

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 921 OF 2003

STATE OF HARYANA & ORS.

Appellant (s)

VERSUS

BALA DEVI

Respondent(s)

ORDER

Respondent's husband, Randhir Singh, was an accused in a criminal case. He was remanded to judicial custody on 25/10/1999 till 5/11/1999. The remand was thereafter extended. While in judicial custody, he was ill and died on 14/11/1999.

2. The respondent filed a petition under Section 482 Cr.P.C. in the Punjab & Haryana High Court alleging that her husband's death at Central Jail, Ambala was under suspicious circumstances and sought a direction to the State and its authorities to register an FIR against the erring Jail officials for causing her husband's death. She also sought award of adequate compensation.

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The High Court allowed the petition by its judgment dated 3/4/2002. It recorded a finding that the deceased Randhir Singh was suffering from heart disease, that due to a wrong diagnosis, he was treated for tuberculosis and as a consequence he died due to heart disease. The High Court held that the above amounted to criminal negligence on the part of the prison officials. The High Court was also of the view that there was some attempt to cover up by the prison officials. Consequently, the High Court awarded a sum of Rupees Two lakhs as compensation to the widow and her minor children.

3. Feeling aggrieved, the State has filed this appeal by special leave. We are informed by the learned counsel that the amount awarded as compensation alongwith interest thereon has already been disbursed to the widow and her minor children.

4. We have heard the learned counsel and examined the matter. We find that while in judicial custody, Randhir Singh was examined at Nehru Hospital, PGI, Chandigarh on 3/11/1999 and was provisionally diagnosed as suffering from

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Tuberculosis and given medicines and treatment for Tuberculosis. Subsequently, he died on 14/11/1999. The post mortem report stated that the cause of death could be given only after receipt of the reports of the Chemical Examiner and Histopathologist. The Chemical Examiner's Report showed that the death was not due to poisoning. The histopathological examination revealed chronic ischaemic heart disease. On that basis Medical Officers gave an opinion on 17/11/2001 that the possible cause of death was chronic ischaemic heart disease and related complications. The High Court has held that the wrong diagnosis and failure to treat the deceased for heart disease should be treated as criminal negligence on the part of the State of Haryana and the Prison officials and therefore the widow of Randhir Singh was entitled to compensation.

5. The deceased was in judicial custody for hardly three weeks. We are of the view that mere wrong diagnosis and wrong treatment during the period when the deceased was in judicial custody cannot be considered as a criminal negligence on the part of the jail authorities. The deceased had been referred for medical check-up and treatment at a

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reputed hospital. He was given the advised treatment. If ultimately he died and it is thereafter found that he died of heart disease, it cannot be said that there was criminal negligence on the part of the Jail authorities. The finding of the High Court cannot be sustained.

6. In view of the above, we allow this appeal and set aside the judgment of the High Court. But on the peculiar facts and circumstances, as the compensation has already been disbursed to a poor widow and her children, we direct that the amount disbursed shall not be recovered.

.....J.
(R.V. RAVEENDRAN)

.....J.
(Dr. MUKUNDAKAM SHARMA)

NEW DELHI;
JUNE 25, 2008.