

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

File No **BHRC/COMP. 950/11**

Case of **SURESH RAI**

The complaint of applicant Chandrakala Devi, wife of Suresh Rai of village Madhusudan Pakri, P.S. Lalganj, District Vaishali pertains to custodial death of her husband on 15.3.2011.

Applicant's husband - Suresh Rai - was sentenced to imprisonment for life and lodged in Shaheed Khudiram Bose Central Jail, Muzaffarpur as a convict-prisoner. According to the applicant he was being ill-treated by the Superintendent and other jail officials. On 13.3.2011 he was assaulted causing head injuries. He was taken to Sri Krishna Medical College Hospital, Muzaffarpur in an unconscious state but proper treatment was not provided and he passed away on 15.3.2011.

The case of the Jail Administration is that he had a fall in the toilet and suffered injuries which proved fatal.

The matter was finally heard in presence of the applicant who appeared along with Advocate, and Director, Probation Services who appeared on behalf of IG Prisons on 2.7.2013.

It may be mentioned at this stage itself that as per the post-mortem report - on dissection - underlying scalp tissues were found bruised and infiltrated with blood and blood clots were found in the vault, occipital, parietal and both temporal regions. The occipital bone was found fractured and there was extra-dural and sub-dural haemorrhage of abdominal and thoracic viscera were found pale. In the opinion of the doctor, the injuries were "ante-mortem caused by hard and blunt object".

Having regard to the nature and extent of injuries found on the body of the deceased, the Commission is not persuaded to hold that the injuries could be caused by fall.

Another point argued on behalf of the applicant was that the deceased was not given proper treatment in the Sri Krishna Medical College Hospital. Reference was made to the bed-head ticket from which it appears that the deceased was unconscious from the very

time of his admission in the hospital and he was advised C.T. scan among other things which was not done. The advice was reiterated but the authorities/doctors did not pay any heed even though condition of the deceased became serious, as noted in the bed-head ticket. He had to be taken to a private diagnostic, namely, Gautam Diagnostic Centre with the help of constable on 15.3.2011 but before any further treatment could be provided, he died.

Sri O.P. Gupta, Director, Probation Services, submitted that it requires expert opinion to ascertain as to whether the injuries could be caused by 'fall'; he also submitted that it is not known as to who paid for the C.T. scan of the deceased. The Commission is of the view that the deceased having died due to injuries admittedly caused to him when he was in jail, the onus lay on the jail administration to bring on record expert opinion. Also, they were required to ascertain as to who paid for the C.T. scan. The C.T. report was produced by the applicant which prima facie shows that it is the applicant/deceased's family who arranged for the C.T. scan and paid for the same.

The injury - which proved fatal - having been caused while the deceased was in judicial custody, and the theory propounded by the jail administration about 'fall' not being acceptable, the Commission finds no difficulty in holding that the state is liable to pay monetary compensation for the death.

The Commission would award compensation of rupees two lakh to the applicant.

The Commission accordingly directs Principal Secretary, Home (Special) Department to pay compensation of rupees two lakh to the applicant within six weeks of receipt of copy of this order and submit compliance report.

Put up on 30.8.2013 awaiting compliance report.

Copy of this order may be sent to Principal Secretary, Home (Special) Department for compliance, and to applicant for information.

Date:12.07.2013

Justice S.N. Jha
Chairperson