

# **ODISHA HUMAN RIGHTS COMMISSION**

**2<sup>ND</sup> Floor, Toshali Bhawan, Satyanagar**

**Bhubaneswar-751007**

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OHRC Case No.1380/2015, 1719/2015, No.4938/2015 & No.5726/2015

Shri Prabir Kumar Das

...

petitioner

## **ORDER**

As all the above four cases relate to one and the same incident, i.e., the death of a minor girl patient namely; Sujata Nayak due to lack of timely treatment by the Medical Officer in-charge, CHC, Pattamundai Dr. Bhaskar Chandra Kar in Kendrapara district in the early hours of 10.4.15, they are clubbed together and shall be governed by this common order.

Shri Prabir Kumar Das, Advocate, Orissa High Court presented a petition before the Commission alleging the death of a 8-year-old girl namely; Sujata Nayak, the daughter of Shri Basudev Nayak, a resident of Baipada under Pattamundai Police Station limits in Kendrapara district because of treatment not being provided to her, who was allegedly suffering from Pneumonia by Dr. Bhaskar Chandra Kar, the Medical Officer in-charge of C.H.C. , Puttamundai, It was further alleged that when the patient was taken to the CHC, Puttamundai in the early hours of 10.4.15, Dr. Bhaskar Chandra Kar was not in the Hospital, but in his official residence. However, when the family members approached

the concerned doctor, he did not come to the Hospital to attend the patient but misbehaved with them as he was then reportedly in an inebriated condition. Unfortunately, the patient without getting any treatment at the Hospital breathed her last at 6 AM on 10.4.15.

Perused the report of the Assistant District Medical Officer (Public Health), Kendrapara which has been sent to this Commission by the CDMO, Kendrapara in its letter dated 6.6.15. The report reveals that Dr. Bhaskar Chandra Kar, M.O. in-charge, CHC, Pattamundai examined the patient Sujata Nayak and declared her to be dead. The post-mortem report reveals that the death of the girl might have occurred much before her arrival at the Hospital. Further, the report reveals that Dr. Kishore Chadra Mishra and Dr. S.K. Akhtar of District Headquarters' Hospital, Kendrapara, who examined Bhaskar Chandra Kar had opined that he had not taken any alcohol as alleged.

Perused the reports of the S.P., Kendrapara dated 15.7.15, 30.9.15 and 19.8.16 which speak that on the written report of one Gopal Chandra Nayak of village Baipada Pattamundai PS Case No.115 dated 10.4.15 under Section 294 and 304(A) of the IPC was registered against Dr. Bhaskar Chandra Kar, Medical Officer in-charge, CHC, Pattamundai. During the course of investigation, it came to light that on the night of 9.4.15 one Sujata Nayak, aged about 8 years, grand-daughter of Gopal Chadra Nayak was brought to CHC, Pattamundai at 4 AM of 10.4.15, and although, the complainant Gopal Chandra Nayak and some others of his village called Dr. Bhaskar Chandra Kar, Medical Officer in-charge of the Hospital, who was present in the Duty Room to attend to the patient, he did not open the door. At about 6.00 AM, Dr. B.C.Kar opened the door of the Duty Room in an inebriated condition, checked

the patient Sujata Nayak and declared her dead. When the complainant Gopal Chandra Nayak and others held Dr. B.C.Kar responsible for the death of the patient because of his negligence in attending the patient, he abused them in obscene languages, shouted at the top of his voice and broken the empty wine bottle in the Duty Room and as it led to a serious law and order situation, Dr. B.C.Kar was arrested on 10.4.15 and forwarded to the Court of JMFC, Pattamundai on the same day. After completion of investigation, charge sheet has been submitted vide CS No.233 dated 31d.7.15 under Sections 294 and 304(A) of the IPC and the case is now sub judice.

Following submission of the charge-sheet against the accused Dr. B.C.Kar, the petitioner in his petition dated 18.12.15 prayed for adequately compensating the bereaved parents, who suffered irreparable loss in the death of their daughter.

The petitioner in his subsequent petition dated 8.8.16 submitted that in cases where charge-sheet has been filed, Commission may recommend compensation. The petitioner in order to buttress his case has enclosed a photocopy of the letter of the NHRC (Law Division), New Delhi dated 31.12.2012 wherein the National Human Rights Commission in Case No. 157/18/24/2009-10 observed that **“the investigation of Government Railway Police Station, Bhadrak has, prima facie found the charges that the Train Ticket Examiner (TTE) pushed the victim out of the running train. This is a violation of human rights of an individual by a public servant, and therefore, recommends an amount of Rs.4 lakhs (Rupees four lakhs) only to be paid to the victim Shri Benudhar Bhoi”**.

The petitioner taking a cue from the above observation of the NHRC, New Delhi submitted that since Pattamundai PS Case No.115 dated 10.4.15 has ended in submission of charge-sheet, it shows that a prima facie case has been made out against Dr. Bhaskar Chandra Kar, Medical Officer in-charge, CHC, Pattamundai and because of his alleged negligence, it led to the death of the girl patient. Therefore, the petitioner strongly contended that since the death of the girl patient was attributed to the negligence of the concerned doctor, it is a clear case of violation of her human rights in terms of Section 18(a)(i) & (e) of the Protection of Human Rights Act, 1993, and therefore, the State is liable to pay necessary monetary compensation to the next of the kin of the deceased girl.

Perusal of the record reveals that though the Commission has heard Dr. Bhaskar Chandra Kar, he has not furnished his response to the complaint of the petitioner as well as to the report of the S.P., Kendrapara dated 30.9.15. Although Dr. Bhaskar Chandra Kar was supplied with copies of relevant records for submission of his response by registered post with AD, the same have been received back with the postal remark "the addressee has left". In view of this fact, there is hardly any chance to obtain his response.

Therefore, the Commission relying on the above observation of the NHRC, New Delhi in Case No.157/18/24/2009-10 recommends that the State is to pay Rs.2 lakhs (Rupees two lakhs) only to Shri Basudev Nayak, the father of the deceased girl patient Sujata Nayak of village Baipada under Pattamundai Police Station limits in Kendrapara district as compensation for the loss of his daughter owing to negligence in providing treatment to her in the CHC, Puttamundai. The Commission further desires that the said amount

of compensation so recommended be recovered from Dr. Bhaskar Chandra Kar, ex-Medical Officer in-charge, CHC, Puttamundai as he was found negligent in attending the girl patient even though he was very much present in the Hospital itself at the time of arrival of the patient.

This order be communicated to the Commissioner-cum-Secretary to Government, Health & Family Welfare Department, Odisha, Bhubaneswar as well as Chief District Medical Officer, Kendrapara for appropriate action and also payment of the amount of compensation of Rs.2 lakhs (Rupees two lakh) only to Shri Basudev Nayak, the father of the deceased girl patient Sujata Nayak within eight weeks hence and a compliance report be sent to the Commission for its record.

**JUSTICE B. K. MISRA  
ACTING CHAIRPERSON**