

PARASNATH TIWARI AND ANR.

v.

CENTRAL RESERVE POLICE FORCE AND ANR.  
(Civil Appeal No. 140 of 2010)

JANUARY 11, 2010

[V.S. SIRPURKAR AND DR. MUKUNDAKAM  
SHARMA, JJ.]

*Compensation – Death of CRPF constable while in service – Deceased was only earning member of the family – Mental agony and financial difficulties to parents of deceased, who were purportedly denied proper information as regards cause of the death for long period – They filed writ petition claiming compensation of Rs.5 lakhs – High Court granted compensation of Rs.1 lakh – On appeal, held: Considering the facts, and in view of the escalating cost of living, it is appropriate that the compensation amount be enhanced to Rs.2 lakhs.*

**A CRPF constable died while in service, when a fellow constable on sentry duty, allegedly mistook him for an intruder in the house of the Development Commissioner and as a measure of safety, fired upon him resulting in his death. Appellants, the parents of the deceased, filed writ petition in High Court seeking for direction to the respondents to pay them compensation of Rs.5 lakhs on account of mental agony and loss suffered by them due to death of their son while in service.**

**The High Court came to a finding that for more than 20 years, the appellants had been denied proper information as regards the cause of the death of their son, consequent to which they suffered mental agony and financial difficulties for a long period, and allowed the writ petition directing the respondents to pay a sum of Rs. 1**

**A lakhs to the appellants as compensation.**

In appeal to this Court, it was contended by the appellants that the amount of Rs.1 lakh was too meagre an amount to be paid for loss and mental agony caused to the appellants.

**B**

**Disposing of the appeal, the Court**

**C HELD: 1. The son of the appellants was working in a sensitive area. A fellow constable, who was in the sentry duty at the residence of the Development Commissioner, Aizwal, mistook the appellant's son as an intruder to the house and as a measure of safety, he fired upon the appellant's son. On facts, it turns out to be a case of accident and wrong identity. However, the death of son of the appellants, is definitely not only a personal loss to the family but also financial. The deceased was a victim of an unfortunate incident and this caused a heavy loss and mental agony to the family members of the deceased. That being the position, the amount of Rs.1 lakh directed to be paid to the appellants towards compensation and damages is meagre. [Paras 11 and 12] [640-D-H]**

**D**

**E 2. The victim was a Constable and, therefore, there would have to be some surmises and conjectures in arriving at the amount of compensation payable by the respondents to the appellants. Appellant no.1 is an old man and the deceased was the only earning member of the family. The earnings of the deceased were a source of sustenance for the family. Besides, loss of a son at such a young age creates a void in the family, which cannot be filled up by making payment of any compensation. Considering these facts and being alive to the escalating cost of living, it is appropriate to enhance the amount of compensation fixed by the High Court. The respondents are directed to pay to the**

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**H**

appellant an amount of Rs. 2 lakhs as compensation instead of Rs.1 lakh fixed by the High Court. [Para 13] [641-B-E] A

*Charanjit Kaur (Smt.) v. Union of India and Others, (1994) 2 SCC 1 distinguished.*

**Case Law Reference:** B

(1994) 2 SCC 1 distinguished Para 9

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 140 of 2010.

From the Judgement & Order dated 11.7.2006 of the High Court of Chhattisgarh at Bilaspur in Writ Petition Nos. 554 of 2001 & 2407 of 1996. C

Sarabjeet Dutta, I.J. Yadav, P.P. Singh for the Appellants.

Indira Jaising, ASG, Binu Tamta, S.N. Tedol, Sushma Suri for the Respondents. D

The Judgment of the Court was delivered by

**DR. MUKUNDKAM SHARMA, J.** 1. Leave granted.

2. In this appeal the scope for consideration is restricted only to actual quantum of compensation payable to the appellants. The appellants herein filed a Writ Petition in the High Court of Chhattisgarh at Bilaspur seeking for a direction to the respondents to pay to them compensation of Rs. 5 lakhs on account of mental agony and loss suffered by the appellants due to death of their son while in service. The High Court after hearing both the parties issued an order directing for payment of compensation of Rs. 1 lakh to the appellants but in respect of their prayer for payment of liberalised pension, the Writ Petition was dismissed. E F G

3. The present Special Leave Petition was filed by the appellants, who are the parents of the deceased, Sunil Kumar Tiwari, a Constable with the Central Reserve Police Force [for short 'CRPF'] who died while in service at Mizoram.

4. In order to fully appreciate the contentions it would be H

- A necessary to set out certain facts leading to the filing of the Writ  
Petition in the High Court of Chhattisgarh. The deceased was  
employed as a Constable in 66 Battalion of CRPF at  
Bhubaneshwar. However, at the relevant point of time he was  
working in the CRPF at Mizoram. On 01.02.1982, the appellant  
B received information from the office of Respondent No. 2 that  
his son died on 01.02.1982 at Mizoram and that his last rites  
were performed at the place where the deceased was working  
at the relevant point of time, but no such intimation or  
information was given to the parents.
- C 5. The respondents intimated the appellants that a fellow  
Constable - Desh Raj while being on sentry duty in the  
residence of the Development Commissioner at Aizwal saw a  
man climbing a guava tree in the moonlight and consequently  
shot four rounds of bullets within a distance of 15 yards as a  
D result of which the deceased died on the spot. In the Writ  
Petition, the appellant stated that they made several  
representations to the Respondent No. 2 for sending the last  
photograph of the deceased, which, however, were not received  
by them despite such representations. It was, however, stated  
E that the appellant received a letter dated, 18.12.1982 from a  
friend of the deceased, viz., Ravindra Kumar Sharma, wherein  
it was stated that the death of the deceased was not an  
accident but it was a brutal murder by his fellow constables.  
Being aggrieved, the appellant filed a Writ Petition in the High  
F Court praying for the following reliefs: - 1) to direct the  
respondents to inquire into the matter and report to the Court  
and the appellant, 2) to direct the respondents to take action  
to book the culprit, 3) that an independent inquiry be ordered  
by the CBI or some other responsible authority to look into the  
G case of the death of the appellant's son and 4) if the Hon'ble  
High Court comes to the conclusion that the death of the  
appellant's son was not by an accident, then, the appellant be  
suitably compensated by the respondents. The respondents be  
directed to pay Rs. 5 lakhs as compensation to the appellants.
- H 6. In the said Writ Petition, the respondents replied stating

inter alia that the death of the deceased was an accident on the intervening night of 30th November/1st December, 1982. The Constable-Desh Raj, who had fired on the deceased was arrested by the Civil Police, Aizwal and a criminal case was registered against him. It was also stated that a departmental inquiry was conducted against Constable-Desh Raj who was responsible for the death of the deceased, and LNK Ranjit Singh Yadav, who was the Guard Commander. It was also mentioned that pursuant to the aforesaid departmental inquiry, Constable-Desh Raj was dismissed from service and Guard Commander-LNK Ranjit Singh Yadav was punished with reversion to the post of Constable for 16 months. However, while disposing of the Writ Petition the High Court observed that the appellant had suffered mental agony for more than 20 years, particularly, when the fact of the cause of death was not informed to the appellant, his wife and relatives and further by sending a photograph of a person not being the deceased. The High Court was of the view that the appellant, his wife and other family members had been denied proper information consequent to which they have suffered mental agony and financial difficulties for a long period.

7. Accordingly, the High Court allowed the Writ Petition and directed the respondents to pay a sum of Rs. 1 lakh with costs of Rs. 5,000/- to the appellant and his wife for the mental agony and loss suffered by them.

8. Being aggrieved by the aforesaid order passed by the High Court, the present Special Leave Petition was filed on which we have heard the learned counsel appearing for the parties. Counsel appearing for the appellants restricted his argument only to the issue of enhancement of quantum of compensation awarded. No submission was made against the order denying liberalised pension. As such, the order passed by the High Court denying liberalised pension is not considered and interfered with.

9. Counsel appearing for the appellants submitted that the

A amount of Rs. 1 lakh, which is directed to be paid is too meager  
 an amount to be paid for loss and mental agony caused to the  
 appellant and his wife. He has drawn our attention to paragraph  
 24 of the judgment passed by the High Court wherein it is  
 observed by the High Court that the appellant has suffered  
 B mental agony for more than 20 years. Relying on the said  
 observation, the counsel submitted that the amount of  
 compensation should have been at least Rs. 5 lakhs and in  
 support of the said submission he relied upon the decision of  
 the Supreme Court in *Charanjit Kaur (Smt.) v. Union of India*  
 C *and Others* [(1994) 2 SCC 1].

10. Mrs. Indira Jaisingh, learned Additional Solicitor  
 General appearing on behalf of the respondent, however,  
 submitted that in the facts and circumstances of the case  
 payment of Rs. 1 lakh compensation should be held to be  
 D justified as there was no negligence on the part of the CRPF  
 in the entire incident and that the incident had happened  
 because of a mistaken identity only for which the family is being  
 suitably compensated.

11. The son of the appellant was working in a sensitive  
 E area. Constable Desh Raj who was in the sentry duty at the  
 residence of Development Commissioner, Aizwal mistook the  
 deceased as an intruder to the house and as a measure of  
 safety he fired upon the deceased. On facts, it turns out to be  
 a case of accident and wrong identity. However, the death of  
 F son of the appellant, is definitely not only a personal loss to the  
 family but also financial. The deceased was a victim of an  
 unfortunate incident and this has caused a heavy loss and  
 mental agony to the family members of the deceased. The  
 aforesaid findings recorded by the High Court have not been  
 G challenged by the respondents before us by filing any  
 independent appeal.

12. That being the position, we are of the considered  
 opinion that the amount of Rs. 1 lakh directed to be paid to the  
 appellants towards compensation and damages is meager.  
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Therefore, we are to consider what would be an appropriate amount of compensation which is payable to the appellants. A

13. The case of *Charanjit Kaur* (Supra) relied upon by the learned counsel appearing for the appellants is clearly distinguishable on facts and, therefore, the ratio of the aforesaid decision cannot be made applicable to the facts and circumstances of the present case. The son of the appellant was a Constable and, therefore, in our considered opinion there would have to be some surmises and conjectures in arriving at the amount of compensation payable by the respondents to the appellants. We have been informed that the appellant no. 1 is an old man and that the deceased was the only earning member of the family. The earnings of the deceased were a source of sustenance for the family. Besides, loss of a son at such a young age creates a void in the family, which cannot be filled up by making payment of any compensation. Considering these facts and being alive to the escalating cost of living, we deem it appropriate to enhance the amount of compensation fixed by the High Court. We, therefore, direct that respondents shall pay to the appellant an amount of Rs. 2 lakhs as compensation instead of Rs. 1 lakh fixed by the High Court. The said amount of Rs. 2 lakhs shall be paid within a period of six weeks from today. The amount already paid towards compensation fixed by the High Court shall in natural course be deducted while complying with this order. If the amount is not paid within six weeks from today, the balance amount payable shall earn interest at the rate of 12 per cent per annum from expiry of date of six weeks till the date of payment. B  
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14. The appeal stands disposed of in terms of the aforesaid order.

B.B.B.

Appeal disposed of. G