

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/CD -114/10** with **COMP.969/11**

Case of **MARUTI CHAUDHARY**

File No. CD -114/10 about the custodial death of Maruti Chaudhary of Ara District Jail on 9.6.2010 was registered on transfer from the NHRC. File No. COMP.969/11 was opened on the complaint of Smt. Shobha Chaudhary wife of Maruti Chaudhary, seeking compensation for the custodial death of her husband. The relevant facts are as follows.

On 1.6.2010 Maruti Chaudhary son of Baban Chaudhary – a resident of village Bellore within Udwant Nagar P.S. of Bhojpur District (hereinafter referred to as the deceased) – was caught travelling without ticket at Ara Railway Station. As he failed to pay the fare of Rs.56 (for journey from Mughalsarai to Ara) and fine of Rs.250 to the TTE, he was produced before the Railway Magistrate at Ara Railway Station who imposed a penalty of Rs.800 over and above the amounts of fare & fine (totaling Rs.1106) and, in default, awarded sentence of simple imprisonment for one month in the case which was registered as Trial No.1628/10. As the deceased did not pay the amount he was sent to Ara District Jail to serve the sentence on the same day i.e. 1.6.2010.

Case of applicant Shobha Chaudhary is that the deceased was beaten by Home Guard Sudarshan Singh, Havaldar Anil Paswan and some prisoners by lathi and stick. It is relevant to mention here that on the statement of a co-prisoner, Mritunjay Kumar Rai, Ara Town P.S. Case No.240/10 was registered on 9.6.2010 against four persons namely Home Guard Sudarshan Singh, Havaldar Anil Paswan and prisoners Tuna Singh and Manohar Nut. As per the fardbeyan of Mritunjay Kr. Rai, made on 9.8.2010 at 1:30 PM, the deceased was assaulted a day before i.e. 8.8.2010 at about 6:30 PM by Sudarshan Singh and Anil Paswan. He was again assaulted after he was brought to jail hospital for treatment by Tuna Singh and Manohar Nut. It is relevant to mention here that the police has submitted charge sheet in the aforesaid case against Tuna Singh while the investigation against others is still pending – as per the reports submitted to the Commission. Continuing with the narration of facts, the deceased was taken to the Sadar Hospital Ara where he died in course of treatment on 9.6.2010.

In his report – called for by the Commission – the Superintendent, District Jail, Ara tried to play down the death of the deceased. He stated that the deceased was in an inebriated condition at the time of his remand to jail. He was in fact an alcoholic. His condition deteriorated as he was not getting liquor in jail.

As regards the injuries on the body of the deceased the report stated that the deceased fell down and sustained injuries.

At this stage reference may be made to the findings of the team of doctors who held post-mortem on the dead body of the deceased on 9.6.2010. They found the following ant-mortem injuries on the body – (i) multiple bruises over back measuring 2cmsX2cms to 3cmsX3cms brownish in colour (ii) bruise 6'x1' over right side of chest brownish in colour (iii) scab 2cmsX2cms over left dorsum of wrist (iv) scab about 2cmsX2cms over right forearm posterior (v) scab about 2cmsX2cms over right knee joint (vi) scab formation about 2cmsX2cms over right clavicle and right forehead (vii) bruises about 3cmsX3cms over right and left shoulder brownish in colour. In the opinion of the doctors, the injuries were simple in nature caused by hard and blunt object and they were 5-7 days in age. The doctors could not ascertain the cause of death and therefore viscera parts were preserved for chemical examination. As per the report of Forensic Science Laboratory, available in the file, no poisonous substance etc. were found in the viscera parts.

In this connection it would not be out of place to mention that the SDO Ara also in his inquest of the dead body had found a number of injuries on different parts of the body of the deceased.

In his report dated 19.7.2011 IG Prisons has taken the stand that the alleged assault of the deceased by Home Guard Sudarshan Singh and others on 8.6.2010 – which is subject matter of Ara Town P.S. Case No.240/10 – has no relevance so far as the death of the deceased is concerned as the injuries on his body were found to be 5-7 days old, and no fresh injuries were noticed on the body in course of post-mortem held on 9.6.2010. IG Prisons has also referred to the entry in the 'Proforma for Health Screening of Prisoners on Admissions to Jail – prepared as per the guidelines of the NHRC – mentioning about "scar on back and front" (on the body of the deceased). It is thus suggested that the deceased was already in injured condition at the time of admission to jail. Reliance has also been placed on the report of the Sub Divisional Judicial Magistrate, Ara giving clean chit to the Jail Administration.

This matter was heard in presence of the applicant Shobha Chaudhary who appeared along with her father and father-in-law, and Shri U.K. Sharan, AIG Prisons representing the Jail Department on 29.8.2011.

It is an unfortunate case in which a young man in his early thirties died a custodial death while serving sentence imposed on him for a petty offence, in default of payment of a paltry sum of Rs.1106. The father-in-law of the deceased i.e. the applicant's father was deeply anguished by the fact that he could not

learn the factum of the deceased's imprisonment for crime of ticket-less traveling involving a meager amount, which he could have easily paid and resulted in release of the deceased.

Be that as it may, the only point for consideration is whether the deceased died a natural death or he had been subjected to any violence during the period of custody which led to his death. The findings of the SDO Ara during his inquest and team of doctors during their post mortem examination leave no room for doubt that the deceased had been subjected to violence. There may be substance in the plea of the IG Prisons that the alleged incident of 8.6.2010 – which is subject matter of Ara Town P.S. Case No.240/10 – has no nexus with the injuries found on the deceased's body but the fact remains that the body had marks of violence on various parts. As mentioned above, in the opinion of the doctors, the injuries were 5-7 days old. The death of the deceased being on 9.6.2010 – the post-mortem was also performed on the same day – it would follow that the injuries were caused to the deceased 5-7 days ago i.e. between 2.6.2010 and 4.6.2010. Admittedly, the deceased was in custody since 1.6.2010 and as per the jail records had been admitted to Ara District jail on the same day. Thus, if the deceased was beaten between 2.6.2010 and 4.6.2010 when he was in jail the authorities were supposed to explain the existence and the cause of those injuries. Omnibus plea like the deceased having a number of 'falls' in a state of inebriation and sustaining injuries is too vague and far-fetched to be accepted.

The entry in the 'Proforma for health Screening of Prisoner' (supra) – referred to by IG Prisons is not relevant. Although, it has been written against the column 'Injury, if any', the entry ("scar") appears to be by way of identification mark. Scar can not be understood as a mark of injury in the medical sense especially when it is written by a doctor/medical man.

It is true that the SDJM Ara in his enquiry report dated 7.1.2011 did not record any adverse finding. From his report it appears that he mostly addressed the question as to whether the deceased had received proper medical treatment. Injuries in question might not be sufficient to cause the death, as opined by the doctors, but while that may be so in the ordinary course of nature, in the case of an alcoholic addicted to liquor, the same beating may have a different impact. If the deceased suffered injuries during the period he was in jail, the Administration was required to explain the injuries and where no such explanation is furnished the matter cannot be let off merely on the basis of the finding that the injuries were not sufficient to cause the death. It is to be kept in mind that while considering the question of culpability in the case of custodial death for the purpose of awarding compensation, the degree of proof will not be the same as in

a case of criminal trial. The deceased having died a custodial death, the Commission is of the view that it is a fit case for grant of monetary compensation to his wife.

In the facts and circumstances, the compensation is quantified at rupees two lakh.

The Commission would accordingly direct the State Government through Secretary, Department of Home, to pay compensation of rupees two lakh to Shobha Chaudhary and submit compliance report within six weeks. It is open to the State Government to recover the amount from the salary of the concerned officials after proper enquiry in accordance with law.

Copy of this order may be sent to Secretary, Department of Home and IG Prisons for compliance and the applicant for information.

Justice S.N. Jha
Chairperson