

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

204

**CWP-4472-2019 (O&M)
Date of Decision: 21.04.2023.**

KAMLESH

... Petitioner

VERSUS

**CHIEF ADMINISTRATOR, HARYANA STATE AGRICULTURE
MARKETING BOARD AND ANOTHER**

... Respondents

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

Present: Mr. Karan Singh, Advocate
for the petitioner.

Mr. Padam Kant Dwivedi, Advocate,
for the respondents

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated 26.06.2018 (Annexure P-8) and order dated 05.12.2017 (Annexure P-6) whereby the claim of the petitioner for providing special financial assistance under the “Mukhya Mantri Kishan Evam Khetihar Mazdoor Jiwan Suraksha Yojna – 2013” (hereinafter referred to as ‘the Scheme of 2013’) has been declined for want of Post Mortem Report.

The case of the petitioner is that her husband namely Ram Niwas was a farmer and on 28.08.2016 he was bringing fodder for the cattle from his fields when he fell down from the bullock-cart and it ran over his neck. He was admitted to Jindal Hospital, Kaithal, wherefrom he was referred to PGI,

Chandigarh. A DDR No.10 dated 28.08.2016 was recorded on the statement of husband of the petitioner at Police Station Sadar, Kaithal, giving details of the incident. He remained admitted in the PGI, however, his condition deteriorated day by day. He was even put on a ventilator till 14.10.2016 however, there was no improvement. Anticipating it to be a hopeless case of recovery, the doctors of PGI discharged the husband of the petitioner on 15.10.2016 (Annexure P-3). The husband of the petitioner passed away on the same day. A copy of the death certificate dated 03.11.2016 regarding the death of Ram Niwas on 15.10.2016 has also been appended as Annexure P-4. An application was thereafter submitted by the petitioner for compensation under Clause 3 Sub Clause (f) of the Scheme of 2013 as per which the petitioner was entitled to compensation of Rs.5 lacs (Rupees Five Lakhs Only) on account of death of her husband. However, the respondents declined her application vide communication dated 05.12.2017 (Annexure P-6) on the ground that the post mortem report had not been submitted.

Aggrieved of the aforesaid order, an appeal had been preferred by the petitioner before respondent No.1 however, the said appeal was also dismissed for the same reason vide order dated 26.06.2018 (Annexure P-8). Both the said orders have been impugned in the present petition.

A reply on behalf of the respondents has been filed wherein it has been averred that the respondents have full sympathy with the petitioner, however, in order to avail the benefit under the scheme, the terms and conditions thereof have to be satisfied. Clause 8 of the Scheme of 2013 provides for submission of a copy of the DDR as well as the post-mortem-report in the case of death. Since the petitioner failed to submit the post-

mortem-report, the claim in question does not satisfy the requirements of the scheme and has been rightly declined by the competent-Authority as well as the Appellate Authority.

Learned counsel appearing on behalf of the petitioner has argued that the statement of deceased husband of the petitioner was recorded vide DDR No.10 dated 28.08.2026 at Police Station Sadar, Kaithal. The same reads thus:-

“Stated that I am the resident of the above mentioned address and I am doing the agriculture work. Today, at about 8 A.M., in the morning, I went with bullcart in the field to bring the fodder and after cutting the fodder from the field and after putting up the same in bullcart, I was going back to home from the field. The passage was rough (ubad khabad) and the bull in the cart started running instantly and my foot slipped from the cart and due to slip, I fell down from the cart and bullcart pass over the neck and shoulders of mine. Other passers by take me to my home and then, I was taken to Jindal Hospital for my treatment and thereafter, the Doctor of Jindal hospital referred me to PGI Chandigarh for my treatment and now, I am taking treatment in the PGI, Chandigarh. I receive these injury because of instant running of bull and due to sudden slipping of my foot from the cart and passing of tyre of cart over my shoulders and neck. There is no fault of anyone. I do not want to take any legal action against anyone. I have got recorded my statement which is true and correct.”

It was specifically stated by the deceased himself that the bullock-cart ran over his neck and shoulders as a result whereof he had sustained the injuries. He further refers to the discharge summary of the PGIMER, Chandigarh, which shows that the deceased husband of the petitioner was

admitted to PGIMER, Chandigarh, from 30.8.2016 to 15.10.2016. The brief history recorded by the PGIMER, Chandigarh also corroborates the said version of the deceased husband of the petitioner having sustained Cervical injury on 28.08.2016 with a complete loss of movements; sensation below the level of neck and respiratory distress since then i.e. from the date of the injury itself. It is also worthwhile to notice that Ram Niwas i.e. the deceased husband of the petitioner had to be intubated, cervical traction removed and was shifted to trauma ICU. He had developed aspiration pneumonia in the right lung with impaired diaphragmatic action. The deceased was under constant and continuous treatment and medication and had been called upon for a further follow up. The chest infection also continued. A medical certificate was also issued by the Senior Resident of the Department of Neuro-Surgery PGIMER as per which Ram Niwas son of Jai Parkash i.e. husband of the petitioner, remained admitted at PGIMER, Chandigarh, from 30.08.2016 to 15.10.2016 with the history of fall from bullock-cart and having been run over. It is also not in dispute that the husband of the petitioner died on same day i.e. on 15.10.2016 itself. There is no suggestion by the respondents that an intervening circumstance, other than the disease from which the deceased husband of the petitioner was suffering occurred during the interregnum or on the way from PGIMER, Chandigarh, to the native place.

Clause 3 (f) of the Scheme of 2013 covers the incident where death of a farmer or labourer takes place on account of an accident with animal, animal-cart, truck or any other vehicle. The incident in question was reported to have occurred as a result of being hit by a bullock-cart on 28.08.2016 itself when the matter was reported to the police for recording of

DDR. The State had all opportunities to examine the veracity of the aforesaid statement. There is no enquiry conducted by the respondent-State to dispel or dispute the above said statement of deceased Ram Niwas. The deceased was also treated for the same injuries at the PGIMER, Chandigarh, and that there is no clinical finding recorded by the doctors that the injuries in question could not have been sustained as a result of fall and by the bullock-cart as reported. The death is in quick succession and proximate to the discharge as is evident from the Discharge Summary itself. Ram Niwas having been discharged on 15.10.2016 and having died on the same day and there being no other suspicious circumstance or suggestion of intervening occurrence during the way home from PGIMER Chandigarh. The entire sequence of facts ought to be examined in the same chronology. The claim thus ought not to have been declined only on the ground that post-mortem-report had not been submitted especially when the entire medical record and the treatment chart was already in possession of the State and had been furnished to them showing that ever since 28.08.2016 and till his passing away, the deceased Ram Niwas was under continuous hospitalization and treatment.

Learned counsel for the respondent, on the other hand, reiterates the submissions noticed above and contends that Clause 8, Sub Clause (c) of the Scheme of 2013, necessitates the post-mortem-report to be accompanied along with the application for seeking claim under the aforesaid scheme. The said post-mortem-report is essential for ascertaining the cause of death and in the absence thereof, it cannot be presumed that Ram Niwas had passed away as a result of the injury sustained in the said incident. The Scheme being a beneficial Scheme, until and unless the cause of death is determined and is

diagnosed to fall within the terms and conditions of the Scheme, a person would not be entitled to the benefit thereof.

I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition.

It is not disputed that the Haryana State Agriculture Marketing Board had framed the Scheme of 2013, with a social welfare and benevolent object of providing a financial benefits to farmers/labourers who suffer fatal/serious injuries as a result of any untoward incident that takes place during the course of agricultural operations. A death or disablement on account of any accident with any animal or animal cart etc. is duly covered under the aforesaid Scheme. Clause 6 of the aforesaid Scheme entitles the family of the deceased to a special assistance of Rs.5 lacs. The procedure for disbursing benefit has been prescribed under Clause 8 of the Scheme. The submission of a Daily Diary Report (DDR) and the post-mortem-report (PMR) in the case of death and disability have been prescribed essential for submitting the claim.

In the present case, the DDR has undisputedly been submitted, however, the post-mortem-report could not be tendered which laid the foundation for rejection of the claim of the present petitioner. Respondents have laid emphasis on the necessity of the post-mortem-report for ascertaining the cause of death and to ensure that only the rightful beneficiaries are extended the benefit under the scheme.

When the object of the Scheme is welfare oriented, the procedural requirements have to be interpreted so as to be in conformity with the object of the Scheme. Clause 8 of the Scheme being a procedural requirement has to be interpreted so as to advance the object of the Scheme and not to scuttle the same. The laws of procedure are required to be hand-maiden of justice. The Hon'ble Apex Court has held in the matter of 'Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation, reported as (1985) 4 Supreme Court Cases 71' as under:-

*“4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and 'Human Rights' legislation are not to be put in procrustean beds or shrunk to Liliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its mis-application must be recognised and reduced. Judges ought to be more concerned with the 'colour', the 'content' and the 'context' of such statutes. (We have borrowed the words from Lord Wilberforce's opinion in *Prenn v. Simmonds* 1971 (3) AER 237). In the same opinion Lord Wilberforce pointed out that law is not to be left behind some island of literal interpretation but is to enquire beyond the language, un-isolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, *Surendra Kumar Verma Vs. Central Government Industrial Tribunal-cum-Labour Court*, we had occasion to say,*

Semantic luxuries are misplaced in the interpretation of “bread and butter” statutes. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation

is designed to give relief against certain kinds of mischief, the Court is, not to make inroads by making etymological excursions.”

The object behind seeking the post-mortem-report is solely to ascertain the cause of death. The ancillary documents appended along with the present petition and that had remained uncontroverted clearly show that death in the present case is the direct result and in proximity to the incident that took place on 28.08.2016 i.e. the bullock-cart having run over the neck and shoulder of deceased Ram Niwas. The continuous treatment from 28.08.2016 to 15.10.2016 is not disputed or denied. It is also evident that Ram Niwas died on the day of discharge itself. There is nothing on record suggested by the respondents that any untoward incident took place on their way to the native place i.e. an accident or any other intervening circumstance that may have caused the death otherwise. Invariably, any complication that may have arisen while on their way back has again to relate back to the incident which took place on 28.08.2016 itself.

A rigid attitude of the respondent-Authorities to not see any reason and/or to appreciate the documents appended along with the claim application is a classic elucidation of the red-tapism that mars the welfare scheme of the Government.

Sufficient play in the joints should ordinary be read into the statutory provisions. Once the object behind seeking a particular document is to determine the cause of death, the ancillary documents which establish the same, without any iota of doubt, may also be looked into for disbursement of compensation for the death that took place as a result of such accident.

The requirements should not be construed in a manner that it defeats the object of the Scheme, more-so, when there is sufficient evidence on record to establish the fact for which such document is being demanded. Post Mortem is surely the primary evidence to determine cause of death, however, the same cannot be construed that no secondary evidence will never ever be accepted or considered. The Authorities are required to ensure functionality of the Scheme and not to scuttle its enforcement.

The uncontroverted and undisputed documents appended along with the present petition does not leave even a slight doubt that deceased Ram Niwas died as a result of injuries sustained by him in an incident with bullock-cart which is covered under Clause 3 (f) of the Scheme of 2013.

The impugned order dated 26.06.2018 (Annexure P-8) and order dated 05.12.2017 (Annexure P-6) are accordingly set aside. The present petition is allowed. The financial assistance to the tune of Rs.5 lacs (Rupees Five Lacs only) as admissible to the petitioner under the above said Scheme shall be released within a period of 06 weeks from today along with interest @ 6% per annum. Additionally, a cost of Rs.50,000/- is also imposed upon the respondent-Haryana State Agriculture Marketing Board for extending undue harassment to the petitioner.

Allowed accordingly.

21.04.2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No