

05.12.2025

Ct No.551

Sl. No.417
Mujahid

WPA 2777 of 2025

Moushumi Samanta
Vs.
Union of India & Ors.

Mr. Uday Narayan Betal
Mr. Bhaskar Hutait

...for the petitioner

Mr. Shyamal Kumar Mukherjee
Mr. Anish Kumar Mukherjee

...for the Union of India

1. This writ petition has been filed seeking issuance of a writ of mandamus directing the respondents *“to provide the investigation report in regard to the death of said Sukanta Paul missing from ship at deep sea and supply the copy and death certificate issued by the competent authority declaring as presumed death after completion of investigation to the petitioner forthwith”*.

2. It is the petitioner’s case, that her husband Shri Sukanta Paul, who was employed as the Chief Cook on M.V. DARYA SITA ship of Chellaram Shipping Pvt. Ltd., went missing from the middle of the sea and has remained untraceable since then. The petitioner complains that despite several requests neither any information nor the

investigation report as regards the disappearance of her husband was provided to her. Hence this writ petition.

3. On September 9, 2025, when this matter was taken up, this Court had directed the respondent no.6 to file a comprehensive report in the form of an affidavit dealing with the writ petitioner's contention in the writ petition. In terms of the said order, a report in the form of affidavit was filed on November 7, 2025. A copy of such report was served upon the learned advocate appearing for the petitioner.

4. Mr. Betal, learned advocate appearing for the petitioner submits that although the report refers to the provisions of Merchant Shipping Act, 1958, yet the said Act has been repealed and the Merchant Shipping Act, 2025 has come into effect.

5. It is submitted that in terms of Section 83 of the Merchant Shipping Act, 2025 the death compensation payable, in the event of death of the petitioner's husband, must be paid to the petitioner only since the petitioner has been nominated by her husband to receive death compensation. For such purpose, Mr. Betal relies on the nomination form which forms part of the agreement/employment contract entered into between the petitioner's husband and the employer ship owner, i.e. Chellaram Shipping (Hong Kong) Limited dated November, 22,

2021 (at page 23 of the report filed by the respondent no.6).

6. The said report further reveals that an investigation as regards the “disappearance” of the petitioner’s husband Shri Sukanta Paul had been conducted and that a comprehensive report was prepared which indicated that as there was no witness to the incident it could be presumed that Shri Sukanta Paul “fell overboard while he was outside the accommodation”. Accordingly a letter dated July 18, 2024 was issued to the next of kin of the petitioner’s husband namely, Shri Bishnupada Paul, thereby in essence communicating to him that Shri Sukanta Paul may be presumed to have died. The relevant portion of the said letter dated July 18, 2024 is extracted herein below:-

“2. As per records/documents submitted by M/s Chellaram Shipping Pvt. Ltd. RPSL-MUM-002 Shri Sukanta Paul (CDC No. MUM 165961 & INDoS No.09CL1282) had joined onboard the vessel, M.V. DARYA SITA IMO No.9790660, Hong Kong flagged vessel on 25th November, 2021 in the capacity of ‘Chief Cook’. At 0748 hrs on 28th November, 2021, the Master was informed that the Chief Cook had not come to the galley et for breakfast preparation. An onboard search was made for the missing Chief Cook & when he remained untraceable, the company DPA was contacted. At around 0845 hrs his Lt, the vessel was turned around on reciprocal course towards last seen position of Chief Cook (towards datum assumed to be 0400 hrs LT position 20 26.7’ North 069’ 50.3’ East) and a distress alert was sent. A triangular search region was sent by MRCC, Mumbai. An Indian Coast Guard vessel in the vicinity

contacted the vessel & started searching the area since 1045 hrs LT. SAR aircraft also joined in the search. As the vessel is not equipped capability of nigh search, on coordination with MCC at 1918 hrs LT, the vessel resumed for onward voyage to its destination Kandla when the seafarer had remained missing.

3. As per documents/submission received herein, Shri Sukanta Paul (CDC No. MUM 16596 & INDoS No. 09CL1282) remain missing as on this date.

4. Hence, while we may not [be correct to] to issue a certificate regarding presumed death, which has a specific connotation in law [under the Indian Evidence Act, 1872], however keeping in view all above & directives received from Directorate General of Shipping, Mumbai, for all contents and purposes, it may be referred that Shri Sukantan Paul (CDC No. MUM 165961 & INDoS No. 09CL1282) ex-Chief Cook onboard, M.V. DARYA SITA, IMO No. 9790660, Hong Kong flagged vessel is lost overboard and may not be alive and therefore, all the benefits and other actions due upon death of a person may be concluded in this regard.

5. This to facilitate the family/dependents of seafarer to receive the social security benefits and settle their compensation.”

7. Section 83 of the Merchant Shipping Act, 2025 provides that if any dispute of an Indian seafarer on a vessel registered in a State other than the India in the territorial waters of India, arises with the master or ship owner or his agent, then the same may be submitted to the shipping master and the shipping master is to then hear the parties and adjudicate on the dispute by passing an award in terms of Section 83(3) of the Merchant Shipping Act, 2025.

8. In such view of the matter, if the petitioner feels that the petitioner is entitled to death compensation in terms of the nomination made by the petitioner's husband in her name and that the same has not been paid to the petitioner by the employer of the petitioner's husband despite such nomination or that a dispute exists in such regard the petitioner shall be at liberty to take steps to claim the same in accordance with the law governing the field, including the Merchant Shipping Act, 2025.

9. With the aforesaid observations, WPA 2777 of 2025 stands disposed of. There shall be no order as to costs.

10. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)