

**IN THE HIGH COURT AT CALCUTTA**  
**CIVIL APPELLATE JURISDICTION**  
**APPELLATE SIDE**

**Present:**

**THE HON'BLE JUSTICE SUJOY PAUL**  
**&**  
**THE HON'BLE JUSTICE SMITA DAS DE**

**FMA 1033 of 2023**  
**IA No. CAN 1 of 2023**

**EASTERN COALFIELDS LTD.**  
**Vs.**  
**PREMLATA SINGH & ORS.**

**Appearance:**

For the Appellant : **Mr. Manik Das, Adv.**

For the Respondent No. 1 : **Mr. Gobinda Kar, Adv.**

Heard On : **30.07.2025**

Judgment On : **30.07.2025**

**Sujoy Paul, J.:**

1. This *intra* court appeal assails the order passed by the learned Single Judge in WPA No. 18401 of 2022 whereby it is directed that the monthly monetary cash compensation (compensation) be given to the petitioner on monthly basis on and from July 10, 2023. The arrears of compensation be provided to her from May 21, 2007, the next day of death of her husband till June 20, 2023. A period of 4 months was fixed for the purpose of grant of said benefits.

2. The learned counsel for the Coal Fields fairly submits that in view of provision contained in National Coal Wage Agreement (NCWA), the petitioner being widow is certainly entitled to get the compensation. Thus, he fairly submitted that the entitlement of petitioner to get the compensation is not called in question by the employer. The only ground on which the order impugned is called in question is the delay in filing the application for grant of compensation before the employer and also the delay in approaching this Court. Because of the delay on the part of the widow, she is not entitled to get the benefit of arrears of compensation.
3. To elaborate, learned counsel for the employer submits that the first application was filed by the widow for grant of monetary compensation in the year 2013. Thereafter she filed the instant writ petition on 21.11.2022. By placing heavy reliance on the order of Supreme Court in ***Civil Appeal No. 6730 of 2023 (M/S. Eastern Coal Fields Ltd. & Ors. vs. Dukhni Bhuiya)***, the counsel for employer submits that because of delay, the widow is entitled to get the arrears backwards for 3 years only prior to the date of filing of writ petition. In view of this order of Supreme Court, at best, petitioner is entitled to get the benefit of the arrears from a date before 3 years from date of filing of instant WPA no. 18401 of 2022. To this extent, interference is warranted by this Court.
4. Next limb of argument of learned counsel for the appellant is that the first representation for compensation was actually preferred in 2013. In this representation, there is no mentioned that widow earlier preferred

any such application. Thus, this indicates that previous applications filed on 10.7.2008 and 14.09.2009 are fabricated and forged documents. These documents, by no stretch of imagination can form basis to hold that widow promptly approached the authorities for grant of benefits. In other words, these forged letters allegedly preferred on 10.07.2008 and 14.09.2009 cannot justify the delay on the part of the widow. Thus, following the view taken in ***Dukhni Bhuiya (Supra)***. The arrears may be restricted.

5. The learned counsel for the widow supported the impugned order and contended that the husband of petitioner died on 20.05.2007. Applications for compassionate appointment was promptly preferred on 10.07.2008 Annexure 'P-7' followed by reminder dated 14.09.2009. The employer sat tight over the matter till 06.09.2017 Annexure 'P-6' when the representation was rejected. The widow promptly filed an application dated 03.09.2017 seeking review of the decision rejecting the claim of the widow for compassionate appointment. However, her prayer seeking review could not fetch any result.
6. The document dated 08.06.2020 Annexure 'P-8' is referred to show that certain documents were desired from the widow for the purpose of considering her for compassionate appointment. Thereafter, the petitioner did not receive any communication in relation to the prayer for grant of compassionate appointment or compensation. Having left with no option, the instant WP was filed. Learned counsel for the petitioner submits that the relevant clause of NCWA was considered in catena of

orders by this Court and this Court opined that there is no requirement as per Clause 9.5.0 of NCWA to expressly prefer an application for grant of compensation. On the contrary, it is the duty of the employer to pay the monetary compensation to the widow. The similar view is taken in catena of other orders.

7. By placing reliance on certain judgments, learned Counsel for the writ petitioner submits that law is well-settled on two aspects. The *first* is that the monetary compensation is to be paid to the widow immediately after the date of death of the breadwinner/husband or from the next month. *Secondly*, the monetary compensation is a right which accrued automatically pursuant to Clause 9.5.0 of NCWA in favour of the widow/dependent. No express application needs to be filed by her for claiming the benefit of monetary compensation. It is the duty of the employer to provide the monetary compensation to the widow on its own. Reference is made to the decisions rendered in ***MAT 1257 of 2021 (M/s. Eastern Coalfields Limited vs. Smt. Kajol Badyakar & Ors.)***, ***FMA 1693 of 2019 (M/s. Eastern Coalfields Limited vs. Smt. Shefali Khan & Ors.)***, ***APOT 49 of 2019 (M/s. Eastern Coalfields Limited & Ors. vs. Premlata Devi & Ors.)***, ***APOT 518 of 2007 (Smt. Chhaya Singh Sardar vs. Coal India Limited & Ors.)***, ***APOT 88 of 2013 (M/s. Eastern Coalfields Limited vs. Bipini Marandi & Ors.)***, ***APOT 151 of 2016 (M/s. Eastern Coalfields Limited vs. Bimali Majhain & Ors.)***, ***APOT 61 of 2023 (Eastern Coalfields Ltd. Vs. Smt. Mina Bouri & Ors.)***, ***2024 SCC OnLine 1535 (Central Coalfields Limited vs. Bipini Murmu)*** and ***Civil Appeal No. 8089 of 2002 (S.K. Mustan Bee vs General Manager, South Central Railway & Anr.)***

8. It is further submitted that another Division Bench of this Court in ***Eastern Coal Fields Limited vs. Sumi Kamin & Ors. (WPO No. 3145 of 2022)*** considered the judgment of Supreme Court in the case of ***Dukhni Bhuiya (Supra)*** on which heavy reliance is placed by learned Counsel for the employer. This Court distinguished the judgment of ***Dukhni Bhuiya (Supra)***. In nutshell, learned Counsel for the writ petitioner submits that various judgments of this Court taking aforesaid view of automatic payment of monetary compensation were not interfered with by Supreme Court and SLPs were dismissed. He placed reliance on following orders:

***Special Leave to Appeal (C) No (s). 10167/ 2023 (M/s. Eastern Coal Fields Limited & Ors. Vs. Ambabati Mahali, Special Leave Petition (C) Diary No (s). 27524 of 2023 (Eastern Coal Fields Limited & Ors. Vs. Chapala Kora) and Special Leave to Appeal (C) No (s). 19043-19044 of 2024 (@ Diary no. 22428 of 2024) (Eastern Coalfields Ltd. Vs. Kosmi Devi Bhuia & Ors.)***

9. The learned Counsel for the petitioner in his rejoinder submission submits that the present writ petitioner is not a rustic villager or an illiterate person. She is holding a master's degree. She ought to have preferred an application for grant of monetary compensation. There is inordinate delay on her part to prefer application for monetary claim and approaching this Court for the said benefit. In this backdrop, she is only entitled to get arrears from 3 years before the date of filing of writ petition. Lastly, by placing reliance on communication dated 8.6.2020 Annexure 'P-8' it is urged that it is called as "reminder-1". This reminder nowhere suggests that it was in relation to grant of compassionate

appointment. Thus, it appears that this reminder is in relation to providing certain necessary informations and documents so that monetary compensation can be granted.

10. The parties confined their arguments to the extent indicated above. We have heard the parties at length and perused the record.

**Findings:-**

11. The petitioner's husband admittedly died-in-harness in the year 2007. After the death of the breadwinner, she filed an application for grant of compassionate appointment. Although, the learned Counsel for the parties have taken diametrically opposite stand about factum of filing of applications dated 10.07.2008 and 14.09.2009 for compassionate appointment, fact remains that petitioner's application for grant of compassionate appointment was admittedly rejected on 06.09.2017. It is noteworthy that widow is not entitled for both the claims, namely, compassionate appointment and monetary compensation. Once, her claim for monetary compensation was pending till 06.09.2017, there was no occasion for her to submit an application for grant of monetary compensation. She admittedly preferred an application for review to revisit the claim of grant of compassionated appointment. This application could not fetch any result.
12. The writ petitioner then filed the writ petition on 13.09.2022 which is allowed by the learned Single Judge. As noticed above, learned Counsel for employer has not challenged the entitlement of the petitioner to get monetary compensation. The claim is called in question to restrict the

benefit of arrears from the date of death. The singular ground advanced for such curtailment is the alleged delay on the part of the employer. As noticed above, it was employer who was actually responsible for not deciding the claim of compassionate appointment till 06.09.2017. Thus, monetary claim of compensation from 2007 to 2017 definitely accrued in favour of the writ petitioner. Interestingly, this Bench by order dated 19.11.2024 directed the employer to pay the monetary compensation to the widow from 23.04.2013 without prejudice to the pendency of this matter. In obedience of this order, admittedly the monetary compensation has been paid to the widow from 20.04.2013.

13. A Division Bench of this Court in case of **Sumi Kamin (WPO 3145 of 2022)** considered a series of judgments and came to hold that under the NCWA, the compensation is liable to be paid from the date immediately following the death of the employee. The relevant portions read as under:-

*“29. It is evident that the right to employment on compassionate ground or the MMCC germinates on the death of an employee in harness. Such legal position coupled with the provision contained in Clause 9.5.0 (iii) of NCWA clearly indicates that MMCC is liable to be paid from the date immediately following the death of the employee. **There is no specific provision in the NCWA which stipulates the mandatory requirement of an application, in order to entitle the female dependant to MMCC.** There is also no specific provision authorizing the department to remain sitting tight over the matter unless an application in this regard is made by the concerned dependant. Rather the words “if no employment has been offered” and the words “the female dependant will be monetary compensation as per rates at paras (1) and (2) above” clearly imply that the MMCC is to be paid by the employer irrespective of any claim. The employer is under obligation to offer the same.*

*(Emphasis Supplied)*

14. Interestingly, in this case, the previous judgment of **Kajoli Bouri (supra)** was considered wherein it was poignantly held that the right of female dependent of deceased workmen gets automatically crystallized upon the death of the workmen. The Court even held that the widow would be deemed to have exercised the option to receive compensation which would be payable from the date of death or the month following the date of death of the workman. The following passage is important:

*“The right to the compensation is unconditionally immediate and **is not dependant on any application for the purpose.** Indeed, given the rationale behind the provision, it is the duty of the concerned coal company to both advise the dependant female member of a deceased workman of her rights and guide her to the appropriate option. A government company as an employer cannot be heard to say that a distressed family would deprive of the benefit by reason of any belated application therefor. **The appointment sought on compassionate ground may be declined on account of delay or other cogent grounds; but the monthly compensation has to be paid with effect from the date of death of the workman or the month following the death.**”*

*(Emphasis Supplied)*

15. Coming back to the instant case, we are unable to persuade ourselves with the line of argument of learned Counsel for the employer based on the order of Supreme Court in the case of **Dukhni Bhuiya (Supra)**. In that case, there was delay on the part of the widow. The Apex Court has not considered the aspect whether right of compensation is accrued in favour of widow automatically without there being any need of filing any application. Interestingly, in the instant case, the petitioner’s husband died in 2007 and petitioner’s application for compassionate appointment was kept pending till 2017. The chain of events mentioned in the factual portion of this judgment shows that the widow was not a sleeping litigant

or a “fence sitter”. She continuously prosecuted her matter for grant of compassionate appointment/monetary compensation. The Division Bench judgment of this Court in ***Sumi Kamin (supra)*** is binding on us. After considering the catena of judgments, the Division Bench came to hold that right to get the monetary compensation is automatic and widow cannot be deprived from the fruits of it on the ground that she had not submitted any application. In ***Dukhni Bhuiya (supra)*** the Apex Court has not considered the aspect of liability of employer to pay the compensation without there being any application. This point was decided by Division Bench in specific in ***Sumi Kamin (supra)***. In ***AIR 68 SC 647 (State of Orissa vs. Sudhansu Sekhar Misra & Ors.)*** and in ***2006 (1) SCC 368 (Union of India & Anr. Vs. Major Bahadur Singh)*** it was held that precedent is what has been actually decided by the Court and not what is logically flowing from it. Hence, we are bound by the judgment of ***Sumi Kamin (supra)*** and judgment of ***Dukhni Bhuiya (supra)*** does not improve the case of employer. Therefore, we find no reason to deviate from the view taken in ***Sumi Kamin (supra)***.

16. In view of foregoing analysis, in our judgment, the employer cannot claim benefit of their own wrong. They sat tight over the matter for grant of compassionate appointment for about a decade. Thereafter also there were exchange of communications between the petitioner and the employer including the document dated 08.06.2020 Annexure ‘P-8’. When petitioner’s efforts could not fetch any result, she filed the instant petition in 2022. Thus, even otherwise, there was no inordinate delay on

the part of the widow. The learned Single Judge, in our opinion, has taken a plausible view which does not warrant any interference of this Court. **(See 2016 (3) SCC 240 (Narendra & Co. vs. Workman))**

17. The *intra* court appeal sans substance and is hereby **dismissed**.
18. Urgent Photostat certified copies of this judgment, if applied for, be made available to the parties subject to compliance with the requisites formalities.

**(Sujoy Paul, J.)**

I agree.

**(Smita Das De, J.)**