

20th June, 2022
(D/L No.24)
(SKB)

W.P.A. 4 of 2022

Maleka Khatun
Versus
The State of West Bengal and others

Mr. Kaushik gupta,
Mr. Anirban Tarafder,
Ms. Munmun Gangopadhyay
... for the petitioner.

Mr. Arindam Sen,
Mr. Sagnik Bhattacharya
... for respondent no.3.

The writ petition relates to payment of victim compensation pursuant to an order made by the Secretary, District Legal Services Authority, South 24 Parganas on 5th December, 2019 fixing the compensation amount as Rs.1,50,000/-.

After hearing learned counsel appearing for the petitioner, it appears that the petitioner filed an appeal from the said order in 2021 for enhancing the compensation amount to 18 lacs and the said appeal is pending from date and is due to be considered by the appellate body on 24th June, 2022, which is this Friday.

Learned counsel appearing for the SLSA submits that the SLSA presently does not have any fund at its disposal and was therefore unable to pay the amount of Rs.1,50,000/- to the petitioner till date.

Section 357A of The Code of Criminal Procedure, 1973 is a special provision for Victim Compensation Scheme which was brought into effect from 30th December, 2009. Under the said provision, it is a duty of the State Government in co-ordination with the Central Government to prepare a Scheme for providing funds for the purpose of compensation to the victim or his/her dependent who has suffered loss or injury as a result of the crime and who requires rehabilitation. Under Section 357A(2), it provides that upon recommendation being made by the Court for compensation, the DLSA or the SLSA shall decide the quantum of compensation to be awarded under the Scheme.

The West Bengal Victim Compensation Scheme, 2017 as notified on 15th February, 2017 reinforces in Clause 3 that the State Government shall constitute a fund namely Victim Compensation Fund from which amount of compensation under this Scheme shall be paid to the victim or his/her dependents. Clause 3 also provides for the State Government to allot a separate budget on an annual basis and the fund shall be operated by the Member Secretary, SLSA for the State of West Bengal.

This court has noted in other matters of similar nature that the SLSA has not been provided with the

funds for disbursement towards victim compensation. In a similar matter of 2021, SLSA has submitted before this court that it had funds only of an amount of Rs.5,000/- and was hence not in a position to disburse the victim compensation.

This is a sorry state of affairs to say the least.

The Code of Criminal Procedure as well as the Notification published by the State in 2017 makes it mandatory on the State Government not only to make a separate budget for victim compensation but also to constitute a fund with the specific nomenclature of "Victim Compensation Fund" for disbursing amount to the victims who need rehabilitation. This state of affairs cannot surely be permitted to continue for an indefinite period of time. Victims who have suffered loss or injury or any kind of physical or mental agony have been brought within the purview of The Code of Criminal Procedure for a stated purpose. The State or the SLSA cannot take the position that it does not have funds to compensate the victims.

The SLSA, the State Government Member Secretary and Finance Department, Government of West Bengal are hence directed to file a report within six weeks from date as to the steps which are proposed to be taken for ensuring that adequate amount of funds reach the State Legal Services Authority within six

weeks from date. The report shall indicate the funds which are proposed to be put in with SLSA within the time directed for dealing with the pending cases of victim compensation.

The prayer of the petitioner for immediate disbursement of Rs.1,50,000/- is declined in view of the practical compulsions namely that SLSA is not in a position to inform the court as to the quantum of funds which is presently at its disposal.

List this matter after six weeks.

(Moushumi Bhattacharya, J.)