

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

File No **BHRC/COMP.** 207/10

Case of **BALESHWAR MANJHI**

The complaint is about the accidental death of one Baleshwar Manjhi –a safai mozdoor in the Patna Municipal Corporation. The case of applicant Mosstt. Patiya Devi – wife of the deceased – is that he was employed as safai mozdoor in ward no.20 of Nutan Rajdhani Anchal of the Patna Municipal Corporation. While cleaning the sewage tank on 15.1.2010 he died. After his death she was paid a paltry sum of three thousand rupees. Contending that his death has turned her into a destitute, she claims employment on compassionate ground and compensation of five lakh rupees. She also wants that the persons responsible for the death should be criminally prosecuted.

Report was called from the Municipal Commissioner, Patna Municipal Corporation. Additional Municipal Commissioner (Establishment) has submitted a brief report on behalf of the Corporation. Neither the incident nor the status of late Baleshwar Manjhi as an employee of the Corporation (daily mazdoor) in ward no.20 has been denied. It has however been stated that the incident happened after the duty hours had ended at 2 PM and he had been relieved from duty by the Safai Inspector, Abu Tahir Mazhar. The deceased died at 6 PM, that is, after the duty hours while doing some private job and therefore the applicant is not entitled to any compensation or other reliefs from the Corporation.

The matter was heard in presence of the Addl. Municipal Corporation, Sri Radha Mohan Prasad who appeared along with Executive Officer Sri Shashank Shekhar Sinha and Sri Mangal Paswan, General Secretary of the Employees Union on 19.10.2012.

While Sri Radha Mohan Prasad re-iterated the report version, Shri Mangal Paswan submitted that the deceased entered the sewage tank for cleaning manhole and while doing the job he collapsed. He was taken out by his colleagues but died soon after. He controverted the plea of the corporation that he entered the manhole/tank at 6 PM after the duty hours for doing a private job.

The Commission is not convinced with the bald plea of the Corporation that the incident took place at 6 PM, and that the deceased did not die in course of employment. Duty hours of daily mazdoors of the corporation has not been brought on record. In fact, it is not known if there are prescribed 'fixed hours' for daily mazdoors. It is easy to deny the claim of the applicant by taking a bald plea that the deceased died while doing a private job after the end of so called duty

hours at 6 PM. The name of the person for whom the deceased was allegedly doing the so called private job has not been disclosed and the Commission finds it difficult to accept the ipsi dixie of the Corporation. As mentioned above, it is not in dispute that the deceased was an employee of Corporation. Even though his status was that of a daily mazdoor, it is obvious that the cleaning work is usually got done through daily mazdoors.

The only point for consideration is whether the death was in course of employment. Having regard to the admitted position that the deceased died while cleaning a sewage tank the Commission is inclined to accept the applicant's version that the death was in course of employment. It is to be kept in mind that a sum of three thousand was paid by the Corporation. Had the death been due to causes or circumstances unrelated with the Corporation it is doubtful if the Corporation would have paid any amount as compensation.

The incident has left a trail of miseries for the applicant. The loss of husband cannot be compensated but monetary compensation may give some initial support to the applicant. In the facts and circumstances, the Commission is of the view that compensation of rupees two lakh would be just and proper.

As regards the claim for employment on compassionate grounds, the Commission is not aware of any scheme or rule of the Corporation with respect to compassionate appointment, in the event of death in harness of daily wage employees. Even if there is any such scheme, the Commission would not intervene in employment matters as, in its opinion, employment under the State etc, can not be claimed to be a facet of human right so as to justify intervention in such form by the Human Rights Commission. The Commission would accordingly decline to make any kind of intervention in this regard.

In the result, the Commission directs the Patna Municipal Corporation through the Municipal Corporation to pay sum of rupees two lakh to the applicant within a period of six weeks and report compliance.

Put up on 13.12.2012 awaiting compliance report.

Copy of this order may be sent to the Commissioner, Patna Municipal Corporation and the applicant.

Date: 25.10.2012

Justice S.N. Jha
Chairperson