**IN THE HIGH COURT AT CALCUTTA**
**CONSTITUTIONAL WRIT JURISDICTION**
**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**W.P.A. 25143 of 2014**

**Thakur Das**
**-Vs-**
**The Eastern Coalfields Limited & Ors.**

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| For the Petitioner | : Mr. Sakya Maity |
| For the Respondents/ECL | : Mr. Shiv Shankar Banerjee |
| Heard on | : 28.01.2025, 21.07.2025 |
| Judgment on | : 02.09.2025 |

**Ananya Bandyopadhyay, J.:-**

1. The petitioner sought for a writ of certiorari/mandamus directing the respondents to release the accidental benefit amount of ₹5,00,000/- in terms of the agreement dated 18.04.2011 executed between the Management of North Searsole Colliery, Kunustoria Area, Eastern Coalfields Limited (ECL) and the recognized Trade Unions, consequent upon the accidental death of the petitioner's mother, Smt. Kamali Devi Das.
2. The petitioner's mother, employed with ECL since 27.03.1990, was upgraded to the post of Security Guard. On 18.04.2011, while on duty, she died due to an accident (fall of a tree). The unnatural death was duly

registered (U.D. Case No. 22/11, Jamuria P.S.) and a death certificate was issued. On the same day, a bipartite agreement was executed whereby:

i. The petitioner (dependent son) was assured provisional employment and *ex gratia* of Rs.45,000/- under NCWA-VIII.

ii. It was further resolved that a proposal would be moved to ECL Headquarters for payment of Rs.5,00,000/- to the next of kin, as per Clause 9.2.7 of NCWA-VIII and the announcement of the Hon'ble Minister of State for Coal (01.11.2007).

3. The petitioner was subsequently employed and paid *ex gratia* of Rs.45,000/-, but the promised sum of Rs.5,00,000/- had not been disbursed. Despite repeated representations dated 06.11.2012, 28.01.2014, and legal notice dated 16.06.2014 (duly acknowledged by the respondents), the assured amount remained unpaid. The petitioner and his family had been suffering acute financial hardship due to such non-payment. The agreement dated 18.04.2011 constituted a binding obligation; non-payment was hit by the doctrine of promissory estoppel.

4. Arbitrary refusal to release the accidental benefit violated the petitioner's rights under Article 21 of the Constitution of India. The respondents, being State Instrumentalities under Article 12, could not resile from their contractual/statutory obligations on account of inequality of bargaining power. Persistent inaction despite repeated requests amounted to arbitrariness and violation of natural justice.

5. The Learned Advocate representing the petitioner submitted as follows:-

i. Despite repeated representations, the respondents failed and neglected to disburse the accidental benefit amount of Rs.5,00,000/- to the petitioner, nor had they taken any steps to release the same to the dependent of the deceased employee.

ii. In terms of the agreement dated 18.04.2011 entered into between the Trade Unions and the respondents, the petitioner was entitled to the said accidental benefit arising out of the death of his mother in the course of employment, and non-payment thereof was hit by the doctrine of promissory estoppel.

iii. Although the petitioner as well as his Learned Advocate approached the concerned authorities, including respondent No.3, for redressal of the grievance, the respondents had failed to act upon such requests, thereby causing grave financial hardship to the petitioner and his dependent siblings, which violated the petitioner's right to livelihood guaranteed under Article 21 of the Constitution of India.

iv. In view of the settled principle of law relating to inequality of bargaining power between parties of unequal economic strength, the respondents could not evade their contractual and statutory obligation to pay the accidental benefit agreed upon in the meeting dated 18.04.2011.

v. Recommendations were duly made to the competent authority of Eastern Coalfields Limited Headquarters to sanction compensation of Rs.5,00,000/- as per Clause 9.2.7 of Chapter IX of the National Coal Wages Agreement-VIII, pursuant to the announcement made by the Hon'ble Minister of State for Coal on 01.11.2007.

vi. The management respondents, while confirming the petitioner's appointment on compassionate ground, further agreed to pay compensation of Rs.5,00,000/- to him as dependent son of the deceased employee in terms of the said agreement, as evident from Annexure-P3 of the writ petition.

vii. While the respondents had accepted the compassionate appointment of the petitioner, they had unreasonably withheld the accidental benefit/compensation of Rs.5,00,000/- despite their admitted liability thereby necessitating intervention of this Hon'ble Court for issuance of a mandamus directing immediate payment of the said amount.

6. The Learned Advocate representing the respondents submitted as follows:-

i. The mother of the petitioner, Late Kamala Devi Das, was appointed as Security Guard on 27.03.1990 and was found dead on 18.04.2011 beneath a dead tree adjacent to North Searsole Colliery Agent's Office premises. Her death was unnatural, not arising out of any fatal mine accident.

ii. Due to agitation by trade unions, a *prima facie* agreement dated 18.04.2011 was entered into between union and management, subject to approval of the competent authority. Clause 4 of the said agreement contemplated forwarding a proposal to ECL Headquarters for approval of compensation of Rs.5,00,000/- under Clause 9.2.7 of NCWA-VIII. A copy of FIR lodged on the incident and the said agreement were annexed.

iii. Since the death was classified in records as a "*non-mining and non-statistical accident*," Clause 9.2.7 of NCWA-VIII did not apply. Thus, no entitlement arose for the petitioner to claim Rs.5,00,000/- compensation reserved only for fatal mine accidents.

iv. Nevertheless, on compassionate grounds, provisional employment was provided to the petitioner, Sri Thakur Das, which was subsequently confirmed upon due approval. The petitioner had also received all statutory and admissible benefits, namely:

a) Gratuity: Rs.2,36,313/-

b) Life Cover Scheme: Rs.60,000/-

c) Ex-gratia: Rs.45,000/-

d) Leave Encashment: Rs.20,788/-

v. The allegations in the writ petition regarding denial of benefits or refusal to honour the agreement were false and misleading.

The agreement dated 18.04.2011 was only a temporary arrangement to manage law and order and not binding without approval of the competent authority.

vi. The writ petition was not maintainable in law as it sought for enforcement of a benefit not available under Clause 9.2.7 of NCWA-VIII. All legitimate dues of the deceased had already been settled, and compassionate appointment was granted.

vii. The allegations raised in the grounds of the petition were repetitions of unfounded claims and were denied. The petitioner had failed to establish any enforceable right for the relief claimed.

7. The National Coal Wage Agreement-VIII based on the terms and conditions dealing with the specific provisions as mentioned therein considering the representatives of management from different fields. A Joint Bipartite Committee for the Coal Industry was constituted to negotiate National Coal Wage Agreement-VIII which, *inter alia,* in Chapter-IX dealing with the 'social security' in Clause 9.2.7 enumerated as follows:-

> *"**9.2.7** – As announced by the Hon'ble Minister of State for Coal on Coal India Foundation Day on 1.11.2007 at Kolkata, an amount of Rs.5 lakhs shall be paid to the next of kin of any employee dying out of fatal mine accident.*
>
> *9.3.0, 9.4.0 and 9.5.0 – Provision of Employment/payment of monthly monetary compensation to Dependant*
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> *(i) The Clauses 9.3.0, 9.4.0 & 9.5.0 of NCWA-VI will be operative in NCWA-VIII till a revised scheme is jointly prepared keeping in view the various verdict of Hon'ble Supreme Court at the earliest.*

*(ii) A Sub-committee of JBCCI will formulate a scheme keeping in view various directives of Supreme Court on the subject within three months of signing of the Agreement.*

*(iii) Meanwhile provision of employment as mentioned at (i) above, shall be on basic wage of Cat-I as trainee for a period of 6 months. During the training period they will have the status of permanent employee. On completion of training they shall be regularized as Cat-I employee. However, those dependants in possession of Technical/professional qualification will be considered for appointment in higher category, keeping in view their qualification, suitability and vacancy.*

*(iv) The monthly monetary compensation payable to the female dependant in case of death either in mine accident or for other reasons or medical unfitness of the employee shall be @ Rs.6000/- with effect from 1.5.2008.*

*(v) In case of death either in mine accident or due to other reasons or medical unfitness, if no employment has been offered and the male dependant of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependant is on live roster, the female dependant will be paid monetary compensation as given in (iv) above."*

8. Incidentally and evidently the petitioner's mother unfortunately died in an accident due to fall of a tree at a distance from mining area. *"A mining accident is an accident that occurs during the process of mining minerals or metals."*

9. The Mines Act, 1952 refers to the occasion of a mining accident involving an event causing loss of life, serious bodily injury or a dangerous occurrence

such as an explosion, outbreak of fire, in rush of water or cause or collapse of workings. The petitioner's claim of the promise sum of Rs.5 lakhs is not applicable in the instant case where the mother of the petitioner has not been a victim of mining accident.

10. Section 23 of the Mines Act, 1952 stated as follows:-

> **"23. Notice to be given of accidents**.—
>
> *(1)Whenever there occurs in or about a mine—(a)an accident causing loss of life or serious bodily injury, or(b)an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or(c)an influx of inflammable or noxious gases, or(d)a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or (e)an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or(f)a premature collapse of any part of the workings, or(g)any other accident which may be prescribed, the owner, agent or manager of the mine shall give notice of the occurrence to such authority in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.(1A)Whenever there occurs in or about a mine an accident causing reportable injury to any person, the owner, agent or manager of the mine shall enter in a register such occurrence in the prescribed form and copies of such entries shall be furnished to the Chief Inspector once in a quarter.(2)Where a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the*

*receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.(3)The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-sections (1) and (1A) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding twenty-four hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1) or sub-section (1A), as the case may be.(4)A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent or manager of the mine, on or before the 20th day of January in the year following that to which the entries relate, to the Chief Inspector.(5)Whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (1) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine: Provided that where the Chief Inspector or the said Inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of the accident."*

11. The petitioner's mother being a Security Guard was not directly related to a mining job inside a mine or in the vicinity of the mine to have suffered any of the circumstances as cited above. The accidental death of the petitioner's mother cannot be termed to be the result of a mining accident. Moreover, the petitioner had been granted provisional employment and *ex gratia* sum

of Rs.45,000/-. Further claim to the compensation of Rs.5 lakhs due to the unnatural death of the petitioner's mother which did not arise out of a mining accident, cannot be sustained.

12. In view of the above discussions, the instant writ petition being WPA 25143 of 2014 stands dismissed.

13. There is no order as to costs.

14. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Ananya Bandyopadhyay, J.)**