिल.”

9. Thus, in view of the Government Resolution it is specifically mentioned in Clause (3) that if the person sustained injuries or died in an attack by the wild animals then they are entitled for compensation from the Government. The recitals of the petitions, merg report shows that the deceased fell down from the motorcycle and sustained injuries and met with an accident. In the communication dated 23/12/2020 also the Forest Officer informed the petitioners that the deceased died due to the dash by the wild boar to the motorcycle of the deceased. As the contention of the petitioners was that the deceased died due to the attack and eye-witnesses Narendra Pandurang Bhule has witnessed the said incident, therefore, this Court had directed an enquiry by order dated 09/08/2023. Said enquiry was conducted by the Tahsildar. During this enquiry, the statement of Narendra Pandurang Bhule is recorded. From his statement, it reveals that at the relevant time at about 8.30 a.m. this witness halted near Kodepar – Jankapur road to answer the nature’s call. At that time, he heard some noise of dash. He also saw one wild boar running across the road. He also saw that one motorcycle is fallen down condition and a person was lying near said motorcycle. From his statement it reveals that he has not witnessed

actual incident but he only witnessed one wild boar proceeding from the spot and the person who was proceeding from the motorcycle was lying on the road.

10. Learned Counsel for the petitioners placed reliance on ***Anuja Arun Redij Vs. The State of Maharashtra and anr.*** (Writ Petition No.3116/2022) decided on 26/09/2022. After going through the facts of the cited case it reveals that the deceased died due to the attack by the wild boar. Here it is not the case. Entire record shows that the deceased died as he fell down from the motorcycle and sustained the injuries. There is absolutely no material on record to show that the deceased met with an accident due to the attack by the wild boar, therefore, the present petitioners are not entitled for any compensation. The case of the petitioners is not covered under the Government Resolution dated 26/08/2019 or the Government Resolution dated 02/07/2010. In both the resolutions the requirement is that the deceased would be entitled for compensation if he was attacked by the wild animals.

11. In view of the reasons recorded above, the prayer of the petitioners cannot be considered and no directions can be given to the respondents. In view of that the petition deserves to be dismissed.

12. Hence, the petition is dismissed with no order as to costs.

13. Rule stands discharged.

(URMILA JOSHI-PHALKE, J.)

(AVINASH G. GHAROTE, J.)

**Divya*