

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.962 OF 2016

Daulatbi Mohd. Hussain Khan & 2 Ors. ...Petitioners
vs.
State of Maharashtra & 4 Ors. ...Respondents

Ms. Meenaz Kakalia i/b Ms. A. P. Rupwate for the Petitioners.
Mr. A. I. Patel, Addl. G. P. for Respondent Nos.1 & 2.
Mr. S. C. Naidu a/w Ms. Aniketh Pujari i/b C. R. Naidu & Co. for the
Respondent No.4.

**CORAM : A.S.OKA AND
ANUJA PRABHUDESSAI, JJ.
DATE : DECEMBER 19, 2016.**

P.C.:

. The learned counsel for the Petitioner on instructions states that now the challenge in the Petition is confined to prayer (c) which reads thus:

“c. The Hon'ble Court be pleased to issue a writ of mandamus or any other order, writ or direction in the nature of mandamus directing Respondent State to no cap on the amount of Rs.3,00,000/- that is to be paid to the victim of acid attack.”

2. Our attention is invited to the order dated 10th April 2015 passed by the Apex Court in Writ Petition (Cri) No.129/2006. The order records the grounds on which compensation can be granted to the victims of the acid attacks. The said order in turn refers to the directions issued earlier by the Apex Court in *Laxmi vs. Union of India*¹. The Apex Court in the order dated 10th April 2015 has issued following directions.

“In our opinion, it will be appropriate if the Member Secretary of the State Legal Services Authority takes up the issue with the State Government so that the orders

1 (2014) 4 SCC 427

passed by this Court are complied with and a minimum of Rs.3,00,000/- (Rupees three lakhs only) is made available to each victim of said attack.”

In subsequent paragraph of the same order, the Apex Court has held that an amount of Rs.3 Lakhs will not be burdensome so far as the State Governments/Union Territories are concerned.

Our attention is drawn to the recent decision in *Parivartan Kendra vs. Union of India & Others*², wherein the Apex Court has referred to its earlier orders. What is relevant is paragraph 21 of the said decision. In paragraph 21, the Apex Court observed that Laxmi's case does not put any embargo on the State Government paying compensation exceeding a sum of Rs.3 Lakhs.

3. Our attention is invited to the notification dated 11th April 2014 issued by the State Government in exercise of powers conferred under section 357 of the Code of Criminal Procedure, 1973. Section 357 A mandates that every State Government in coordination with the Central Government shall prepare a scheme for providing funds to the victim or dependent who has suffered as a result of crime and who require rehabilitation. Before referring to various clauses in the said scheme, it will be necessary to go back to the order dated 10th April 2015 passed by the Apex Court. At page 6 and 7 of the order, the Apex Court has held thus:

“ The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14/3/2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a

2 (2016) 3 SCC 571

multiplicity of authorities need not be created.

In our opinion, this view is quite reasonable, Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes. (underline added)

4. Now we turn to the relevant clauses of the Notification dated 11th April 2014. Clause (3) is in respect of victim compensation fund. The procedure for grant of compensation is under clause 5. Sub clause (a) of clause 4 states that the cause for grant of compensation will be considered whenever recommendation is made by the Court under sub sections (2) and (3) of section 357 (A) of the said Code. In the said notification, effect is not given to the directions in the order dated 10th April 2015, wherein it is stated that in case of any compensation to acid attack victim, the District Legal Services Authority shall include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. Therefore, in our view, the Notification dated 11th April 2014 is not consistent with the order dated 10th April 2015 and the same needs amendment. Sub clause 8 of clause (5) of the scheme read with the schedule of the scheme provides for a cap on compensation payable to the victim of acid attack upto Rs.3 Lakhs, though sub-clause (2) of clause (5) suggests that the compensation may vary from case to case depending upon the facts of each case.

5. Perhaps, the State Government has proceeded on the footing that as per the orders of the Apex Court any amount higher than a sum of Rs.3 Lakhs cannot be granted. In fact the orders of the Apex Court repeatedly clarify that an amount of Rs.3 Lakhs is the minimum amount of compensation that must be paid to a victim of acid attack. It is an obligation of the State to compensate the victims of acid attack in as much as acid attack on a woman is a gross violation of her fundamental rights guaranteed under 21 of the Constitution of India. It is an obligation of the State Government to compensate the victim of acid attack for violation of her fundamental rights. It is for this reason that the compensation cannot be restricted to Rs.3 Lakhs. In fact, as per the orders of the Apex Court, the minimum amount of Rs.3 Lakhs is prescribed for acid attack victims. Unfortunately, the State has treated the same as maximum amount as seen from the schedule to the aforesaid notification dated 11th April 2014.

6. All the aforesaid aspects and the orders of the Apex Court from time to time shall be brought to the notice of Additional Chief Secretary of the Home Department of the State Government. The State Government shall take appropriate decision of this aspect as expeditiously as possible and in any event on or before 31st January 2017.

7. Place the petition on 7th February 2017 under the caption "Fresh Admission" Parties are put to notice that an endeavour shall be made to dispose of the Petition finally at the stage of admission.

(ANUJA PRABHUDESSAI,J)

(A.S.OKA,J.)