

03.04.2025
Item No.44
Court No.1.
S. De

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

MAT 10 of 2024

With

CAN 1 of 2024

Ananya Saha @ Anna Saha.

Vs

The State of West Bengal & Ors.

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharyya,
Ms. Mrinmayee Das,
...for the appellant/petitioner.

Mr. Hirak Barman,
Mr. Pritam Das, ...for the State.

Order dictated by Arijit Banerjee, J.

In re : CAN 1 of 2024 (Section 5)

1. This is an application for condonation of delay of 28 days in preferring this appeal. Causes shown being sufficient, the delay is condoned.
2. CAN 1 of 2024 is, accordingly, disposed of treating the same as on day's list.

In re : MAT 10 of 2024

3. In an unfortunate incident, apparently a big tree fell on the 7-year old boy child of the appellant killing the boy.
4. The appellant made a representation dated February 21, 2023, through her lawyer, to the Executive Engineer, National Highways Division-IX. This is because, although the National Highway Authority of India is the owner of the concerned highway, the relevant stretch is under

the control and maintenance of the National Highways Division IX of the State Government.

5. Receiving no response from the authorities, the appellant approached a learned Judge of this Court by filing WPA 2151 of 2023. The learned Judge observed that the writ petitioner has a right to take recourse to Fatal Accident Act and also any other provision of civil and criminal law. The writ Court should not entertain the writ petition. Accordingly, the writ application was dismissed. Hence, this appeal.
6. We are of the view that it will be appropriate if the authority to which the appellant's representation was addressed, passes a reasoned order on the representation. After all a 7-year old boy lost his life by reason of a tree falling on him. The tree was on a stretch of the National Highway under the control, management and maintenance of the National Highways Division IX of the State Government. There could be policies or schemes of the State Government under which compensation can be granted to the appellant.
7. We dispose of this appeal by directing the Executive Engineer, National Highways Division IX, Public Works (Roads) Directorate, National Highway Division IX, Matigara, Siliguri, to

dispose of the appellant's representation made through her advocate Chanakya Legal, dated February 21, 2023, in accordance with law by passing a reasoned order, within a period of six weeks from the date of receipt of a copy of this order along with a copy of the aforesaid representation, after granting an opportunity of hearing to the appellant or to her authorized representative. The order, to be passed, shall be communicated to the appellant within a week thereafter.

8. We clarify that we have not gone into the merits of the appellant's claim. The Executive Engineer shall take an informed decision, in accordance with law and we are sure that being a highly placed public officer, he will deal with the matter with due sympathy.

9. MAT 10 of 2024 is, accordingly, disposed of.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)