

\$~5

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

+ **W.P.(C) 3090/2021 & CM APPL. 9344/2021**

RUVEE PARVEEN

..... Petitioner

Through: Mr. Aman Khan and Mr. Siddarth Aggarwal, Advocates.

versus

STATE OF NCT DELHI AND ORS.

..... Respondents

Through: Mr. Anuj Aggarwal & Ms. Ayushi Bansal, Advocates for GNCTD/R-1, 3 to 6.

Mr. Sarfaraz Khan, Advocate for DSLSA with Mr. Kanwaljeet Arora, Secretary, DSLSA in person.
(M:9899140169)

CORAM:

JUSTICE PRATHIBA M. SINGH

O R D E R

% 04.05.2021

1. This hearing has been done through video conferencing.

WP(C) 3090/2021 & CM 9344/2021

2. The Petitioner is the wife of the deceased Shri Salman @ Mesar. The deceased was arrested on 11th November, 2020. The allegation against him was that he was involved in the theft of a vehicle. The deceased was then produced before the Metropolitan Magistrate, where it was recorded by the ld. Magistrate that his physical condition was not good and that he was not even able to stand. The deceased was, however, remanded to judicial custody and on the next day itself, he passed away in custody.

3. The case of the Petitioner is that the deceased was subjected to torture by the police, however it was recorded in the remand order that the deceased

was beaten up by the public. The Petitioner has filed the present petition seeking compensation of Rs.1 crore, in respect of the same.

4. Notice was issued in this petition on 8th March, 2021, recording the fact that the deceased has left behind his wife and two minor daughters - one who is six years old and other who is five months of age. Status report was called for from the GNCTD, with respect to the allegations levelled in the petition.

5. The status report of the GNCTD was filed and was considered on 24th March, 2021. On the said date, this Court had observed that the status report is lacking materials particulars and is sketchy and, therefore, had called for a proper affidavit. The observations of the Court on the said date i.e. 24th March, 2021, are as under:

“3. The said status report merely records the dates on which the Petitioner was admitted to jail and his medical examination was conducted and thereafter, the date when he was admitted to hospital at the time of his death. The status report does not give any details of the events that transpired in jail leading to the demise of the deceased. The status report is completely lacking in the particulars and material facts, and is sketchy to say the least. Moreover, there is no mention of any policy, which the Respondent has in respect of compensation in the event any undertrial passes away while in judicial custody. Let both these aspects be dealt with and a proper affidavit be filed. On the next date of hearing, the question of interim compensation will be considered. Let the affidavit be placed on record by 10th April, 2021.”

6. On 13th April, 2021, this matter was again considered by the court, and notice was also issued to Delhi State Legal Services Authority (*hereinafter referred as “DSLSA”*), which was directed to file an affidavit in respect thereof.

7. Today, affidavits of the GNCTD as also the DSLSA have been placed on record. Mr. Sarfaraz Khan, Id. Counsel has appeared, along with Mr. Kanwal Jeet Arora, Secretary, DSLSA.

8. The stand of the DSLSA is that the Delhi Victim Compensation Scheme, 2018, permits the grant of compensation in case of such deaths. In the status report, it is stated that the deceased appears to have succumbed to injury inflicted to him during the course/ after his apprehension in the theft case. The theft case was itself subject matter of the FIR No.547/2020 under Section 379/411 of the IPC. However, in respect of the death of the deceased, FIR No.551/2020 has been lodged on behalf of the “victim” by their “dependent”. It is further submitted on behalf of the DSLSA that if there is a loss of life in judicial custody, the legal heirs/dependents of the deceased would be entitled to compensation, which would to a minimum of Rs.3 lakh and maximum of Rs.10 lakhs.

9. Mr. Siddarth Aggarwal, Id. Counsel appearing for the Petitioner has raised various grievances on behalf of the Petitioner. The same are as under:

- (i) None of the documents relating to the deceased’s death in judicial custody, for eg., the MLC, post mortem report etc., have been supplied to the Petitioner.
- (ii) As per the scheme, various documents are to be submitted by the victim’s family members claiming compensation and hence the application could not be filed by the Petitioner .

- (iii) The Delhi Victim Compensation Scheme, 2018, limits the discretion to grant compensation.
- (iv) The grant of compensation under the Delhi Victim Compensation Scheme ought not to affect the Petitioner's right to claim further compensation, in accordance with law by availing of other available remedies.

10. He further submits that the NHRC in the present case has completely neglected to consider the Petitioner's case for compensation, and the same would be contrary to the scheme of the Protection of Human Rights Act, 1993.

11. On behalf of the GNCTD, Mr. Anuj Aggarwal, 1d. counsel, appears and submits that there are three or four remedies which can be availed for grant of compensation in case of death in judicial custody. As per his submissions, compensation can be sought under the Delhi Victim Compensation Scheme, or by approaching the National Human Rights Commission, as also this Court by filing a writ petition.

12. He further submits that as far as the Delhi Victim Compensation Scheme is concerned, the victim can be granted both interim and final compensation in lieu of the scheme.

13. The DSLSA's stand is that no application for compensation has been received by it. Upon receipt of the same, an enquiry would be conducted and all the relevant documents would also be summoned. Mr. Kanwal Jeet Arora, Secretary, DSLSA, assures this Court that the Petitioner's case being one of death in judicial custody, would be taken up expeditiously and be processed keeping in mind the aims and objects of the Delhi Victim Compensation Scheme, 2018.

14. Insofar as the non-availability of documents of the Petitioner i.e. MLC, postmortem report, charge sheet, copy of charges framed if any, orders and other documents in the proceedings before the trial court if any, etc. are concerned, all relevant documents which are available in respect of the death of the deceased, shall be supplied by Mr. Anuj Aggarwal 1d counsel for GNCTD to Mr. Siddharth Aggarwal 1d counsel for the Petitioner, within one week from today.
15. Considering the nature of the matter and the submissions made hereinabove, this Court is of the opinion that the DSLSA ought to process the Petitioner's application, and prayer for compensation under the Delhi Victims Compensation Scheme, 2018.
16. Accordingly, let the records of this writ petition be considered as an application/ representation by the Petitioner who is the widow and "dependent" of the deceased, under the said scheme. The DSLSA may put in motion the procedure for determining the compensation, considering the fact that the deceased lost his life in judicial custody.
17. Let the decision of the DSLSA in respect of the compensation to be awarded be placed on record within a period of two weeks from today.
18. List for further hearing on 25th May, 2021.

PRATHIBA M. SINGH, J.

MAY 4, 2021/mw/dk/Ak