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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment pronounced on: 01.07.2026

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W.P.(C) 9558/2020 and CM APPL.30647/2020

SHYAM SUNDAR

..... Petitioner

Through: Mr. Trideep Pais, Sr. Adv., Ms. Sanya Kumar, Mr. Chiranjeev Singh Marwaha, Ms. Saloni Ambastha, Ms. Sakshi Jain and Ms. S. Abinaya, Advs.

versus

STATE (NCT OF DELHI) & ORS.

..... Respondents

Through: Mr. Premtosh K. Mishra, CGSC, Mr. Shrey Sharma, Mr. Anubhav Upadhyay and Mr. Arpit Bansal, Advs. along with Insp. Ram Manohar, DIU North East Distt.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioner seeking compensation for the custodial death of his son, Deepak, who is stated to have died an unnatural death while in custody at Police Station Karawal Nagar.
2. The factual matrix, as set forth by the petitioner, is that on 15.01.2018, the deceased was arrested at approximately 11:10 a.m. from the premises of Karkardooma Courts by SI Sandeep in connection with FIR No. 334/2017 registered at PS Karawal Nagar. Pursuant to the arrest, when the petitioner went to the police station to meet his son, the petitioner himself



was detained and confined in the lock-up along with the deceased. At about 5:30 p.m. on the same day, the petitioner was released. It is alleged, however, that both the petitioner and his son were subjected to mistreatment, physical assault and threats by SI Sandeep and Constable Karamveer Singh, who also demanded a sum of Rs. 20,000 - 30,000/- for securing the release of the deceased. Later that night, the petitioner received a telephonic communication from SI Sandeep, wherein particulars regarding the deceased were sought and the demand for money was reiterated. The petitioner, allegedly being of indigent means, expressed his inability to arrange the funds.

3. The next morning, upon contacting the police station, the petitioner was informed that the deceased had been produced before the Court. Shortly thereafter, the petitioner received a call from a local politician, Satyapradhan, informing that the petitioner's son had allegedly committed suicide while in custody. On 16.01.2018, at 11.56 a.m. the deceased was declared 'brought dead' at Guru Tegh Bahadur Hospital.

4. Subsequently, a request for magisterial enquiry was made by the SHO, PS Karawal Nagar, before the Chief Metropolitan Magistrate, Karkardooma Courts. The responsibility for arrangement of post-mortem, conducting photography of the concerned lock-up, seizing the ligature material purportedly used by the deceased and coordinating with the Crime Team for lifting fingerprints from the spot was given by the concerned Metropolitan Magistrate to SI Sandeep Kumar.

5. On 17.01.2018, a post-mortem examination was conducted by a medical board, which opined the cause of death to be "asphyxia due to ante-



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mortem hanging”. The body of the deceased was thereafter handed over to the petitioner.

6. The concerned Metropolitan Magistrate, *vide* the Final Inquest Order dated 22.07.2019, observed as under:

20. I have perused the report i.e. postmortem report and other material on record. I have also perused the report on CFSL. There were no external injuries on the body of Deepak. Further more there is no specific reason as to why police officials would beat Deepak. Even as per postmortem report, injuries were found only on the neck i.e. ligature mark and on no part of the body injuries were found. The cause of death was stated to be hanging. After examination of witnesses it is also revealed that Deepak had tried to commit suicide previously as well. He had two cases against him. Hence, from the entire examination of the spot as well as the postmortem report as well the witnesses I conclude the inquiry report stating that the cause of death of Deepak is hanging. Even though there is a presence of blade in the room in which Deepak committed suicide but that does not conclude that he was killed by the police officials. Copy of this report be sent to National Human Rights Commission through the Ld. CMM, N/D, Rohini, Delhi. File be consigned to Record Room after necessary compliance.

(ADITI GARG)
M.M. (MAHILA COURT- 01)
N/D, ROHINI, DELHI

22/7/19



SUBMISSIONS ON BEHALF OF THE PETITIONER

7. Learned counsel for the petitioner submits that the deceased was the biological son of the petitioner's brother. Upon the demise of his biological mother, when he was approximately one year old, the deceased was adopted by the petitioner. Since then, they shared a father-son relationship. In support thereof, an affidavit dated 17.03.2026, has been filed by the petitioner.

8. The petitioner contends that the demise of his son is attributable to negligence on the part of the police officials stationed at PS Karawal Nagar. Reliance is placed upon the recovery of a stole from the room where the deceased was confined, allegedly used as ligature material. The FSL Report dated 31.05.2018 (Annexure -G) records that two blades were recovered from the lock-up and that the possibility of the ligature material being cut using the blades could not be ruled out.

9. It is emphasized that upon arrest, Deepak was searched and no such objects were recovered. In the absence of any explanation for the presence of said items in the lock-up, it is submitted that the same were subsequently planted to create a facade of suicide.

10. It is the case of the petitioner that since his son met with an unnatural death while in custody, the State is liable to compensate him.

11. Reliance is placed upon the Departmental Enquiry Order dated 26.09.2018, which, according to the petitioner, establishes negligence on the part of the police officers at PS Karawal Nagar. The said Departmental Enquiry Order dated 26.09.2018 reads as under :

**ORDER**

Date: 26/3/18

This is the final order in the departmental enquiry initiated against ASI (Exe.) Satish Pal, No.320/NE (PIS No.28861413), ASI (Exe.) Yashbir Singh, No.2185NE (PIS No.28770050) and ASI (Exe.) Rambir Singh, No.2155/NE (PIS No.28862445) here-in-after called the defaulters) under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 vide this office order No.2371-90/HAP/NE (P-II) dated 07.02.2018 on the allegations that on the complaint of a juvenile, a case vide FIR No.334/17 dated 24.07.2017 u/s 323/354D/506/509 IPC & 12 POCSO Act PS Karawal Nagar was registered against accused Deepak @ Popo @ Mohan. During investigation, statement of minor girl was got recorded u/s 164 CrPC and NBW against the absconding alleged was also obtained from the Hon'ble Court. On 15.01.2018, accused Deepak @ Popo @ Mohan, aged 19 years S/O Shyam Sundar R/O H.No.375, Gali No.7, Phase-V, Shiv Vihar, Karawal Nagar, Delhi was arrested in the above case by SI (Exe.) Sandeep Kumar, No.D-5052 (PIS No.16100061) vide DD No.23A at 7:10 PM dated 15.01.2018.

On 16.01.2018 at about 10:05 AM, Ct. Mukul, No.1052/NE noticed that accused Deepak @ Popo @ Mohan was hanging from a cloth which was attached to roof garter of the room, situated on the ground floor of PS building. He immediately informed defaulter D.O./ASI Rambir, No.2155/NE. After that, they brought hanging Deepak down and sent him to GTB Hospital through ASI (Dvr.) Jitender, No.291/NE, HC Devraj, No.2575/NE, HC Karambir, No.1445/NE and Ct. Pradeep, No.1664/NE in Govt. Gypsy of SHO bearing No.DL-1CW-3029. Insp. Narender Kumar, looking after SHO/Karawal Nagar as Insp. Ravi Kant, SHO/Karawal Nagar was out station, informed ACP/Khajuri Khas and further passed information about the incident to senior officers. Accused Deepak @ Popo @ Mohan was got admitted in GTB Hospital vide MLC No.A-357/2 in unconscious condition and after examination, doctors declared him brought dead at 11:58 AM. Crime team and FSL team were called at the spot for inspection. Sh. D.K. Garg, Ld. MM was also informed about the incident and magisterial enquiry of the incident conducted by Ms. Aditi Garg, MM, Karkardooma Courts, Delhi.

SI (Exe.) Sandeep Kumar, No.D-5052 arrested deceased Deepak @ Popo @ Mohan in above case vide DD No.23A dated 15.01.2018 at 7:10 PM. In the above DD entry, SI (Exe.) Sandeep Kumar, No.D-5052 mentioned that HC Devraj, No.2575/NE, Chhitha Munshi of PS Karawal Nagar and defaulter D.O./ASI Satish Pal, No.320/NE were directed to get the medical examination of accused/deceased Deepak @ Popo @ Mohan conducted and thereafter, be lodged him in the lockup of PS Khajuri Khas. However, SI (Exe.) Sandeep Kumar, No.D-5052 after lodging the above DD entry, did not confirm whether accused/deceased Deepak @ Popo @ Mohan was got medically examined and placed in the lock up of PS Khajuri Khas or not. It was the duty of SI (Exe.) Sandeep Kumar, No.D5052 to personally get the medical examination of accused/deceased Deepak @ Popo @ Mohan be conducted in his presence and he was also liable to lodge the accused personally in the lockup of PS Khajuri Khas but SI (Exe.) Sandeep Kumar, No.D-5052 failed to perform his duty and passed on his responsibilities to the Chhitha Munshi and Duty Officer for which he himself liable.

Defaulter ASI (Exe.) Satish Pal No.320/NE was duty officer from 4 PM to 12 midnight on 15.01.2018 at PS Karawal Nagar. SI (Exe.) Sandeep Kumar, No.D-5052 lodged DD No.23A dated 15.01.2018 while defaulter ASI Satish Pal, No.320/NE was duty officer. Being duty officer, he not only failed to comply with the information lodged in the above DD entry but also did not pay any heed to intimate SI (Exe.) Sandeep Kumar, No.D-5052 or senior officers about the non compliance of the information lodged in the DD entry. Further, he did not lodge any information in the daily diary related to the compliance of DD No.23A dated 15.01.2018.

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Defaulter ASI (Exe.) Yashbir Singh, No.2185/NE was duty officer from 12 midnight to 8 AM on 16.01.2018 at PS Karawal Nagar. Being duty officer, he not only failed to comply with the information lodged in the above DD entry but also did not pay any heed to intimate SI (Exe.) Sandeep Kumar, No.D-5052 or senior officers about non compliance of the information lodged in the DD entry. Further, he did not lodge any information in the daily diary related to the compliance of DD No.23A dated 15.01.2018.

Defaulter ASI (Exe.) Rambir Singh, No.2155/NE was duty officer from 8 AM to 4 PM on 16.01.2018 at PS Karawal Nagar. Being duty officer, he not only failed to comply with the information lodged in the above DD entry but also did not pay any heed to intimate SI (Exe.) Sandeep Kumar, No.D-5052 or senior officers about non compliance of the information lodged in the DD entry. Further, he did not lodge any information in the daily diary related to the compliance of DD No.23A dated 15.01.2018.

For this act, the defaulters and SI (Exe.) Sandeep Kumar, No.D-5052 were placed under suspension vide this office order No.1126-38/HAP/NE (P-II) dated 16.01.2018 and later on, re-instated from suspension without prejudice to the departmental enquiry pending against them vide this office order No. 4344-65/HAP/NE (P-II) dated 06.03.2018.

The D.E. was entrusted to Sh. Subodh Kumar Goswami, ACP/Nand Nagri for conducting the same on day-to-day basis and submitting his findings within stipulated period. The Enquiry Officer prepared summary of allegations, list of witnesses, list of documents alongwith relied upon documents and served upon the defaulters and SI (Exe.) Sandeep Kumar, No.D-5052 on 13.03.2018. The contents were also explained to them in Hindi. They did not admit the allegations and preferred to face the enquiry. They were asked to furnish the name of their defence assistant as per provisions contained in S.O No.125/2010 (A-20) but they did not avail this facility.

During departmental enquiry, all the 14 PWs were examined by the E.O. and due opportunity was given to the defaulters and SI (Exe.) Sandeep Kumar, No.D-5052 to cross-examine them. After examining all the PWs, E.O. prepared the charge against the defaulters and SI (Exe.) Sandeep Kumar, No.D-5052, which was got approved by the disciplinary authority on 15.06.2018 and served upon them on 15.06.2018. They did not admit the charge and submitted their respective defence statements to the E.O. on 20.06.2018.

After going through the statements of PWs, defence statement of the defaulters and SI (Exe.) Sandeep Kumar, No.D-5052 as well as other material on record, the E.O. submitted his findings in the DE on 07.09.2018 with the conclusion that charge framed against the defaulters and SI (Exe.) Sandeep Kumar, No.D-5052 is proved partially. Agreeing with the findings of E.O., a copy of findings was served upon the defaulters on 12.09.2018 vide this office U.O. No.17517-19/HAP/NE (P-II) dated 12.09.2018 for submitting their representations against the findings of E.O., if any within 15 days from the date of receipts, failing which, it will be presumed that they have nothing to say in their defence and matter will be decided ex-parte on merit.

The defaulters submitted their separate representations on 13.09.2018. Defaulter ASI (Exe.) Satish Pal, No.320/NE mentioned in his representation that he was deployed as DO from 4 PM to 12 midnight in PS Karawal Nagar on 15.01.2018. At about 5:30 PM, IO/SI (Exe.) Sandeep Kumar, No.D-5052 came along with a boy namely Deepak. At around 7:00 PM, SI (Exe.) Sandeep Kumar, No.D-5052 took away Rojnamcha-A from him and handed it over back after half an hour. At 8:10 PM, a PCR call was received regarding theft of Rs.36 lacs from ATM which was marked to ASI Yashpal and this call had no connection with SI (Exe.) Sandeep Kumar, No.D-5052. SI (Exe.) Sandeep Kumar, No.D-5052 was present in the police station and was directed to get conduct the medical examination of accused. In this regard, Insp. Narender Kumar, looking after SHO/Karawal



Nagar was also informed that an accused arrested by IO/SI (Exe.) Sandeep was sitting there. SI (Exe.) Sandeep Kumar, No.D-5052 did not follow directions of the Hon'ble Supreme Court of India as it is the duty of IO to get conduct the medical examination of accused and put him into the lockup. As there is no lockup in PS Karawal Nagar, IO/SI (Exe.) Sandeep Kumar, No.D-5052 has imposed his negligence on DO. After performing his duty, he informed these facts to the next DO defaulter ASI (Exe.) Yashbir Singh, No.2185/NE.

Defaulter ASI (Exe.) ^{Rambir} Yashbir Singh, No.2185/NE mentioned in his representation that on 15.01.2018, he was deployed as DO from 12 midnight to 8 AM in PS Karawal Nagar. After performing his duty at 8 AM, he told to next duty officer, defaulter ASI (Exe.) Rambir Singh, No.2155/NE that an accused arrested by IO/SI (Exe.) Sandeep Kumar, No.D-5052 was sitting there. Further, he corroborated the version of defaulter ASI (Exe.) Satish Pal, No.320/NE.

Defaulter ASI (Exe.) Rambir Singh, No.2155/NE mentioned in his representation that on 16.01.2018, he was deployed as DO from 8 AM to 4 PM and before taking charge, previous DO defaulter ASI (Exe.) Yashbir Singh, No.2185/NE had told him that an accused arrested by SI (Exe.) Sandeep Kumar, No.D-5052 was sitting there. In this regard, he informed to SI (Exe.) Sandeep Kumar, No.D-5052 and Insp. Narendra Kumar, looking after SHO/Karawal Nagar. Further, he corroborated the version of defaulter ASI (Exe.) Satish Pal, No.320/NE.

I have carefully gone through the findings of the E.O., depositions of PWS, representations of the defaulters against the findings of E.O. together with other material documentary evidence brought on record during DE proceedings. The defaulters were also heard in orderly room on 25.09.2018. During oral submission, they have nothing to say except the pleas taken by them in their representations. During DE proceedings, it was tentatively established that accused Deepak @ Popo was arrested by SI (Exe.) Sandeep Kumar, No.D-5052 in case FIR No.334/17 dated 24.07.2017 u/s 323/354-D/506/509 IPC & 12 POCSO Act PS Karawal Nagar on 15.01.2018 and it was his duty to get the medical examination of accused person done and transfer him to lockup of PS Khajuri Khas but he failed to do so. He also failed to inform the facts of arrest of accused person to looking after SHO/Karawal Nagar but he lodged DD No.23A dated 15.01.2018 mentioning that Chhitha Munshi of PS Karawal Nagar and defaulter D.O./ASI Satish Pal, No.320/NE were directed to get the medical examination of accused/deceased Deepak @ Popo @ Mohan conducted and thereafter, be lodged him in the lockup of PS Khajuri Khas. However, SI (Exe.) Sandeep Kumar, No.D-5052 after lodging the above DD entry, did not confirm whether accused/deceased Deepak @ Popo @ Mohan was got medically examined and placed in the lock up of PS Khajuri Khas or not. The defaulters being duty officers from 4 PM to 12 midnight on 15.01.2018, 12 midnight to 8 AM during intervening night of 15/16.01.2018 and 8 AM to 4 PM on 16.01.2018, respectively, also failed to get the accused person medically examined as well as sent him to lockup of PS Khajuri Khas. Even they failed to inform these facts to looking after SHO/Karawal Nagar and other senior officers. Their logic that the entire staff was busy in attending the call about theft of Rs. 39 lacs from ATM of Bank of Baroda, Mukhiya Market, Karawal Nagar, Delhi - 110094, is untenable. Being part of a disciplined force, the defaulters as well as IO/SI (Exe.) Sandeep Kumar, No.D-5052 were supposed to discharge their official duties in a very professional manner, and high sense of responsibilities but they failed to do so and show their carelessness in the discharge of their official duties.

In view of the above facts, I, Atul Kumar Thakur, IPS, Deputy Commissioner of Police, North-East District, Delhi do not find the representation of the defaulters satisfactory and agreeing with the findings of the E.O., hereby award a punishment of forfeiture of one year of approved service permanently to defaulters ASI (Exe.) Satish Pal,



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No.320/NE (PIS No.28861413), ASI (Exe.) Yashbir Singh, No.2185NE (PIS No.28770050) and ASI (Exe.) Rambir Singh, No.2155/NE (PIS No.28862445) for the above lapse entailing proportionate reduction in their pay from Rs.49,000/- to Rs.47,600/-, from Rs.52,000/- to Rs.50,500/- and from Rs.46,200/- to Rs.44,900/- respectively with immediate effect and their suspension period from 16.01.2018 to 05.03.2018 decided as period not spent on duty for all intents and purposes.

Let copies of this order be given to ASI (Exe.) Satish Pal, No.320/NE (PIS No.28861413), ASI (Exe.) Yashbir Singh, No.2185NE (PIS No.28770050) and ASI (Exe.) Rambir Singh, No.2155/NE (PIS No.28862445) free of cost. They can file their respective appeals to Jt.CP/ER, Delhi against this order within 30 days from the date of receipts of this order on non-judicial stamp paper worth Rs.0.75 paise by enclosing a copy of this order, if they so desire.

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(ATUL KUMAR THAKUR) IPS
DEPUTY COMMISSIONER OF POLICE
NORTH-EAST DISTRICT, DELHI.

No. F.XVI/05/2018/17952-72/HAP/NE (P-II), dated Delhi, the 25/9 /2018.

12. Learned counsel for the petitioner submits that punishment imposed in a departmental enquiry does not preclude the grant of compensation to the petitioner for the unnatural death of his son in custody.

13. In support of his contentions, as regards compensation, learned counsel has relied upon the following judgments:

- a. *Inhuman Conditions in 1382 Prisons, In re*, (2017) 10 SCC 658
- b. *Parvathamma v. Chief Secretary to Government of Karnataka*, 1995 SCC OnLine Kar 245
- c. *Gopichand v. State of Maharashtra*, 2011 SCC OnLine Bom 1005
- d. *Kiran v. State*, 2007 SCC OnLine Del 877



e. *Prema Devi v. State of U.P.*, 2026 SCC OnLine All 457

14. It is further submitted that in determining the quantum of compensation payable in the present case, the principle of multiplier, as devised in *Sarla Verma v. Delhi Transport Corporation*, (2009) 6 SCC 121, ought to be applied.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

15. Learned counsel for the respondents submits that the claim for compensation in the present case is misconceived, inasmuch as it proceeds on the assumption that compensation is an automatic consequence of every custodial death. It is contended that the determination of compensation is strictly governed by Section 357A of the Code of Criminal Procedure, 1973 (CrPC) and the Delhi Victims Compensation Scheme, 2018 framed thereunder, which together constitute a comprehensive statutory framework for assessing both entitlement and quantum.

16. Relying upon the dicta laid down in *Shakila v. State (NCT of Delhi)* 2025 SCC Online Del 4543, learned counsel contends that compensation is to be determined within the confines of the concerned Victims Compensation Scheme and on a case-to-case basis, with the competent Legal Services Authority assessing the appropriate quantum having regard to the facts of each case.

17. It is further contended that in *Prema Devi v. State of U.P.*, 2026 SCC OnLine All 457, the Allahabad High Court awarded compensation having regard to the peculiar facts and circumstances of that case, without prescribing any standardised quantum.

18. It is emphasised that in the present case, the medical evidence on record attributes the cause of death to ante-mortem hanging and does not



disclose any external injuries or conclusive material indicating custodial violence. In this regard, learned counsel for the respondents submits that in the absence of any established culpability or direct nexus between the alleged acts of the authorities and the death, the present case stands on a materially different footing from those involving proven custodial brutality.

19. It is submitted that compensation is not to be awarded on the basis of parity or broad generalisations, but must be calibrated in accordance with the statutory parameters, factual findings and the degree of State responsibility in each case.

REASONING AND ANALYSIS

20. In the present case, it remains undisputed that the deceased suffered an unnatural death in custody at Police Station Karawal Nagar. The question, however, is whether such a death attracts liability for compensation. This Court, in the present proceedings, is not required to adjudicate upon the precise cause of death or upon the allegations of foul play or custodial violence. The issue before this Court is limited to the entitlement of the petitioner, on account of an unnatural death in custody, to compensation and the appropriate quantum thereof rather than to the attribution of criminal culpability or the establishment of foul play.

21. The present petition raises questions of constitutional significance. Custodial death is not merely an individual tragedy but a matter of systemic concern, striking at the very foundation of the rule of law. When a person is deprived of liberty and placed in the custody of the State, the authorities assume a heightened duty of care. Any lapse resulting in death within custody, whether attributed to violence, negligence, unexplained



circumstances or even suicide, demands judicial scrutiny, for it implicates both the dignity of the individual and the credibility of the justice system.

22. In *Inhuman Conditions in 1382 Prisons, In re*, (2017) 10 SCC 658, the Court referred to the ‘Guidelines on Investigating Deaths in Custody’ issued by the International Committee of the Red Cross (ICRC), wherein suicide has been classified as unnatural death and observed as under:

“9. On the issue of defining natural and unnatural deaths, the learned Amicus Curiae drew our attention to the Guidelines on Investigating Deaths in Custody issued by the International Committee of the Red Cross (ICRC). According to ICRC, “death” is the irreversible cessation of all vital functions, including brain activity. Death is “natural” when it is caused solely by disease and/or the aging process. It is “unnatural” when its causes are external, such as intentional injury (homicide, suicide), negligence or unintentional injury (death by accident). We have perused the guidelines provided by ICRC and are of the view that these guidelines deserve consideration and circulation by the Central Government and all the State Governments.”

23. The jurisprudence concerning custodial deaths has been shaped by a rich corpus of decisions rendered by the Supreme Court as well as the High Courts of various States.

24. In *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746, the Apex Court emphasized the strict duty of care owed by the State towards persons in custody and held that the right to life cannot be curtailed except in accordance with law. The Court further clarified that the duty of care on the part of the State is strict and admits of no exceptions. The Court observed as under:

“31. It is axiomatic that convicts, prisoners or undertrials are not denuded of their fundamental rights under Article 21 and it is only such restrictions, as are permitted by law, which can be imposed on the enjoyment of the fundamental right by such persons. It is an obligation of the State to ensure that there is no infringement of the indefeasible rights of a citizen to life, except in accordance with law, while the citizen is in



its custody. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, undertrials or other prisoners in custody, except according to procedure established by law. There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. His liberty is in the very nature of things circumscribed by the very fact of his confinement and therefore his interest in the limited liberty left to him is rather precious. The duty of care on the part of the State is strict and admits of no exceptions. The wrongdoer is accountable and the State is responsible if the person in custody of the police is deprived of his life except according to the procedure established by law. I agree with Brother Verma, J. that the defence of “sovereign immunity” in such cases is not available to the State and in fairness to Mr Altaf Ahmed it may be recorded that he raised no such defence either.

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35. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings.The decisions of this Court in the line of cases starting with Rudul Sah v. State of Bihar [(1983) 4 SCC 141 : 1983 SCC (Cri) 798 : (1983) 3 SCR 508] granted monetary relief to the victims for deprivation of their fundamental rights in proceedings through petitions filed under Article 32 or 226 of the Constitution of India, notwithstanding the rights available under the civil law to the aggrieved party where the courts found that grant of such relief was warranted. It is a sound policy to punish the wrongdoer and it is in that spirit that the courts have moulded the relief by granting compensation to the victims in exercise of their writ jurisdiction.”

25. Following the principles laid down in *Nilabati Behera* (supra), the Karnataka High Court in *Parvathamma v. Chief Secretary to Government of Karnataka*, 1995 SCC OnLine Kar 245, emphasized that once a prisoner is in custody, custodial death cannot be treated in a casual or cavalier



fashion and that public law remedies must be moulded to protect the rule of law:

“8. We have given our anxious consideration to this unfortunate episode and we feel that in the circumstances of the case it would have been necessary for the police to show that there was no negligence on their part. After all when a prisoner is in police custody it is the duty of the police to keep him alive and well till judicial remand. There are some aspects in this case which have caused us anxiety. It is not known in the first place as to why a woollen rug was given to the deceased in the month of May when it is generally warm in Bangalore. We are also not able to understand how the deceased was able to cut the woollen rug into a rope in the presence of the police. We are also not able to understand how and by what means the deceased hanged himself in the very presence of Muniswamy the Head Constable and Beeraiah the police constable. If it is the case of the police that Muniswamy and Beeraiah had left the police station and arrived immediately after the occurrence, then it is not stated why the police station was left unmanned by any person. It is impossible to believe that the police station would have been left empty without any policeman being present in the police station. All these matters could have been cleared if the two alleged eyewitnesses were examined at the enquiry.

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10. However, in all cases of police lock-up deaths whether it is by suicide or on account of atrocities committed by the police, the onus undoubtedly rests on the police to show that there has been no negligence on their part. We may at this stage refer to a decision of the Supreme Court in the case of Smt. Nilabati Behera alias Lalita Bahera v. State of Orissa [(1993) 2 SCC 746 : AIR 1993 SC 1960.] . This was a case of lock-up death. While dealing with this case, at para 13 their Lordships have held as follows:

“In this context, it is sufficient to say that the decision of this Court in Kasturilal Ralia Ram Jain v. State of Uttar Pradesh [AIR 1965 SC 1039.] , upholding the State's plea of sovereign immunity for tortious acts of its servants is confined to the sphere of liability in tort, which is distinct from the State's liability for contravention of fundamental rights to which the doctrine of sovereign immunity has no application in the Constitutional scheme, and is no defence to the constitutional remedy under Articles 32 and 226 of



the Constitution which enables award of compensation for contravention of fundamental rights, when the only practicable mode of enforcement of the fundamental rights can be the award of compensation. The decisions of this Court in Rudul Sah v. State of Bihar [(1983) 4 SCC 141 : AIR 1983 SC 1086.] and others in that line relate to award of compensation for contravention of fundamental rights, in the constitutional remedy under Articles 32 and 226 of the Constitution. On the other hand, Kasturilal related to value of goods seized and not returned to the owner due to the fault of Government servants, the claim being of damages for the tort of conversion under the ordinary process and not a claim for compensation for violation of fundamental rights. Kasturilal is, therefore, inapplicable in this context and distinguishable”.

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16. We find it necessary to state that whenever a victim's family complains of an infringement of an indefeasible right of the citizens while in police custody, the Courts will have to evolve while exercising writ jurisdiction, new tools to give relief in public law by moulding it according to the situations with a view to preserve and protect the rule of law. The old doctrine of relegating the aggrieved to the remedies available in civil law is a hollow right to a poor citizen of the country. The Courts have an obligation to satisfy the social aspirations of the citizens because in the last resort the Courts and the law are for the people and they are expected to respond to their aspirations. The indefeasible rights guaranteed under Article 21 of the Constitution and the remedies available in public law as laid down by the Supreme Court is a strict liability for contravention of a basic rights of the citizens. The purpose of public law is not only to civilize public power but also to assure the citizens that they live under a legal system which aims to protect their interests and preserve their rights. As we have said earlier, once a prisoner is in police custody, custodial death cannot be treated in casual and cavalier fashion. We find as stated earlier, the legal heirs of the victims do not get any relief for many years.”

26. The Bombay High Court in **Gopichand v. State of Maharashtra**, 2011 SCC OnLine Bom 1005, dealt with a case of custodial suicide and examined the liability of the State in such circumstances. The Court rejected



the argument that suicide in custody stands on the same footing as suicide outside custody. The relevant extracts are as under:

“76. In the present case, the death, may be due to suicide, is in police custody, and there exists a logical relationship between the act of State and the death. While it is urged by the State that claiming compensation for a suicidal death is too a remote cause, and is not attributable to any wrong by the State, a contrary conclusion that the suicidal death in custody will stand on par with suicide elsewhere is as well a too far stretched and far extended argument.

77. While in general parlance and in the welfare concept, even in motor accidents and other acts of fatal accidents, the concept of ‘No Fault Liability’ is emerging, attempting to keep a track with the doctrine of ‘Strict Liability’ by analogous principle ought not come into play when the death occurs while in police custody.

78. Being a matter of judicial notice, the fact that somebody has to be in police custody itself creates a grave psychological trauma. Existence of a trauma will have to be accepted as a rule, and where nothing wrong happens, the trauma would not result in actionable claim, however, something grave, such as deprivations takes place, the trauma and its effects on the mind of the detainee will have to be presumed. Upon such assumption, it shall suffice for the claimant to prove that somebody was unduly kept in police custody, aggravating the trauma and as its consequence, being a matter of sheer personal knowledge and privy as far as the police is concerned, they shoulder the burden of proving that the things around the detainee were normal, and yet nothing, except something sheer personal to the detainee is the cause of suicide.

79. In the present case, we are, therefore, on the facts of the case, compelled to hold that the police have failed to bring on record any piece of evidence to show that things were completely normal at their end, and gravely abnormal at the end of detainee, and yet there has to be a strong logical bond between the fact of death and the police, still police have by their lapses failed to discord the said bond.

80. In the result, this Court is satisfied that the death, though suicidal, attracts a tortious liability to the State, though such liability would not be on the same rigours and lines.”

27. In ***Inhuman Conditions in 1382 Prisons*** (supra), the following observations were made:



“46. In D.K. Basu v. State of W.B. [D.K. Basu v. State of W.B., (1997) 1 SCC 416 : 1997 SCC (Cri) 92] this Court recognised that at the time of ratification of the International Covenant on Civil and Political Rights, 1966 in 1979, the Government of India made a specific reservation to the effect that the Indian legal system does not recognise a right to compensation for victims of unlawful arrest or detention and only became a party to the covenant, subject to this reservation. It was noted, however, that the reservation has lost its relevance in view of the law laid down by this Court in several cases wherein compensation has been awarded for the infringement of a fundamental right of a citizen. It was also noted that while there is no express provision in the Constitution for grant of compensation, this right has been judicially evolved in cases of established unconstitutional deprivation of personal liberty or life. This Court summed up the law in the following words: (SCC p. 443, para 54)

“54. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty-bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no straitjacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any



amount which may be awarded to the claimant by way of damages in a civil suit.”

47. Ajab Singh v. State of U.P. [Ajab Singh v. State of U.P., (2000) 3 SCC 521 : 2000 SCC (Cri) 718] , Murti Devi v. State (NCT of Delhi) [Murti Devi v. State (NCT of Delhi), (1998) 9 SCC 604 : 1998 SCC (Cri) 1330] and more recently Rohtash Kumar v. State of Haryana [Rohtash Kumar v. State of Haryana, (2013) 14 SCC 290 : (2014) 4 SCC (Cri) 205] illustrate that custodial death is a clear violation of the prisoner's rights under Article 21 of the Constitution and relief could be moulded by granting compensation to the next of kin of the deceased.

48. In addition to the above decisions and several others rendered by this Court, almost every High Court in the country has, at one time or another, also granted compensation for the unnatural death of a person in custody, whether an undertrial or a convict. ...

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54. The case law indicates that over the last several decades this Court and almost every High Court has relied on Article 21 of the Constitution and thought it appropriate to compensate the next of kin for an unnatural custodial death. The constitutional courts can go on delivering judgment after judgment on this issue and award compensation, but unless the State realises that custodial death is itself a crime and monetary compensation is not necessarily the only appropriate relief that can be granted to the next of kin of the deceased, such unnatural deaths will continue unabated. Therefore, what is needed is a review of all prisons with a humanitarian nuance.

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58.1. The Secretary General of this Court will transmit a copy of this decision to the Registrar General of every High Court within one week with a request to the Registrar General to place it before the Chief Justice of the High Court. We request the Chief Justice of the High Court to register a suo motu public interest petition with a view to identifying the next of kin of the prisoners who have admittedly died an unnatural death as revealed by NCRB during the period between 2012 and 2015 and even thereafter, and award suitable compensation, unless adequate compensation has already been awarded.”

28. In light of the above, the respondents' submission that compensation is not an automatic consequence of custodial death cannot be accepted. It is



well settled that when a person is in custody, he does not lose his fundamental rights guaranteed under Article 21 of the Constitution and the State assumes an absolute and inalienable duty to protect his life and dignity. An unnatural death in custody, even if by suicide, is not a private act divorced from State responsibility, but reflects an omission of duty on the part of those charged with safekeeping. The State cannot escape responsibility by invoking statutory schemes or by contending absence of direct culpability. The very fact of custodial death, being unnatural, attracts liability and obliges the Court to mould relief in the form of compensation.

29. This Court is therefore of the view that the custodial death of the petitioner's son, being unnatural, attracts liability. The State, as custodian of life and liberty, is bound to compensate the next of kin for the infringement of fundamental rights under Article 21. The entitlement of the petitioner to compensation is thus beyond dispute. Having held that compensation is payable, the next question that arises is the determination of its quantum.

30. As regards the quantum of compensation to which the petitioner in the present case is entitled, learned counsel for the petitioner has submitted that the principle of multiplier, as devised in *Sarla Verma* (supra) ought to be applied. Per contra, learned counsel for the respondents, relying upon the dicta laid down in *Shakila v. State* (supra) contended that compensation must be confined to the statutory framework under Section 357A CrPC and the Delhi Victims Compensation Scheme, 2018.

31. In *Kiran v. State* (supra), a Division Bench of this Court, in determining the quantum of compensation payable to the widow and children of the deceased who suffered custodial death, applied the norms ordinarily used in motor accident claims and observed as under:



“18. In Ajab Singh's Case, the Supreme Court had awarded Rs. 5.00 lakhs to the next of kin of the victim who was earning around Rs. 5,00/- per month only. That can, however, be only a broad guideline for this Court to follow. The process by which we arrive at a figure may still have to be based on some objective consideration which we will attempt to enlist in the paras that follow.

19. In claims arising out of motor vehicle accidents, the Parliament has now introduced the concept of compensation on no fault basis. While the concept may not be applicable to cases of custodial deaths, we see no reason why the norms on which the amount of compensation is determined can not be borrowed as a guideline for award in such cases. There is a presumptive income of Rs. 18,000/- in all cases where there is no evidence regarding such income. The petitioner was not, however, jobless as he was according to the petitioner earning Rs. 4,000/- per month. Even if we were to reduce that amount to Rs. 3,000/- per month and deduct one-third out of the same towards his personal expenditure, the monthly accretion to the family would be in the tune of Rs. 2,000/- per month or Rs. 24,000/- per year. The deceased was around 26 year old on the date of his death. A multiple of 16 would take the amount of compensation to Rs. 3,84,000/-. Addition of a sum of Rs. 16,000/- to that amount towards funeral expenses and loss of consortium would take the amount payable to the petitioner and her children to Rs. 4.00 lakhs which, in our opinion, would meet the ends of justice subject to any enhancement which the petitioner and her children may claim in private law proceedings, if otherwise entitled against those found responsible for the death.”

32. Further, in ***Prakash Kaur v. State of Punjab***, CWP-3342-2016, the Punjab and Haryana High Court, held that the State is obligated to compensate the next of kin of the deceased who died in custody. It was categorically stated that mere absence of active participation of jail authorities does not absolve the sovereign of its obligation to ensure protection of life of inmates. Further, the Court, referring to ***Sarla Verma*** (supra), applied the multiplier principle and awarded the compensation accordingly. Relevant observations are as under:

“ Further reliance is placed on the judgment of this Court passed in CWP No.11695 of 2020 titled as Ram Lal and others Vs. State of Punjab and others' decided on 28.04.2022, wherein this Court has observed as under:



[11]. It is a settled principle of law that the Court can grant appropriate relief in case of deprivation of constitutional guarantee of life and personal liberty. A claim in public law of compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection of such rights. Though such claims are based on strict liability, by resorting to constitutional remedy provided for enforcement of fundamental rights which is distinct from, and also in addition to, the remedy in private law for damages i.e. torts resulting from contravention of the fundamental right.

[12]. In *Phoolwati vs. State (Union Territory of Chandigarh) and others*, 2008(1) R.C.R. (Criminal) 167, while deciding such cases, the parameters as laid down in motor accident claim cases can be relied. The multiplier as provided in Motor Vehicle Act, 1988 can be applied to the cases of custodial death as well. In order to calculate the compensation to be awarded to the dependants of the deceased, the parameters as laid down in *Sarla Verma and others vs. Delhi Transport Corporation* and another, 2009(3) R.C.R. (Civil) 77 (SC) and *National Insurance Company Limited vs. Pranay Sethi and others*, 2017(4) R.C.R. (Civil) 1009 (SC) can be relied.

[13]. The annual income of the deceased as per income tax returns (Annexures P-2, P-3 and P-4) has been relied upon by learned Senior counsel for the petitioners. According to the aforesaid documents, annual income of the deceased is prima facie proved to be Rs.3,52,588/-.

[14]. As per legal position, future prospects @ 25% are to be considered while assessing the compensation. The amount of Rs.88,147/- has to be assessed towards future prospects of the deceased. In this manner, total annual income comes out to be Rs.4,40,735/-. Out of the aforesaid amount, deduction towards personal expenses to the tune of 1/4th has to be applied. In this way an amount of Rs.1,10,184/- has to be deducted from Rs.4,40,735/- and the annual loss of dependency would come out to be Rs.3,30,551/-. Since the deceased Mohinder Pal @ Bittu was aged about 49 years at the time of the occurrence, therefore, as per ratio of *Sarla Verma and others's case (supra)* on the basis of age of the



deceased, multiplier of 13 can be applied to the aforesaid annual loss of dependency and the amount comes out to be Rs.42,97,163/-.

[15]. In view of ratio of National Insurance Company Limited vs. Pranay Sethi and others's case (supra) an additional amount of Rs.70,000/- has to be assessed under the conventional heads i.e. funeral expenses, loss of estate and consortium is to be considered. In this way the total amount of compensation comes out to be Rs.43,67,163/- (42,97,163/- +70,000/-).”

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Having held so, the issue which now arises for consideration of this Court is as to whether in the event of occurrence of an unnatural death of a person while in custody, would his heirs be entitled to compensation or not?

The perusal of the precedent judgments referred to above and extracted in the preceding paragraphs of this judgment, squarely hold that Article 21 of the Constitution of India, 1950 comes in operation with full force at a time when life and liberties of a person in the custody of State are taken away without law. The agencies and instrumentalities of the State cannot be obliterated of their obligation to ensure protection of a life and liberty of an individual when he is confined to prison/jail under the orders of a Court. It cannot be left open to the State Agencies to wash off their responsibility by holding it as an event of private dispute amongst two private individuals and seek exoneration from all obligations to ensure safety and security of inmates while in prison. The assessment of danger, the possible plight and the maintenance of law and order within the jail premises is the responsibility of the State. It was in the aforesaid background and recognising the settled legal principles that writ jurisdiction of the Court has been regularly invoked and exercised repeatedly to strike a balance in the equitable relief for the next of the kin of the deceased.

I am therefore, of the opinion that in light of the judgments referred to above, the State would be obligated to compensate the petitioners who are next of kin of the Vikram Singh @ Vicky. The mere absence of active participation of jail authorities does not absolve the sovereign of its obligation to ensure protection of life of inmates. Absence of participation is solely a shield against criminal prosecution of the persons who would be so involved and cannot be cited as the basis to wriggle out of the civil and tortuous liabilities.



Having held as above, the next question which arises for determination is the quantum of compensation to be awarded to the petitioners. It has been pointed out that the minimum wages as were in force at the relevant point of time were Rs.240/- per day. Upon consideration, number of days when a daily wager may be in a position to get work in an year is approximately 200 days, the annual income of deceased Vikram Singh @ Vicky could be assumed as Rs.48,000/-. By applying a deduction of 1/3rd i.e. Rs.16,000/-, the annual dependency of deceased would work out to Rs.32,000/- per annum. The age of the deceased was 25 years and taking into consideration the parameters and yardsticks enshrined in the Motor Vehicle Act, 1988, the multiplier of 18 would be attracted as per the law laid down by the Hon'ble Supreme Court in the matter of Ms. Sarla Verma and others Vs. Delhi Transport Corporation and another reported as (2009) 6 SCC 121. The amount of compensation thus comes to Rs.5,76,000/-. An additional amount of Rs.70,000/- is also awarded under the Conventional Heads i.e. litigation expenses, loss of estate and consortium. Even though the judgments in relation to the compensation under the Motor Vehicles Act, 1988 take into consideration the future prospects of a person, however, taking into consideration the criminal antecedents and the possibility of the petitioner being convicted, the aforesaid aspects for assessing compensation are not being gone into at this stage.”

33. In *Sanjeevani v. State of Maharashtra*, 2021 SCC OnLine Bom 3704, the Court applied the multiplier principle in terms of the dicta laid down in *Sarla Verma* (supra) while determining the compensation payable to the widow and parents of the deceased who died an unnatural death in custody :

“15. Admittedly, the deceased was 18 years of age at the time of the incident. Post Mortem report shows the age of the deceased as 18 years. Income of the deceased is not on record. Therefore, notional income of Rs. 4,000/- per month can be considered for calculating the amount of compensation. After deducting 1/4th expenditure for himself, the total amount payable for compensation is Rs. 3,000/- per month. The multiplier to be applied would be 17 as per the guidelines framed by the Honourable Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation reported in (2009) 6 SCC 121. Having regard to the age of the deceased and his notional income per year, the amount of



compensation can be calculated as under:—

Age	Multiplier	Income per year	Total amount
18 years	17	Rs. 36,000/-	Rs. 6,12,000/-
		Loss of love and affection	Rs. 20,000/-
		Total	Rs. 6,32,000/-

16. Thus, the total amount of ex-gratia compensation comes to Rs. 6,32,000/-.”

34. Recently, in ***Prema Devi v. State of U.P.***, 2026 SCC OnLine All 457, the Allahabad High Court, while dealing with a case strikingly similar to the one at hand, reiterated the settled principles governing compensation in cases involving custodial death and observed as under:

“9. The Tripura High Court in the decision of *Rasheda Khatun (Supra)*, directed the State to pay compensation for custodial death, relying upon the judgment of the Hon’ble Supreme Court in *D.K. Basu (Supra)* wherein it was observed that the purpose of compensation is to ameliorate the wound of the kin of the deceased and not to act as a deterrent for the transgressor. The relevant paragraphs of the judgment are delineated below:-

“ 17. For determination of the quantum of compensation we may profitably refer to the decision of the Apex Court in the case of *D.K. Basu v. State of W.B:* reported in (1997) 1 SCC 416 wherein the Apex Court has held that the objective of such monetary compensation is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence must be left to the criminal courts in which the offender is prosecuted. Observation made by the Hon’ble Apex Court in paragraph- 54 of the judgment is as under:



“54. Thus, to sum up, it is now a well accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. That award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit.”

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13. It is undisputed that the deceased was in the custody of the State and had committed suicide. There may have been circumstances surrounding him which drove him to take such an extreme step, resulting in a patently unnatural death. Ergo, the State is absolutely liable for the unnatural death of the deceased, as an amplified duty is cast upon the State for the death of a prisoner in custody of police without any exception. No State can shirk its duties and responsibilities for providing better facilities to prisoners. Accordingly the case of custodial death is made out in the present case.

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17. In view of the foregoing analysis, this Court finds that the death of the deceased occurred while in custody and control of the State authorities, and that the material placed on record unmistakably establishes a violation of the fundamental rights guaranteed under Article 21 of the Constitution of India. Custodial torture is a naked violation of human dignity and degradation that destroys self-esteem and being of the victim to the absolute core. Custodial torture is a calculated assault on human dignity and whenever human dignity is wounded, civilisation takes a step backwards. Despite recommendations for banishing torture from the investigative system, growing incidence of torture and deaths in police custody and prisons continue to persist. Custodial violence and deaths strike the very core of the rule of law and are an affront to human dignity. The State, being the custodian of life and liberty of persons in its custody, bears a strict and non-delegable duty to ensure their safety. Failure to discharge this obligation attracts public law liability.

18. The contention of the State that the death was due to suicide and was not an unnatural death does not hold water as has been categorically demonstrated by the judgments as discussed above. The Hon'ble Supreme Court in *Re- Inhuman Conditions in 1382 Prisons (Supra)* has categorically held that a suicide would amount to an (internal) intentional injury and would be an unnatural death wherein the liability would squarely fall on the State. In light of the same, one may patently come to a conclusion that the facts of the present case disclose a clear infringement of constitutional protections, warranting intervention under Article 226 of the Constitution.

19. It is well settled, *inter alia*, in *Nilabati Behera (Supra)* and *D.K. Basu (Supra)* that this Court, in exercise of its writ jurisdiction under Article 226 of the Constitution of India, is empowered to award monetary compensation as a remedy in public law for established violations of fundamental rights, independent of and in addition to remedies available in private law. Monetary compensation, while not a complete substitute



for the loss of life, could provide some measure of solace for the bereaved family and act as a deterrent against future custodial violence.”

35. In *Shakila v. State (NCT of Delhi)*, 2025 SCC OnLine Del 4543, the petitioner’s son had succumbed, while undergoing treatment, to grievous injuries sustained in an alleged scuffle between two groups of inmates. The trial court in the concerned proceedings, acquitted all the accused. In the writ petition, the petitioner sought a twofold relief: (i) judicial inquiry into the death of her son; and (ii) compensation on the ground that the deceased was the sole breadwinner upon whom the petitioner was dependent. During the pendency of the petition, however, the petitioner passed away. Prior to her demise, the petitioner, at the behest of the National Human Rights Commission, was granted an interim compensation of Rs. 1,00,000/-. Following the petitioner’s demise, her children (siblings of the deceased) and her grandchildren sought revival of the petition and compensation as claimed. The questions that arose for consideration before this Court were:

“24. The Questions that thus, stands posited for the consideration of this Court are:

- 1) Whether siblings, not being expressly mentioned in the list of Dependents in the Scheme, are entitled to the benefits of the scheme or not?*
- 2) Whether the fact of a female sibling being married would lead to a conclusion that they can't be “Dependent”?*
- 3) Whether the children of siblings would be excluded from the benefits of the scheme?”*

36. In *Shakila v. State* (supra), the the Court delineated the contours of the *Delhi Victims Compensation Scheme, 2018*, and while affirming the liability of the State in cases of unnatural deaths in custody, held as under:

“60. Apropos the discussion and analysis hereinbefore, this Court concludes as follows:



A. The Petitioners, by virtue of their being the siblings, married or unmarried or the children of the siblings, are not, ipso facto, disentitled from the benefits of the DVCS Scheme.

B. The receipt of Rs. 1,00,000/- by the Mother, prior to her demise, would not preclude the substituted Petitioners from being entitled to the benefit of the scheme since;

i. The same was in the nature of an interim payment, and

ii. The same was not in terms of a Scheme of the Central Govt. or of the GNCTD.

C. The State, owing a duty to ensure the security of the general public, including persons who are incarcerated, has a responsibility to compensate in cases of unnatural deaths in custody. This is also in line with the proposed scheme of the Delhi Government. However, there may be certain exceptions to the general class of such deceased prisoners, e.g. those who suffer death due to natural causes or those who perish in an attempt to escape. It is clarified that these are merely illustrative and in no manner limited, and further, do not preclude the State from excluding such other persons who they believe should be exempt from the benefits of the Scheme.

D. In the present case, no particulars of the loss or injury suffered by the Petitioners have been provided. Equally, though, is the fact that, based on the restrictive interpretation canvassed by the Respondents, no determination on the “dependency” or of any loss or injury suffered by the Petitioners, been carried out.

E. The Schedule for payment of compensation in the event of the demise of a Victim is as follows:

“DELHI VICTIM COMPENSATION SCHEME, 2018

SCHEDULE

S. No.	Particulars of loss or injury	Minimum limit of compensation	Upper limit of compensation
1.	Loss of life	Rs. 3 Lakhs	Rs. 10 Lakhs



...”

F. The interim compensation of Rs. 1,00,000/-, is less than the minimum amount prescribed by the Schedule of the DVCS. The Schedule provides for a minimum and an upper limit, and the same are Rs. 3 and Rs. 10 Lakhs, respectively. The Mother, admittedly being a dependent, should have received at least 3 Lakhs, if not more. This Court, in its Judgment in *Mohini v. State (Govt. of NCT, Delhi)*¹⁹ has held that the compensation as awarded should be just and adequate and at Para 20 of the said Judgment, states as follows:—

“20. In view of the above legal position, Clause 4 of the Scheme has to be interpreted so as not to defeat the object of the Scheme. The Scheme read with Section 357A of Cr. P.C. envisages that the victim or the dependent should receive just compensation. To knock out an applicant under the Scheme merely because some meagre or token compensation was received by the applicant under some other statutory provisions would be unfair and contrary to the very object of the Scheme. Clause 4 is added to ensure that no victim or dependent gets a bonanza or largesse. It is not intended to inflict injury. Clause 4 has to be read conjointly and would have to take its colour from Section 357A Cr. P.C. read with Clause 5 and Schedule to the Scheme. Reading Clause 4 of the Scheme in this manner would mean that the victim can be said to “have been compensated for the loss and injury” from some other scheme when he has received compensation equivalent to or more than what is the minimum stipulated in the Schedule to the Scheme. Such an applicant would not be entitled to receive any compensation under the present Scheme. **However, where the amount received is less than the minimum stipulated under the Schedule, it cannot be said that he has been compensated for the loss and injury and the concerned authority shall grant appropriate compensation under the Scheme but taking into account the amount of compensation already received by the victim/dependent.**”

G. The Mother, during her lifetime, should have been paid, at the very least, the minimum amount of compensation. She was forced to come to this Court for “appropriate compensation”, but before the determination of the petition, unfortunately, passed away. The Petitioners, at the very least, would be entitled to the prescribed minimum under the scheme.

H. This Court directs that a sum of Rs. 2,00,000/- be paid immediately to the Petitioners, being the difference between the sum of the prescribed minimum of Rs. 3,00,000/- Lakhs and the sum of Rs. 1,00,000/- received by way of interim compensation.



I. The Court directs the DSLSA to conduct a fact-finding exercise to evaluate the actual physical or monetary dependence that the substituted Petitioners may have had on the Victim, to determine the loss or injury that they may have suffered.

J. The DSLSA would determine the further compensation payable as follows:

i. The DSLSA will make a determination on whether or not “Loss” or “Injury” has been suffered by a person who claims to be a “Dependent”;

ii. The determination of “loss” or “injury” would entail the DSLSA examining actual monetary or other loss occasioned or actuated by the physical absence of the Victim. This could include the loss of livelihood, security in terms of monetary support, etc. and in terms of the definition of “Injury”, “any harm whatever illegally caused to any person, in mind, reputation or body”, and include emotional, financial loss, etc. Though the term used to define “injury”, given the salutary nature of the scheme would have to be construed in the widest possible manner, without limiting the same, this Court believes that loss of reputation to the family, emotional loss in terms of security or otherwise due to the physical presence of the Victim could be some of the aspects that may be kept in mind while making a factual determination.

K. Based on the said determination, the DSLSA may take an appropriate decision for the grant of compensation of such further amount as is permissible under the scheme. This exercise may be carried out by the concerned Respondent authorities within the period as prescribed in the Scheme.”

37. The reliance placed by the learned counsel for the respondents upon *Shakila v. State* (supra), to contend that compensation must be confined to the statutory framework under Section 357A CrPC and the Delhi Victim Compensation Scheme, 2018 is misconceived. In *Kiran v. State* (supra), the Division Bench of this Court was of the view that the concept of compensation on no fault basis could be borrowed as a guiding principle in cases of custodial death, and in computing the quantum of compensation applied the multiplier method. In *Shakila v. State* (supra), however, the Court was concerned with a distinct set of issues, and in the course of that adjudication did not advert to the judgment of the Division Bench in *Kiran*



v. *State* (supra). Needless to say, this Court is bound by the decision of the Division Bench and the exposition therein must guide the present adjudication.

38. It is well settled through a catena of judgments, some of which have been adverted to hereinabove, that the compensation for custodial death flows directly from the violation of Article 21 of the Constitution and constitutes a remedy in public law. The writ jurisdiction of this Court under Article 226 is wide enough to mould compensation as an equitable relief. Such compensation is distinct from and in addition to the statutory or private law remedies. The statutory scheme under Section 357A of the Code of Criminal Procedure, 1973 is only one avenue of relief; it supplements and does not curtail or exclude the power of this Court under Article 226 to award compensation for established infringement of fundamental rights. Custodial death, being unnatural, prima facie attracts liability under Article 21.

39. Therefore, in view of the above discussion, this Court is inclined to hold that the petitioner is entitled to monetary compensation, to be determined in accordance with the multiplier principle in terms of *Sarla Verma* (supra).

40. Further, in *Jagdish v. Mohan*, (2018) 4 SCC 571, the Supreme Court, emphasized that the role of compensation is vindicating dignity and observed as under:

“14. But the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights,



they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the individual to an assertion of enforceable rights as intrinsic to human dignity.”

41. The MLC (Annexure-C) and the Post Mortem Report (Annexure-L) reflect the age of the deceased as 19 years. It has been submitted that the deceased, working as a waiter, used to earn between Rs.12,000/- and Rs.15,000/- per month. Applying the multiplier principle in accordance with *Sarla Verma* (supra), read with *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, the amount of compensation is calculated as under:¹

BASIS	CALCULATION	AMOUNT
Monthly income		12,000
Annual income	12,000 *12	1,44,000
Future prospects	1,44,000* 40%	57,600
Annual income including future prospects	1,44,000 + 57,600	2,01,600
Deduction @ 50 % (personal and living expenses)	2,01,600 /2	1,00,800
Multiplier (18)	1,00,800 * 18	18,14,400
Loss of estate	15,000	
Funeral expenses	15,000	
Total		18,44,400

42. The monthly income of the deceased is taken at Rs.12,000/-, which translates to an annual income of Rs.1,44,000/-. Since the deceased was

¹ In terms of *Ram Lal and others Vs. State of Punjab and others* 2022 SCC OnLine P&H 4664.



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earning fixed wages, 40% of the annual income is added towards future prospects, which comes at Rs.2,01,600/-. As the deceased was a bachelor, 50% is deducted as personal and living expenses. Applying the multiplier of 18 (recommended for age 15 to 20 years), loss of dependency is computed at Rs.18,14,400/-. In addition, conventional amounts of Rs. 15,000/- towards loss of estate and Rs. 15,000/- towards funeral expenses are awarded. Thus, the total amount of compensation comes to Rs.18,44,400/-.

43. Accordingly, the respondents are directed to pay the petitioner, compensation of Rs.18,44,400/- within a period of 8 weeks from today.

44. The petition stands disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

JULY 1, 2026/ss