AFR

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 5194 of 2025
CNR No. ODHC010112012025

In the matter of an application under Articles 226 & 227 of the Constitution of India.

.....

Sasi Behera & Ors. .... ***Petitioners***

-versus-

State of Odisha & Ors. .... ***Opposite Parties***

For Petitioners : Mr. L. Achari, Advocate

For Opp. Parties : Mr. C.K. Pradhan, AGA

PRESENT:
THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 04.11.2026 & Date of Judgment:04.11.2026

Biraja Prasanna Satapathy, J.

I.A. No.17212 of 2026

1. This matter is taken up through hybrid mode.

2. Heard learned counsel appearing for the parties.

3. Learned counsel appearing for the Petitioners contended that he does not want to press this I.A.

4. Accordingly, the I.A. stands dismissed as not pressed.

(BIRAJA PRASANNA SATAPATHY)
Judge

W.P.(C) No.5194 of 2025

1. Heard learned counsel appearing for the Parties.

2. The present writ petition has been filed inter alia with the following prayer:-

> *"It is therefore prayed that this Hon'ble may graciously be pleased to admit this writ application, call for the records, issue notice to the opp. parties and on hearing issue writ of mandamus directing the opp. parties to pay compensation of Rs. 15,00,000/- (Rupees Fifteen Lakh) only along with interest @ 18% per annum to the petitioners from the date of custodial death of Charan Behera the husband of the petitioner No. 1.*
>
> *Further the petitioners prayed for a direction to the State Govt. to give a suitable job to the petitioner No. 1 for having lost her husband Charana Behera and by quashing the Notification No. HOMEJAIL- RULE-0002-2022/JAILS 8977 dated 2nd March, 2023 under Annexure - 2 issued by the Addl. Chief Secretary, Govt. of Odisha, Bhubaneswar, Dist - Khurda.*

And may further be pleased to pass any other order(s)/direction(s) as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

And for the said act of kindness, the petitioners as in duty bound shall ever pray."

3. Learned counsel appearing for the Petitioners contended that the deceased, who happens to be the husband of Petitioner No.1 because of his involvement in Bellaguntha PS Case No.301 dated 11.07.2023, was arrested on 11.07.2023 and forwarded to the Court of learned SDJM, Bhanjanagar. The deceased after being remanded to judicial custody was sent to the Special Sub-jail, Bhanjanagar, where he was admitted into jail custody as an UTP vide UTP No.470 of 2023 on 11.07.2023.6.1. It is contended that even though no notice was ever issued to the Petitioner directing him to vacate the quarter, but Petitioner when was charged with penal rent for the period from February, 2002 to May, 2006 vide Annexure-6 communication dtd.12.09.2017, Petitioner challenging the same, approached this Court by filing W.P.(C) No. 7381 of 2018. This Court when directed for consideration of the Petitioner's claim, the same was rejected vide the impugned order dtd.23.10.2018 under Annexure-9.

3.1. On being so admitted to jail custody as an UTP the deceased was staying in the quarantine house of the jail. However, while so staying in the quarantine house of the jail with effect from 11.07.2023, the deceased was brought to Sub-Divisional Hospital, Bhanjanagar on 15.07.2023 at about 9.35 A.M. in the morning in the jail Ambulance for medical treatment. But, on examination by the concerned Doctor who was present in the hospital, the deceased was declared brought dead.

3.2. It is contended that because of such death of the deceased while in custody on 15.07.2023 a post-mortem was also conducted on the deceased and the following external injuries were found on the deceased with internal injuries:-

> *i. A reddish brown coloured abrasion of size 5.5 cm X 3.5 cm with surrounding skin confusion present over postero lateral aspect of left arm.*
>
> *ii. A reddish brown coloured abrasion of size 2 cm X 2 cm with surrounding skin confusion present over skin below 1st lesion.*
>
> *iii. A reddish brown coloured abrasion of size 5 cm X 3 cm with surrounding skin present over middle part of posterior aspect of left arm.*
>
> *iv. A reddish brown coloured abrasion of size 4.5 cm X 3.5 cm with surrounding skin confusion present over middle part of posterior aspect of left arm.*

v. A bluish purple coloured bruise of size 15cm x10cm present over postero lateral aspect of left arm.

vi. A reddish brown coloured abrasion of size 5cmx3cm with surrounding skin confusion present over upper part of left flank.

vii. A bluish purple coloured bruise of size 15cmx15cm present over left flank.

viii. A bluish purple coloured bruise of size 25cmx5cm present transversely over upper part of back. On dissection there is extravasation of blood.

3.3. Learned counsel appearing for the Petitioners further contended that since the deceased died while in jail custody, an enquiry was also conducted to ascertain the cause of death of the deceased. In the said judicial enquiry conducted, it was clearly proved that the deceased died while in jail custody and the death of the deceased is homicidal in nature.

3.4. It is also the finding of the enquiry that the life of the deceased could have been saved if the Jail Authority as well as the jail staffs would have performed their duty as per the jail manual. Finding of the report so available under Annexure-B to the counter reads as follows:-

"*The deceased UTP namely Charan Behera was admitted to Special-Sub-Jail, Bhanjanagar at about 08:50 PM on dated 11.07.2023 being remanded by the Court in GR Case No. 1014/2023 arising out of Bellaguntha PS Case No. 301 of 2023, after his admission his health screening report was prepared by the Medical Officer i.e. E.W 23 and the said health screening report is marked as Ext.8. From the Ext 8 it is found that there is no previous history of illness mention in the health screening report of the deceased UTP Charan Behera while he was examined by the jail doctor on dated 12.07.2023. From the evidence of the E.W.1 and E.W.3, who had conducted the post-mortem report of the deceased UTP, it is found that there are multiple injuries both internal and external are found over the body of the deceased UTP and they have opined that the said injuries may cause the death in ordinary courses of nature and the statement and opinion of both the doctors are corroborated by the jail medical officer i.e. E.W.23, as he has submitted in his statement that before the UTP Charan Behera shifted to SDH, Bhanjanagar he examined his pulse but he found not palpable and he found multiple injuries over the body of the deceased UTP Charan Behera. Hence, from the statement of the E.W.1, E.W.3 and E. W.23 it is presumed that the death of the deceased UTP Charan Behera was done inside the Special-Sub-Jail, Bhanjanagar premises before he shifted to SDH, Bhanjanagar for treatment on dated 15.07.2023 and also the cause of death of the deceased UTP Charan Behera was due to the injuries found over the body of the deceased UTP. From the statement of the inmates of the deceased UTP Charan Behera i.e. E.W.19, E.W.20 and E.W.21 who are residing with the deceased UTP Charan Behera in the quarantine ward of jail medical, it is found that they are stated in their statement that the life-convict-cum-watcher namely Ajay Naik had assaulted severely to the deceased UTP Charan Behera by means of a plastic pipe. Moreover, they have also stated in their statement that the said plastic pipe was supplied by the jail authority to the Life-convict-cum-watcher Ajay Naik in order to create a fear in minds of the prisoners. It is surprising to me that during the inquiry except the UTPs who are resided with the deceased UTP Charan Behera in the jail quarantine ward, none of the official witnesses including the jail staffs are whispered a single line regarding the cause of death of the deceased UTP or any assault caused by the life-convict-Cum-Watcher Ajay Naik to the deceased UTP Charan Behera while he was residing inside the quarantine ward of jail medical. Moreover, from the Ext. 1 le the post-mortem report of the deceased UTP Charan Behera it is found that the probable time since death of the deceased UTP*

Charan Behera was mention about 6 to 12 hours of PM examination. Further, the PM examination was conducted on dated 15.07.2023 at about 03:10 PM and from the IN or OUT register submitted by the jail authority which was marked as Ext.5 it is found that Charan Behera was brought to SDH, Bhanjanagar on dated 15.07.2023 at about 09:30 AM. While comparing the IN and OUT register with the post-mortem report of the deceased UTP, it is found that the UTP Charan Behera was brought dead to the SDH, Bhanjanagar on dated 15.07.2023, that means the UTP Charan Behera was died inside the Special-Sub-Jail, Bhanjanagar premises before he shifted to SDH, Bhanjanagar for treatment on dated 15.07.2023. Surprisingly, the E.W.22 who is the Jailer-Cum-Superintendent of Special-Sub-Jail, Bhanjanagar has not whispered a single line regarding the cause of the death of the deceased UTP Charan Behera rather he has stated in his statement that the jail medical officer intimated him over phone regarding the death of deceased UTP Charan Behera due to cardiac arrest from the SDH, Bhanjanagar but in order to know the truth while I perused the statement of the Jail medical officer i.e. E.W.23 it is found that he has denied the said fact by submitting in his statement that before the UTP Charan Behera shifted to SDH, Bhanjanagar he examined his pulse and found not palpable and he also found multiple injuries over the body of the deceased UTP Charan Behera and most interestingly he also submitted in his statement that the death of deceased UTP Charan Behera might have been caused due to injury found over his body before he shifted to the SDH, Bhanjanagar for treatment. From the statement of Jailer-Cum-Superintendent of Special-Sub-Jail, Bhanjanagar it is found that he is hiding the truth and tried to fool the inquiry officer during his examination in relation to this case. Moreover, the Enquiry witness No. E.W.19 has stated in his statement that the death of deceased UTP Charan Behera is due to severe assault by the watcher-cum-life-convict Ajay Naik by means of a plastic pipe and such assault was in the knowledge of jail authority and his statement is corroborated by the E.W.20 and E.W.21 in their statement. From the statement of the inmates of the deceased UTP Charan Behera in the quarantine ward of jail medical, it is found that the deceased UTP Charan Behera was examined multiple injuries caused by the Life-Convict-Cum-Watcher Ajay Naik by means of a plastic pipe while he was residing inside the quarantine ward of Special-Sub-Jail, Bhanjanagar and from the post-mortem report and inquest report it is found that there are several injuries found over the body of the deceased UTP namely Charan Behera during the examination of his dead body. Moreover,

from the post-mortem report it is seen that though the cause of death was kept reserve pending till the chemical analysis of routine of Viscera report but the doctors who had conducted the post-mortem report are opined that the injury both external and internal found over the body of the deceased UTP Charan Behera may cause death in ordinary courses of nature. That means, all the injuries in combination with their corresponding internal and external Injuries are sufficient to cause death in ordinary courses of nature Further, the E.W.19 has stated in his statement that there is an every possibility of harassment to him by the jail authority as while he left Special-Sub-Jail, Bhanjanagar to this court in order to give his statement before me, one Jail warder of Special-Sub-Jail, Bhanjanagar and Life-Convict Ajay Naik are induced him not to tell the truth before the Magistrate in relation to this case. Hence, from the conduct of the jail warder and the Life-convict Ajay Naik it is presumed that something is happening inside the Special-Sub-Jall, Bhanjanagar against the deceased UTP Charan Behera for which they have tried to influence the Enquiry witness i.e. E.W.19 and also it creates a reasonable doubt in my minds that the jail authority as well as the assaulter have a nexus with each other and the Chief-Warder and the Night watcher who are on duty on dated 14.07.2023 have a knowledge regarding such assault and they also indirectly supported the Life-Convict-Cum-Watcher Ajay Naik to manage and control the deceased UTP Charan Behera inside the quarantine ward of Special-Sub-Jail, Bhanjanagar. Moreover, from the statement of the E. W.19, E.W.20 and E.W.21 and the other official witness of Special-Sub-Jail, Bhanjanagar including the Jailer-Cum-Superintendent of Special-Sub-Jail, Bhanjanagar it is found that the inmates of the deceased U'TP Charan Behera i.e. E.W.19, E.W:20 and E.W.21 are stated in their statement that the life-convict-cum-watcher Ajay Naik assaulted the deceased UTP Charan Behera by means of a plastic pipe causes multiple injuries over the body of the deceased UTP Charan Behera and their version was corroborated by the Jail-Medical Officer i.e. E.W.23 and also the postmortem report reveals that the death of the UTP Charan Behera may be caused due to the injury found over the body of the deceased UTP. But surprisingly the Jailer-Cum-Superintendent of Special-Sub-Jail, Bhanjanagar has stated in his statement that the cause of death of the deceased UTP Charan Behera was due to cardiac arrest. Further, during the examination of staff of the Special-Sub-Jail, Bhanjanagar including the jail warders it is found that they are not interested to depose anything before the Inquiry Officer rather they become tutor. Hence, the conduct and the statement of the jail

warders including the Superintendent of Special-Sub-Jail, Bhanjanagar are under suspicion.

It is crystal clear that the death of UTP Charan Behera was homicidal in nature but there are reason to belief that the life of the UTP Charan Behera would have been save, if the jail authority as well as the jail staffs were performed their duty and responsibility as per law. Somewhere I feel that the Odisha Jail Manual has not been followed by the Jail authority scrupulously. I cited some instances in the present case where the provision of Jail Manual are completely ignored which encourage the offender to do the present offence."

3.5. Relying on the view of the I.O. in the final form so submitted under Annexure-1 series and the finding of the judicial enquiry so available under Annexure-B to the counter, learned counsel appearing for the Petitioners contended that since there is no dispute that the deceased died while in jail custody on 15.07.2023, Petitioners are eligible and entitled to get adequate compensation from the State Authorities. Not only that since the deceased was the only earning member of his family and he died while in jail custody, direction be issued to Opposite Party No.1 to provide rehabilitation appointment to the Petitioner No.1, who happens to be the wife of the deceased as a special case.

3.6. It is further contended that the deceased left behind his wife, Petitioner Nos.1, 3 minor children, Petitioner Nos.2 to 4 and his parents, Petitioner Nos.5 and 6.

3.7. In support of the aforesaid submission, reliance was placed to the following decisions:-

1. Satyabhama Das Vs. State of Orissa & Others (OJC No.13732 of 1998).

2 Radhakanta Majhi V. State of Orissa & Others (W.P.(C) No.11979 of 2004).

3. Kunja Parida Vs. State of Orissa & Others (W.P.(C) No.2144 of 2007).

4. Munni Devi & Others Vs. State of Bihar & Others (Criminal Writ No.1205 of 2008).

5.Kamala Tadingi Vs. Stage of Orissa & Others (W.P.(C) Nos.20023 & 20024 of 2010).

6. Vushnu & Others Vs. State of Maharashtra & Others (Criminal W.P. NO.1464 of 2015).

7. Sabara Khatun Vs. State of Assam & Others (W.P. No.306 of 2021).

3.8. This Court in the case of ***Satyabhama Das*** in paragraph-12 to 16 has held as follows:

> *12. Needless to say that the Hon'ble Supreme Court in several decisions has observed that the precious right guaranteed under Article 21 of the Constitution of India cannot be denied to the under trial or other prisoners in custody, except according to the procedure established by law. The prison authority has a great responsibility to ensure that a citizen in custody is not deprived of his right to life. He must be afforded with minimum necessities of life.*
> *13. The apex Court in the case of D.K. Basu v. State of West Bengal, AIR 1997 SC 610 held as follows:*

> *"Custodial death is perhaps one of the worst crimes in a civilized society governed by the Rules of Law. The rights inherent in Articles 21 and 22(1) of the Constitution require to be jealously and scrupulously protected. Court cannot wish away the problem. Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. If the functionaries of the Government become law breakers, it is bound to breed contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchism. No civilized nation can permit that to happen. Does a citizen shed off his fundamental right to life, the moment a policeman arrests him? Can the right to life of a citizen be put in abeyance on his arrest ? These questions touch the spinal cord of human rights jurisprudence. The answer, indeed, has to be an emphatic 'No'. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law."*

14. the apex Court, in the case of Chameli Singh & others vs. State of Uttar Pradesh and another, AIR 1996 SC 1051, held as follows:

"Right to life" means to live like a human being and it is not ensured by meeting only the animal needs of man. It includes the right to live in any civilised society implies the right to food, water, decent environment, education, medical care and shelter."

15. The term "life" used in Article 21 of the Constitution of India has a wide and far-reaching concept. It means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed. (vide Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni, AIR 1983 SC 109; Olga Tellis & Ors. Vs. Bombay Municipal Corporation & Ors., AIR 1986 SC 180.

16. In the case at hand, we are not satisfied that the opposite party-authorities have taken adequate care of the deceased-Maheswar Das in providing proper medical treatment and preventive measures for which he died prematurely at the age of 45 years by committing suicide. Therefore, the widow-dependants of the deceased-Maheswar Das is entitled for compensation.

16. In the case at hand, we are not satisfied that the opposite party-authorities have taken adequate care of the deceased-Maheswar Das in providing proper medical treatment and preventive measures for which he died prematurely at the age of 45 years by committing suicide. Therefore, the widow-dependants of the deceased-Maheswar Das is entitled for compensation.

3.9. This Court in the case of ***Radhakanta Majhi*** in paragraphs-7 to 9 has held as follows:

7. *Upon hearing learned counsel for the parties and on consideration of the pleaded facts and documents on record and more particularly the detailed enquiry report submitted by the Sub-Divisional Magistrate, we are of the considered opinion that the death of Dhaneswar Pradhan while in judicial custody had been due to callousness and negligence on the part of the jail authorities, more particularly, the attending doctor. True it is, that the enquiry did not disclose any sign or mark of assault on him and the report of Forensic Science Laboratory, Bhubaneswar also did not indicate death due to poisoning, but it cannot be concluded that the death of Dhaneswar Pradhan had been natural. It is more than apparent that at the relevant point of time, the deceased had high fever calling for necessary medical attention, which the jail authorities failed to provide. Having regard to the purport and expanse of Article 21 of the Constitution of India, there cannot be any manner of doubt that the deceased, though a detenu, was entitled to be provided with due care and attention during his illness. As the same was not provided to him resulting in his death, we are constrained to hold that the State Government is vicariously liable for the custodial death of the son of petitioner nos.3 and 4, resulting in violation of the fundamental right to life to pay adequate compensation.*

8. *In course of arguments, on a query being made by us, it has been submitted at the Bar that at the time of death of Dhaneswar Pradhan he was aged about 20 years. Learned counsel for the petitioners has submitted that at the relevant time he did earn his livelihood being engaged as labourer. His family comprises of old ailing parents who were depending on the deceased for their sustenance. The untimely death of Dhaneswar Pradhan definitely has caused a serious setback in their lives apart from mental agony and sufferings consequent upon such tragedy.*

9. *Compensation in a writ proceeding can never be a substitute for loss of life and normally is by way of palliative and token in the nature. This, by no means, as has been held by the apex Court in a catena of decisions, is a bar for a person to pursue his other remedies available in law. The amount of compensation is only on a public law remedy for violation of Article 21 of the Constitution of India.*

3.10. This Court in the case of ***Kunja Parida*** in paragraphs-7 to 12 &15 has held as follows:

7. *Needless to say that the Apex Court in several decisions has observed that the precious right guaranteed under Article 21 of the Constitution of India cannot be denied to the under trial or other prisoners in custody, except according to the procedure established by law. The prison authority has a great responsibility to ensure that a citizen in custody is not deprived of his right to life. He must be afforded with minimum necessities of life.*

8. *The Hon'ble Supreme Court in the case of D.K. Basu v. State of West Bengal, MANU/SC/0157/1997: AIR 1997 SC 610 held that:*

> *Custodial death is perhaps one of the worst crimes in a civilized society governed by the Rules of Law. The rights inherent in Articles 21 and 22(1) of the Constitution require to be zealously and scrupulously protected. We cannot wish away the problem. Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during Investigation, interrogation or otherwise. If the functionaries of the Government become law breakers, It is bound to breed contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchism. No civilized nation can permit that to happen. Does a citizen shed off his fundamental right to life, the moment a policeman arrests him? Can the right to life of a citizen be put in abeyance on his arrest? These questions touch the spinal cord of human rights jurisprudence. The*

answer, indeed, has to be an emphatic 'No'. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law.

9. *The Hon'ble Supreme Court in the case of Chameli Singh & others v. State of Uttar Pradesh and another, MANU/SC/0286/1996: AIR 1996 SC 1051, held as follows*

"Right to life" means to live like a human being and it is not ensured by meeting only the animal needs of man. It includes the right to live in any civilized society implies the right to food, water, decent environment, education, medical care and shelter.

10. *The Hon'ble Supreme Court in the case of Smt. Nilabati Behera alias Lalita Behera v. State of Orissa and others. MANU/SC/0307/1993 AIR 1993 SC 1960 has held as under:*

30. 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.

11. *The term "life" used in Article 21 of the Constitution of India has a wide and far-reaching concept. It means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed, (vide Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni, MANU/SC/0184/1982: AIR 1983 SC 109; Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors., MANU/SC/0039/1985: AIR 1986 SC 180; and Kapila Hingorani v. State of Bihar, MANU/SC/0403/2003: (2003) 6 SCC 1).*

12. *In the instant case, there is no material on record to support the claim of the State that from the date of admission, the deceased was treated as an indoor patient in Jail Hospital till he was sent to Capital Hospital on 05.11.2003 when he became serious. No Intimation was sent to his family members regarding illness of the deceased and his treatment in Jail Hospital. Capital Hospital on 12.9.2003 and 13.9.2003 respectively. This is certainly a serious laches on the part of the Jail Authorities. No step was also taken to send the message of illness of the deceased to his family. It was only after death of the deceased, the I.I.C., Chandrasekharpur Police Station was informed to intimate the relatives of the deceased about his death. This is certainly serious laches on the part of the State Authorities. There is nothing on record to show that the medicine and diet prescribed by the physician were given to the deceased. Needless to say that it is the duty cast on the Jail Authorities to see that the diet and medicine prescribed to an under-trial prisoner-patient have been provided. No convincing reason has been assigned by the opposite parties as to why the dead body of the deceased was sent to SCB from Capital Hospital and again for the purpose of post-mortem, the dead body of the deceased was returned to Capital Hospital. All such conduct of the Jail Authorities create grave suspicion n the mind of this Court about providing proper treatment and care to the deceased during his stay in the jail as an under trial prisoner, who died at the age of 40. Therefore, the Petitioners, who are wife and children of the deceased, are entitled for compensation.*

15. In the fact situation, considering the age of the deceased and since he was only bread-winner of the bereaved family, we deem it just and proper to direct opposite party-State to pay an ex gratia of Rs. 5.00 lakhs to the bereaved family of the deceased within a period of eight weeks from today failing which the ex gratia of Rs. 5 lakhs shall carry interest of 9% per annum, after the date of expiry of eight weeks till the date of payment.

It is further directed that out of total compensation of Rs. 5.00 lakhs. Rs. 1.00 lakh shall be deposited in a fixed deposit in any Nationalized Bank in the name of petitioner No. 1 and the monthly interest accrued thereon shall be paid to petitioner No. 1 in every month. Rs. 1,50,000/- (Rupees one lakh fifty thousand) in the joint names of petitioner Nos. 1 and 2 and another Rs. 1,50,000/- (Rupees one lakh fifty thousand) in the joint riames of petitioner Nos. 1 and 3 shall be kept in any Nationalized Bank till petitioner Nos. 2 and 3 attain majority, as the said amount is awarded in their favour. The interest earned on such deposits of the petitioner Nos. 2 and 3 shall be withdrawn every month and utilized for their welfare, such as education, clothing, food and other related expenses. The balance amount of Rs. 1 lakh (Rupees one lakh) shall be paid to petitioner No. 1 in cash on proper identification within a period of eight weeks.

3.11. This Court in the case of ***Munni Debi*** in paragraphs-10, 13, 14, 15 & 16 has held as follows:

10. *How far an under trial prisoner is entitled for Article 21 of the Constitution has been taken into consideration by the Hon'ble Apex Court and for that I would like to rely upon a decision reported in AIR 2000 SC 2083 and the relevant paragraphs are as follows:*

"22 Right to Life is one of the basic human rights. It is guaranteed to every person by Article 21 of the Constitution and not even the State has the authority to violate that right. A prisoner, be he a convict or undertrial or a detenu, does not cease to be a human being. Even when lodged in the jail, he continues to enjoy all his fundamental rights including the right to life guaranteed to him under the Constitution. On being convicted of crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of constitutional rights.

24. Thus according to the definition under the Prisoners Act, there is a convict, there is an undertrial and there is a civil prisoner who may be a detenu under preventive detention law of the three cotsportes of prisoners lose their fundamental reason being placed inside a prison. The restriction placed on The right to movement is the result of their conviction or mot sa crtee Thes, a person prisoner) is deprived of his personal Liberty in accordance with the procedure established by Tow which, at pointed out in Makandhi Union of India must be reasonable, fair and Just.

25. The rights of prisoners, including their fundamental rights have been called out by this Court in a large number of decisions. all of which say not be referred to here. In State of Maharashtra V. Prabhakar Pandurang Sanzgirill it was held that conditions of detention cannot be be extended to deprivation of other fundamental rights and the detenu, who had written a book in Marathi, could not be prohibited from sending the book outside the jail for its publication. In Bluvan Mohan Patnaik w. State of A P.12 it was Laid down that convicts are not denuded of all the fundamental rights they possess Chandrachud, 3 as he then was held

> *"The security of one's person against an arbitrary encroachment by the police is basic to a free society and prisoners cannot be thrown at the mercy of policemen as if it were a part of an unwritten law of crimes. Such intrusions are against the very essence of a scheme of ordered liberty" (See D. Bhuvan12, SCC p. 183, para 9)*

26. In Charles Sobraj v. Supdt Central Jail. Tihar13

Krishna lyer, J
Observed as under: (SCC p. 110, para 14) "Trae, confronted with cruel conditions of confinement, the court has an expanded role. True, the right to life is more than mere animal existence, or vegetable subsistence. Tron, the worth of the human person and dignity and divinity of every individual inform Articles 19 and 21 even in a prison setting. True constitutional provisions and municipal laws must be interpreted in the light of the normative laws of nations, wherever possible and a prisoner does not forfeit his Part III rights." (See. Charles Sobraj13, AIR p. 1517, para 14)

***27.** In Francis Coralie Mullin v. Administrator, Union Territory of Delhi 14 the Court held that right to life means the right to live with*

basic human dignity. In this case, the petitioner, who was a British national and was detained in Central Jail, Tihar, had approached this Court throughs a petition of habeas corpus in which it was stated that she experienced considerable difficulty in having interview with her lawyer and the members of her family. She stated that her daughter, who was 5 years of age, and her sister who was looking after the daughter, were permitted to have interview with her only once in a month. Considering the petition, Bhagwati, J. (as he then was) observed at AIR pp. 753-54 in para 8 as under: (SCC pp. 619-20, para 9) "9. The same consequence would follow even if this problem is considered from the point of view of the right to personal liberty enshrined in Article 21, for the right to have interviews with members of the family and friends is clearly part of personal liberty guaranteed under that article. The expression personal liberty occurring in Article 21 has been given a broad and liberal interpretation in Maneka Gandhi case 10 and it has been held in that case that the expression personal liberty used in that article is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of a man and it also includes rights which have been raised to the status of distinct fundamental rights and given additional protection under Article 19. There can therefore be no doubt that personal liberty would include the right to socialize with members of the family and friends subject, of course, to any valid prison regulations and under Articles 14 and 21, such prison regulations must be reasonable and non-arbitrary. If any prison regulation or procedure laid down by it regulating the right to have interviews with members of the family and friends is arbitrary or unreasonable, it would be liable to he struck down as invalid as being violative of Articles 14 and 21." (See also: Sunil Batra v. Delhi Admn.15 and Sunil Batra (II) v. Delhi Admn.16)

***28.** Thus, fundamental rights, which also include basic human rights, continue to be available to a prisoner and those rights cannot be defeated by pleading the old and archaic defence of immunity in respect of sovereign acts which has been rejected several times by this Court.*

***29.** In N. Nagendra Rao & Co. v. State of A.P.17 it was observed: (SCC p. 235, para 25) "25. But there the immunity ends. No civilized system can permit an executive to play with the people of its country and claim that it is entitled to act in any manner as it is sovereign. The concept of public interest has changed with structural change in the society. No legal or political system today can place the State above law as it is unjust and unfair for a citizen to be deprived of his property illegally by negligent act of officers of the State without any remedy. From sincerity, efficiency and dignity of State as a juristic person, propounded in nineteenth century as sound sociological basis*

for State immunity the circle has gone round and the emphasis now is more on liberty, equality and the rule of law. The modern social thinking of progressive societies and the judicial approach is to do away with archaic State protection and place the State or the Government on a par with any other juristic legal entity. Any watertight compartmentalization of the functions of the State as sovereign and non-sovereign or governmental and non-governmental is not sound. It is contrary to modern jurisprudential thinking. The need of the State to have extraordinary powers cannot be doubted. But with the conceptual change of statutory power being statutory duty for sake of society and the people the claim of a common man *or ordinary citizen cannot be thrown out merely because it was done by an officer of the State even though it was against law and negligent. Needs of the State, duty of its officials and right of the citizens are required to be reconciled so that the rule of law in a welfare State is not shaken. Even in America where this doctrine of sovereignty found its place either because of the financial instability of the infant American States rather than to the stability of the doctrine's theoretical foundation, or because of Jogical and practical ground, or that there could be no legal right as against the State which made the law gradually gave way to the movement from, State irresponsibility to State responsibility In welfare State, functions of the State are not only defence of the country or administration of justice or maintaining law and order but it extends to regulating and controlling the activities of people in almost every sphere, educational, commercial, social, economic, political and even marital. The demarcating line between sovereign and non- sovereign powers for which no rational basis survives has largely disappeared therefore, barring functions such as administration of justice, maintenance of law and order and repression of crime etc. which are among the primary and inalienable functions of a constitutional Government, the State cannot claim any immunity."*

30. The whole question was again examined by this Court in Common Cause, A Registered Society v. Union of India 18 in which the entire history relating to the institution of suits by or against the State or, to be precise, against the Government of India, beginning from the time of the East India Company right up to the stage of the Constitution, was considered and the theory of immunity was rejected. In this process of judicial advancement, Kasturi Lal case has paled into insignificance and is no longer of any binding value.

31. This Court, through a stream of cases, has already awarded compensation to the persons who suffered personal injuries at the hands of the officers of the Government including police officers and personnel for their tortious act. Though most of these cases were

decided under public law domain, it would not make any difference as in the instant case, two vital factors, namely, police negligence as also the Sub-Inspector being in conspiracy are established as a fact.

32. Moreover, these decisions, as for example, Nilabati Behera v. State of Orissa19, Death of Sawinder Singh Grower, In re 20 and D.K. Basu v. State of W.B.21 would indicate that so far as fundamental rights and human rights or human dignity are concerned, the law has marched ahead like a Pegasus but the government attitude continues to be conservative and it tries to defend its action or the tortious action of its officers by raising the plea of immunity for sovereign acts or acts of the State, which must fail.

***13**.Thus, from the factual aspect as is visualizing in the background of the materials placed by the rival parties as well as having it properly scrutinized, it is clearly evident that languishing of deceased under trial prisoner from 7.8.2007 to 20.8.2007 at SKMCH, Muzaffarpur was uncared and further the acute chronic disease of deceased under trial prisoner, Arbind Kumar Singh even failed to sensitize the authorities concerned to discharge their pious obligation which they were bounded for and | slackness on their part for the aforesaid intervening period has ultimately cost the life of under trial prisoner.*

***14.** It is needless to remind that the employer is accountable for the negligence on the part of his employee and for that I would like to refer AIR 1962 SC 933 as well as 1989(4) SCC 730.*

***15.** Thus, the State is held accountable for the negligence committed at the part of its employee which ultimately cost life of under trial prisoner, Arbind Kumar Singh.*

***16.** Consequent thereupon, State is directed to pay lump sum of Rs.2 Lacs to the petitioner, Munni Devi wife of late Arbind Kumar Singh @ Arbind Singh within two months from the date of receipt of this order.*

3.12. This Court in the case of ***Kamala Tadingi*** in paragraphs-11 to 17 has held as follows:

***11.** Needless to say that the apex Court in several decisions has observed that the precious right guaranteed under Article 21 of the Constitution of India cannot be denied to the undertrial or other*

prisoners in custody, except according to the procedure established by law. The prison authority has a great responsibility to ensure that a citizen in custody is not deprived of his right to life. He must be afforded with minimum necessities of life.

12. *The apex Court in the case of D.K. Basu v. State of West Bengal, AIR 1997 SC 610 held that:*

> *Custodial death is perhaps one of the worst crimes in a civilised society governed by the Rules of Law. The rights inherent in Articles 21 and 22(1) of the Constitution require to be jealously and scrupulously protected. Court cannot wish away the problem. Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. If the functionaries of the Government become law breakers, it is bound to breed contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchism. No civilized nation can permit that to happen. Does a citizen shed off his fundamental right to life, the moment a policeman arrests him? Can the right to life of a citizen be put in abeyance on his arrest ? These questions touch the spinal cord of human rights jurisprudence. The answer, indeed, has to be an emphatic 'No'. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law."*

13. *The apex Court, in the case of Chameli Singh & others Vs. State of Uttar Pradesh and another, AIR 1996 SC 1051, held as follows:*

> *"Right to life" means to live like a human being and it is not ensured by meeting only the animal needs of man. It includes the right to live in any civilized society implies the right to food, water, decent environment, education, medical care and shelter."*

14. *The term "life" used in Article 21 of the Constitution of India has a wide and far-reaching concept. It means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed. (Vide Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni, AIR 1983 SC 109; Olga Tellis & Ors. Vs. Bombay Municipal Corporation & Ors., AIR 1986 SC 1280; and Kapila Hingorani Vs. State of Bihar , (2003) 6 SCC 1)."*

15. *In the cases at hand, we are not satisfied that the opposite party-authorities have taken adequate care of the deceased prisoners, Gangula Tadingi and Ratunu Sirika in providing proper medical treatment for which they died prematurely at the age of 44 years and 38 years respectively in curable diseases. Therefore, the widow-dependants of the deceased Gangula Tadingi and Ratunu Sirika are entitled for compensation.*

16. At this juncture, it is profitable to refer to the decision of the apex Court in D.K.Basu (supra) wherein the apex Court held as under:

"42. Some punitive provisions are contained in the Indian Penal Code which seeks to punish violation of right to life. Section 220 provides for punishment to an officer or authority who detains or keeps a person in confinement with a corrupt or malicious motive. Sections 330 and 331 provide for punishment of those who inflict injury or grievous hurt on a person to extort confession or information in regard to commission of an offence. Illustration (a) and (b) to Section 330 make a police officer guilty of torturing a person in order to induce him to confess the commission of a crime or to induce him to point out places where stolen property is deposited. Section 330, therefore, directly makes torture during interrogation and investigation punishable under the Indian Penal Code. These statutory provisions are, however, inadequate to repair the wrong done to the citizen. Prosecution of the offender is an obligation of the State in case of every crime but the victim of crime needs to be compensated monetarily also. The Court, where the infringement of the fundamental right is established, therefore, cannot stop by giving a mere declaration. It must proceed further and give compensatory relief, not by way of damages as in a civil action but by way of compensation under the public law jurisdiction for the wrong done, due to breach of public duty by the State of not protecting the fundamental right to life of the citizen. To repair the wrong done and give judicial redress for legal injury is compulsion of judicial conscience.

xxxx xxxx xxxx

55. Thus, to sum up, it is now a well accepted proposition in most of the jurisdiction, 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 wrong doer. 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 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."

17. *In the fact situation, considering the age of the deceased persons, we direct that compensation of Rs.3, 50,000/- (Rupees Three lakhs fifty thousand) should be paid to each of the petitioners. Eighty percent of the total amount of compensation shall be kept in a fixed deposit in any Nationalized Bank in the name of the widow-petitioners for a period of five years and the monthly interest accrued thereon shall be paid to the petitioners on proper identification. If the amount directed to keep in fixed deposit is required to meet any pressing needs or for any development of the family the same may be withdrawn by filing an application before this Court for grant of such permission. The balance twenty percent of the amount of compensation shall be paid to each of the petitioners on proper identification within a period of four weeks from today.*

3.13. This Court in the case of ***Vishnu & Others*** in paragraphs-8, 9, 10,11,12,13 & 14 has held as follows:

8. *The question before us is whether the death of the deceased was caused for want of proper medical care and treatment. The records reveal that the deceased was not provided any treatment while he was in jail from 7/2/2012 till the date he was shifted to the hospital. All that the jail authorities had done is that they collected the blood sample of the deceased Pratap on 10/2/2012, report of which was received after his death. The contentions of the learned A.P.P. that*

the deceased Pratap ought to have approached the doctor and narrated about his sickness cannot be accepted. As noted above, the deceased who was an undertrial prisoner, had approached the Magistrate and had complained about ill-health. The jail authorities were, therefore, well aware that the deceased was having some sort of ailment. Having opposed the application on the ground that all the facilities were available in the jail, it was the duty of the Superintendent of Jail and all the other concerned to ensure that necessary medical facility was provided to the deceased Pratap. The records further reveal that, even after the deceased was shifted to the hospital, the doctor on duty had informed the on-duty Constable that the patient had to be shifted to Government Medical College & Hospital, Aurangabad. The said Constable from Headquarters, Beed had made an endorsement that for some reason, he is unable to shift the accused to Government Medical College & Hospital, Aurangabad and that they would have no grievance if the life of the deceased Pratap was in danger. endorsement itself reflects total callous and insensitive mindset of the police authorities as well as the jail authorities. This endorsement itself reflects total callous and insensitive mindset of the police authorities as well as the jail authorities.

9. *The affidavit filed by Anil Paraskar, Superintendent of Police (respondent No.2) also indicates that Sub-Divisional Officer has attributed negligence to the Police Duty Guard who had refused to shift the deceased to Government Medical College, Aurangabad despite advice of the doctor at District Government Hospital, Beed. In paragraph 9 of the affidavit it is stated that "during the inquiry, the State C.I.D. as well as Sub-Divisional Police Officer, it was revealed that there was no ill-treatment at the hands of Jail Authorities in jail." We are conscious of the fact that this is not a typical case of death due to custodial violence or torture. The present case reveals that*
despite the request of the deceased, an undertrial prisoner, to provide medical treatment, no timely medical aid was provided to him except for collecting his blood sample, report of which was received after his demise. This fact has not been considered in the magisterial inquiry report.

10. In ***Suba Singh Vs. State of Haryana (2006)3 SCC 178***, the Apex Court has observed thus:

> *"38. It is well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article*

21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case, award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in the enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of the Code of Criminal Procedure."

In ***Sujata Kumunda Manerao Vs. State of Maharashtra & Ors. (2004 ACJ 11023)****, the Division Bench of this Court has observed that:*

"7. *It is bounden duty of the State ot look after health of the inmates in the jails since they cannot take treatment on their own and for the purpose of treatment, they are at the mercy of the hospital authorities. Proper medical aid to the inmates is a right available to them under Article 21 of the Constitution. The Apex Court in P.B. Khet Mazdoor Samity's case (supra) has laid down that Article 21 imposes an obligation on the State to safeguard the right to life of every person Preservation of human life is thus of paramount importance and failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21. It is also laid down by the Supreme Court in the said judgment that it is well settled that adequate compensation can be awarded by the Court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution."*

11. *Having gone through the records, in our considered view, there has been total negligence and lapse on the part of the jail authorities in providing adequate, effective and proper medical treatment and on the part of the police guard on duty who declined to shift the deceased Pratap Kute to Government Medical College, Aurangabad which has resulted in his death.*

12. *The deceased was a young man of 32 years of age, with his wife, children and parents dependent on him. The deceased was not a hardened criminal involved in some grave or serious crime. He lost his life only due to the failure of the Jail authority to provide medical treatment. It need not be emphasized that the right to health enshrined in Art. 21 of the Constitution*

of India particularly of a prisoner, who is deprived of his personal liberty, albeit in accordance with the procedure established by law, cannot be ignored. In fact the Hon'ble Supreme Court has in several decisions held that the right to life includes right to live with human dignity. Hence the duty of the State to provide medical treatment to the prisoners, to take care and ensure their safety and security of the prisoners and treat them with human dignity needs no affirmation. The Government having failed in its duty, the petitioners being the parents, widow and the children of the deceased are entitled for compensation.

13. *As regards the quantum of compensation, the deceased was 32 years of age. His parents, wife and two minor children were dependent on him. The parents, widow and the children of the deceased have also been deprived of love and affection of their loved one due to his untimely death caused due to negligence of the jail authority and the police guard. In such circumstances, though we cannot compensate human life in true sense, we are inclined to award compensation of Rs.10,00,000/- (Rupees ten lakhs) to the petitioners.*

14. *In the result, the respondent No.1 State of Maharashtra is directed to pay compensation of Rs.10, 00,000/-(Rupees ten lakhs) to the petitioners. The compensation shall be paid within four weeks from today be paid within four weeks from today failing which the amount will carry interest @ 6% p.a. from the date of the order till the date of payment. The State is at liberty to recover the same from the concerned officers who are negligent in providing medical aid to the undertrial* prisoner. Rule made absolute in above terms.

3.14. This Court in the case of ***Sabara Khatun*** in paragraphs-23, 24 & 25 has held as follows:

> ***23.*** *We are of the considered opinion that being an under trial prisoner, since 24.05.2018 till his death on 01.07.2018, the deceased Rohijuddin Sk. was entitled to get adequate and appropriate medical treatment as same would be regarded as a part of Right to Life guaranteed to him under Article 21 of the Constitution of India.*
>
> ***24.*** *In the case in hand, we are of the view that the said right appears to have been violated to the extent that though the husband of the petitioner was suffering from Chronic Obstructive Pulmonary Disease, however, the treatment for the same was provided first time to him only on 28.06.2018 Lc.. three days prior to his death. Before that, he was only being treated for hypertension for more than a month during which he was in custody.*

25. *In the case of Nilabati Behera-Vs-State of Orrisa and Ors (Supra), the Hon'ble Apex Court has observed as follows:*

"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 State, of course has the right to be indemnified by and take such action as may be available to it against the wrongdoer in accordance with law through appropriate proceedings. Of course, relief in exercise of the power under Article 32 or 226 would be granted only once it is established that there has been an infringement of the fundamental rights of the citizen and no other form of appropriate redressal by the court in the facts and circumstances of the case, is possible. 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 Page No. 10/12 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. In doing so the courts take into account not only the interest of the applicant and the respondent but also the interests of the public as a whole with a view to ensure that public bodies or officials do not act unlawfully and do perform their public duties properly particularly where the fundamental right of a citizen under Article 21 is concerned. Law is in the process of development and the process necessitates developing separate public law procedures as also public law principles. It may be necessary to identify the situations to which separate proceedings and principles apply and the courts have to act firmly but with certain amount of circumspection and self-restraint, lest proceedings under Article 32 or 226 are misused as a disguised substitute for civil action in private law. Some of those situations have been identified by this Court in the cases referred to by Brother Verma, J."

3.15. It is also contended that following the decisions as cited supra, this Court while dealing with a similar issue in W.P.(C) No.27275 of 2017, vide judgment dated 25.11.2025 held as follows in Para 4.3 to 4.5.

> *4.3. Since Petitioner's husband remained in custody w.e.f 20.09.2016 and while in custody, his health condition deteriorated and subsequently he died on 26.01.2017, it is the view of this Court that claim made by the Petitioner to get compensation on the ground of negligence on the part of the jail authorities is well proved.*
>
> *4.4. Placing reliance on the decisions as cited supra, and the materials available on record, this Court taking into account the negligence on the part of the jail authorities in not providing proper and better treatment to the U.T.P., while in custody w.e.f 20.09.2016, is of the view that Petitioner is eligible and entitled to get the benefit of compensation.*
>
> *4.5. However, taking into account the materials available on record, the earning of the deceased and the future life of the Petitioner, this Court held the Petitioner entitled to get compensation amount of Rs. 20,00,000/-(Rupees Twenty Lakhs) from the Opp. parties. This Court accordingly directs Opp. party No.1 to release the aforesaid compensation amount in favour of the Petitioner within a period of 6(six) weeks from the date of receipt of this order.*

3.16. It is accordingly contended that Opposite Party-State be directed to pay compensation amount of Rs.15,00,000/- as prayed for and also provide rehabilitation appointment to Petitioner No.1

4. Learned Additional Government Advocate while opposing the prayer for compensation so prayed for and so also the appointment under Rehabilitation Assistance Scheme, contended that though there is no dispute that the deceased died while in jail custody on 15.07.2023, on being remanded to such custody on 11.07.2023, but in view of the notification issued by the Government-Opposite Party No.1 on 02.03.2023 under Annexure-C to the counter affidavit, Petitioners are eligible and entitled to get compensation amount of Rs.3,00,000/-.

4.1. Taking this Court to the notification dated 02.03.2023, learned AGA contended that since because of the negligence of the jail authority the deceased died on 15.07.2023, in view of the notification so issued by the Department Petitioners are eligible and entitled to get compensation amount of Rs.3,00,000/-. It is accordingly contended that the claim made towards compensation at Rs.15,00,000/- in the present Writ Petition is not at all entertainable.

4.2. It is also contended that since the deceased died while in jail custody and as per the notification issued on 02.03.2023, Petitioners are eligible and entitled to get compensation amount of Rs.3,00,000/-

and there is no such provision to provide compassionate appointment to any of the family members of the deceased, claim of the Petitioners to provide compassionate appointment in favour of Petitioner No.1 is also not entertainable.

4.3. Making all the submissions, learned AGA contended that Opposite Party No.1 in terms of the notification issued under Annexure-C can be directed to pay compensation amount of Rs.3,00,000/-.

5. Having heard learned counsel for the parties, considering the submissions made and the materials available on record, it is found that the deceased because of his implication in Bellaguntha PS Case No.301 dated 11.07.2023 was arrested by the local police on 11.07.2023. On being remanded judicial custody on 11.07.2023, Petitioner was admitted to Special sub-Jail Bhanjanagar as an UTP vide UTP No.470 of 2023 on 11.07.2023 at about 9.30 am.

5.1. It is found that while so continuing in jail custody with effect from 11.07.2023, the deceased was brought to sub-Divisional Hospital, Bhanjanagar on 15.07.2023 at about 9.30 am for medical treatment in the jail ambulance. However, concerned Doctor of the

Hospital declared the deceased as brought dead. It is also found from the final form that the deceased because of various internal and external injuries so inflicted on him by the co-convicts in the jail succumbed to the injury on 15.07.2023. The deceased has left behind his old parents, three minor children and Petitioner No.1, who happens to be the wife.

5.2. It is also found from the report available under Annexure-B, the enquiring authority in his finding has come to a definite conclusion that because of the negligence of the Jail Authority, the deceased while in jail custody with effect from 11.07.2023, died on 15.07.2023. Since it is not disputed that the deceased while in custody died on 15.07.2023 because of the injuries inflicted on him by the co-convicts, this Court placing reliance on the decision as cited supra, is inclined to allow the prayer made in the Writ Petition. While allowing the same, this Court directs Opposite Party No.1 to release compensation amount of Rs.15,00,000/- in favour of the Petitioners and also take appropriate steps in providing compassionate appointment to Petitioner No.1 as against any Group-D post under the Department.

5.3. This Court directs Opposite Party No.1 to release a sum of Rs.10,00,000/- in favour of Petitioner No.1 and keep a sum of Rs.5,00,000/- in the fixed deposit in the name of Petitioner No.4, who happens to be the minor daughter of the deceased, for a period of six (6) years. This Court also directs Opposite Party No.1 to provide compassionate appointment in favour of Petitioner No.1 in any suitable Group-D post coming under the Department as a special case.

5.4. This Court directs Opposite Party No.1 to complete the entire exercise within a period of two (2) months from the date of receipt of this order.

6. The Writ Petition accordingly stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Orissa High Court, Cuttack
Dated the 4th November, 2026/Sipra