



IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

W.P.(C) No.4157 of 2026
CNR NO.ODHC010086102026

(In the matter of an application under Article 226 & 227 of the
Constitution of India)

Baidehi Behera ... **Petitioner**

-versus-

State of Odisha and others ... **Opposite Parties**

Advocate(s) appeared in this case:-

For Petitioner : Mr.M.Faradish, Advocate

For Opposite Parties : Mr.T.K.Dash, AGA
Mrs.M.Tripathy, Advocate
(for O.P.No.3 & 4)

CORAM: JUSTICE B.P. ROUTRAY

JUDGMENT

Date of Hearing : 2nd July, 2026
Date of Judgment : 6th August, 2026

B.P. Routray, J.

1. Present writ petition is directed assailing the order of the Chief Manager, State Bank of India at Karanjia Branch (O.P.No.4) rejecting the prayer for settlement of claim of her deceased husband due to error in date of death in the Death Certificate.



2. The Petitioner namely, Baidehi Behera is the wife of Rabindra Nath Behera, whose death has been declared as civil death by the decree of learned Civil Court dated 27th February 2024. Late Rabindra Nath Behera was serving as Head Messenger at State Bank of India in Karanjia Branch. On 10th December 2007 after office hour he did not return to his house and went missing. Consequently, present Petitioner, being the wife, lodged missing FIR at Karanjia Police Station vide MMR No.7 dated 12th December 2007. The Petitioner and other family members of late Rabindra Nath Behera searched for him to their best leaving no stone unturned to get trace of Rabindra Nath Behera, and in the meanwhile, around fifteen years passed away. The Petitioner then filed C.S.No.162 of 2022 in the Court of the learned Civil Judge (Sr.Division), Karanjia praying to declare Rabindra Nath Behera as civil death. The learned Civil Court vide decree dated 27th February 2024 decreed the suit declaring that Rabindra Nath Behera is dead and civil death of Rabindra Nath Behera stands declared. Then on the application of the Petitioner and based on the declaration of learned Civil Court, the Department of Health and Family Welfare of Karanjia NAC issued the Certificate of Death in terms of Section 12/17 of the Registration of Births and



Deaths Act and Rules stating the date of death of Rabindra Nath Behera on 10th December 2007.

3. The Petitioner applied for settlement of her claim with the Bank authority along with all required documents, and finally Opposite Party No.4, i.e. the Chief Manager vide his letter dated 15th November 2025 rejected the prayer of the Petitioner for settlement of claim of the deceased on the ground that the date of death of deceased recorded in the Death Certificate is erroneous and further advised to correct the same before the appropriate authority. As per the memorandum attached to the letter dated 15th October 2025 (Annexure-5) of Opposite Party No.4, it is mentioned that the Registrar erroneously mentioned the date of missing as the date of death, which is not legally correct. It is important to reproduce the relevant portion of the said memorandum, which has been formed as part of rejection letter of the authority.

“2. It is observed that Shri Rabindra Nath Behera has been missing since 10.12.2007. Long after completion of statutory period of seven years, his family members approached the competent Civil Court. The Civil Court, vide judgment and decree dated 27.02.2024, declared Shri Behera to be “civilly death” in accordance with Section 108 of the Evidence Act, 1872. Based on the Court’s order, the Registrar of Births and Deaths issued a



Death Certificate. However, the Registrar erroneously mentioned the date of missing 10.12.2007 as the sustainable date.

3. As held in *LIC of India v. Anuradha* (104), the presumption of death applies only to the fact of death, not to the exact date. In absence of contrary proof the date of death is reckoned from the date of the Court's declaration. Hence, the legally date of death is 27.02.2024, not 10.12.2007. The Registrar has erroneously recorded the "date of missing" as the "date of death" under Section 15 of the Registration of Birth and Deaths Act, 1969, such an error can be corrected by the Registrar/Chief Registrar on application with the Court order if refused, the remedy lies before the Chief Registrar/High Court.

4. In light of the above, the date of death of Shri Behera should be treated as 27.02.2024, i.e. the date of declaration by the Civil Court. The entry made by the Registrar mentioning 10.12.2007 as the date of death is legally unsustainable and requires rectification. The concerned legal heirs may immediately file an application under Section 15 of the Registration of Births and Deaths Act, 1969, enclosing the certified copy of the Civil Court's judgment dated 27.02.2024, for correction of the death register and issuance of a fresh death certificate. If such application is not allowed, the remedy lies before the Chief Registrar /High Court for appropriate directions."

4. The Petitioner challenges such communication made by the authority rejecting her claim for settlement of claim of deceased Rabindra Nath Behera by stating that the Bank Authority, who was the employer of the deceased Rabindra Nath Behera, does not possess any authority to say that the Registrar of Births and Deaths has



erroneously recorded the date of death as such, and he has no authority to dispute the date of death mentioned in the Death Certificate, which is a public document.

5. It is submitted on behalf of the Petitioner that in the matter of civil death, after declaration of the Court to that effect, all such presumptions as to the actual date of death are closed resting on the date of death declared by the statutory authority i.e. the Registrar of Births and Deaths. It would be grossly illegal to accept any other date of death than the date mentioned in the Death Certificate issued by the competent statutory authority. It is submitted on behalf of the Petitioner that the declaration made by the learned Civil Court in case of civil death is done after completion of the statutory period and the provisions of the Indian Evidence Act or Bharatiya Sakshya Adhiniym do not prescribe any such date to be presumed as the date of death.

6. Per contra, it is submitted on behalf of the Bank-Opposite Parties that in the matter of civil death, the same is required to be declared by the decree of Civil Court and thus no such death prior to the date of declaration by the Court could be construed as the date of death. The Opposite Parties, in this regard, relies on the decision of



LIC of India vrs. Anuradha, (2004) 10 SCC 131 to support their stand.

7. In the case at hand, the admitted facts remain that Rabindra Nath Behera went on missing since 10th December 2007. The missing report was lodged before the police on 12th December 2007 and learned Civil Court declared civil death of Rabindra Nath Behera by decree dated 27th February 2024. It is also admitted that the Death Certificate, in terms of the provisions of Registration of Births and Deaths Act, 1969 and the Rules thereof, has been issued on 24th July 2007 stating the date of death on 10th December 2007. Thus, the only dispute remains to be adjudicated is whether the date of death of deceased Rabindra Nath Behera to be accepted from the date of missing as mentioned in the Death Certificate or to be treated from the date of declaration made by the learned Civil Court in the decree.

8. On the backdrop of the controversy and in view of the admitted facts, the questions fall for determination are, whether the employer (Bank) can question the recorded date of birth in the Death Certificate as erroneous to deviate from the same and secondly, what would be the acceptable date of death in the matter of civil death.



9. Section 8 of the Registration of Births and Deaths Act requires registration of the births and deaths and Section 12 entitles the informant to get copy of extract of Register of Births and Deaths in the prescribed particulars. Further, Section 17 specifies that all such extracts given shall be certified by the Registrar or any other Officer authorized on their behalf and shall be admissible in evidence for the purpose of proving the birth and death to which the entry relates. In the case at hand, the Death Certificate dated 24th July 2024 (Annexure-2) issued vide Registration No.280/2024 is never challenged, as on date, by any authority or any person including the Opposite Parties. Issuance of Death Certificate, in terms of the statutory provisions of Registration of Births and Deaths Act and Rules, is left unquestioned. But, the Bank-Opposite Parties being the employer of the deceased refused to accept recording of such date of death in the Death Certificate on the ground that the same is erroneous and further advised the Petitioner to correct the same. Section 15 of Registration of Births and Deaths Act prescribes the provisions for correction of entry of birth or death in the register, appearing erroneous to the satisfaction of the Registrar, either to correct it or to cancel it. Section 15 reads as follows:



“15. Correction or cancellation of entry in the register of births and deaths.-If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.”

Therefore, it is only the Registrar who is authorized to correct any entry made in the register of births and deaths upon his satisfaction and no one else.

10. The provisions of the Indian Evidence Act or the Bharatiya Sakshya Adhiniyum attach the presumption of correctness and genuineness of the public documents.

11. In *Uli Bewa vrs. Mana Bewa, I.L.R. 1963 Cuttack 451*, this Court has held that Death Register by Municipality comes within the definition of a public document under Section 74 of the Evidence Act and the entries therein could be proved by production of certified copies under Section 77 of the Evidence Act. The document is therefore by itself a piece of evidence admissible under Section 35 of



the Evidence Act. There is a presumption under Section 114 of the Evidence Act that the entry was properly made by a public servant in discharge of his official duty and formal proof of the fact that a particular officer made the entry is not necessary.

12. In *Gopichand Arya vrs. Smt.Bedamo Kuer, AIR 1966 Patna 231*, it is stated that the Death Certificate is the most important document to prove the date of death since the entry was made by a public servant in due discharge of his official duty. This being a public document, presumption of correctness is attached to it and therefore heavy onus lies on the party who wants to discharge the onus.

13. In the present case at hand, the Death Certificate at Annexure-2 is left unchallenged as on date and as per the submissions of the Petitioner, the same has been accepted by the LIC of India as correct, to release the death benefits in favour of the dependants. Further, said Death Certificate at Annexure-2 stands genuine till date as it is, to presume the correctness in respect of the entries made therein, particularly regarding the date of death of the deceased. Therefore, no option lies with the Bank-Opposite Parties to dispute the date of death to describe the same as erroneous against such entry made in the



Death Certificate. As stated earlier, such power remains with the Registrar only, to make any correction in respect of any entry in the Register of Births and Deaths in terms of Section 15 of the Act and no other authority is authorized to discard the same as unacceptable or to say as an erroneous entry.

14. In *LIC of India vrs. Anuradha* (*supra*), the issue arose before the Hon'ble Supreme Court relating to payment of life insurance benefits concerning non-payment of premium from the date of missing of the insured whose civil death was declared subsequently. The Hon'ble Supreme Court has explained that when an issue arises as to the date or time of death, the same shall have to be determined on evidence, direct or circumstantial, and not by assumption or presumption. The relevant observations of the Hon'ble Supreme Court in the said decision are reproduced below:

“2. A common question of law centering around Sections 107 and 108 of the Indian Evidence Act, 1872 arises for decision in these two appeals.

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12. Neither Section 108 of the Evidence Act nor logic, reason or sense permit a presumption or assumption being drawn or made that the person not heard of for seven years was dead on the date of his disappearance or soon after the date and time on which he was last seen. The only inference permissible to be drawn and based on the presumption is that



the man was dead at the time when the question arose subject to a period of seven years' absence and being unheard of having elapsed before that time. The presumption stands un rebutted for failure of the contesting party to prove that such man was alive either on the date on which the dispute arose or at any time before that so as to break the period of seven years counted backwards from the date on which the question arose for determination. At what point of time the person was dead is not a matter of presumption but of evidence, factual or circumstantial, and the onus of proving that the death had taken place at any given point of time or date since the disappearance or within the period of seven years lies on the person who stakes the claim, the establishment of which will depend on proof of the date or time of death.

13. A presumption assists a party in discharging the burden of proof by taking advantage of presumption arising in his favour dispensing with the need of adducing evidence which may or may not be available. Phipson and Elliott have observed in *Manual of the Law of Evidence* (11th Edn., at p. 77) that although there is almost invariably a logical connection between basic fact and presumed fact, in the case of most presumptions it is by no means intellectually compelling. In our opinion, a presumption of fact or law, which has gained recognition in statute or by successive judicial pronouncements spread over the years, cannot be stretched beyond the limits permitted by the statute or beyond the contemplation spelled out from the logic, reason and sense prevailing with the judges, having written opinions valued as precedents, so as to draw such other inferences as are not contemplated.



14. On the basis of the abovesaid authorities, we unhesitatingly arrive at a conclusion which we sum up in the following words: the law as to presumption of death remains the same whether in the common law of England or in the statutory provisions contained in Sections 107 and 108 of the Indian Evidence Act, 1872. In the scheme of the Evidence Act, though Sections 107 and 108 are drafted as two sections, in effect, Section 108 is an exception to the rule enacted in Section 107. The human life shown to be in existence, at a given point of time which according to Section 107 ought to be a point within 30 years calculated backwards from the date when the question arises, is presumed to continue to be living. The rule is subject to a proviso or exception as contained in Section 108. If the persons, who would have naturally and in the ordinary course of human affairs heard of the person in question, have not so heard of him for seven years, the presumption raised under Section 107 ceases to operate. Section 107 has the effect of shifting the burden of proving that the person is dead on him who affirms the fact. Section 108, subject to its applicability being attracted, has the effect of shifting the burden of proof back on the one who asserts the fact of that person being alive. The presumption raised under Section 108 is a limited presumption confined only to presuming the factum of death of the person whose life or death is in issue. Though it will be presumed that the person is dead but there is no presumption as to the date or time of death. There is no presumption as to the facts and circumstances under which the person may have died. The presumption as to death by reference to Section 108 would arise only on lapse of seven years and would not by applying any logic or reasoning be permitted to be raised on expiry of 6 years and 364 days or at any time short of it. An occasion



for raising the presumption would arise only when the question is raised in a court, tribunal or before an authority who is called upon to decide as to whether a person is alive or dead. So long as the dispute is not raised before any forum and in any legal proceedings, the occasion for raising the presumption does not arise.

15. If an issue may arise as to the date or time of death the same shall have to be determined on evidence, direct or circumstantial, and not by assumption or presumption. The burden of proof would lie on the person who makes assertion of death having taken place at a given date or time in order to succeed in his claim. Rarely may it be permissible to proceed on the premise that the death had occurred on any given date before which the period of seven years' absence was shown to have elapsed.

16. We cannot, therefore, countenance the view taken by the High Court in either of the two appeals that on the expiry of seven years by the time the issue came to be raised in the Consumer Forum or civil court and evidence was adduced that the person was not heard of for a period of seven years by the wife and/or family members of the person then not only could the death be presumed but it could also be assumed that the presumed death had synchronised with the date when he was reported to be missing or that the date and time of death could be correlated to the point of time coinciding with the commencement of calculation of seven years backwards from the date of initiation of legal proceedings. In order to successfully maintain the claim for benefit under the insurance policies, it is necessary for the policy to have been kept alive by punctual payment of premiums until the claim was made. The appellant LIC was justified in turning down the claims by pleading that the



policies had lapsed and all that could be paid to the claimants was the paid-up value of the policies.”

15. In the instant case at hand, the deceased went missing on 10th December 2007, the civil suit for declaration of civil death was filed on 16th July 2022 and decreed on 27th February 2024. As explained in the decision of *LIC of India vrs. Anuradha* (*supra*), the question of time of death is a question of facts, to be determined by evidence, factual or circumstantial and not a presumption. Section 108 of the Indian Evidence Act reads that, “*Burden of proving that person is alive who has not been heard of seven years – provided that when the question is whether a man is alive or dead and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.*” Thus, after declaration of civil death by decree of the Civil Court, the statutory competent authority, i.e. the Registrar of Births and Deaths, has issued the Death Certificate under Annexure-2 mentioning the date of death on 10th December 2007.

16. As stated earlier, the Death Certificate issued under Annexure-2 is undisputedly a public document. The Hon’ble



Supreme Court in *Birad Mal Singhvi vrs. Anand Purohit*, AIR 1988 (SC) 1796, have held at para-3(a) that;

“3 (a) To render a document admissible under Section 35 of the Evidence Act, three conditions must be satisfied, firstly, entry that is relied on must be one in a public or other official book, register or record, secondly, it must be an entry stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law.”

17. Here, the Death Certificate at Annexure-2, issued as per the statutory provisions of the Registration of Births and Deaths Act and Rules made thereof, is an unchallenged and unquestioned document and therefore, the entries made therein are duly proved on production of certified copy of the same. Such entries made in the Death Certificate are binding on all such persons and authorities. So, the Bank-Opposite Parties are prohibited to dispute such entries made in the Death Certificate without having jurisdiction in that respect. It is not that the Bank-Opposite Parties are producing any material evidence to deny the date of death mentioned in the Death Certificate, but simply denies to accept such date of death. This is impermissible on the part of the Bank Authority. It is stated here that such entries made in the Death Certificate under Annexure-2 in



terms of the statutory provisions relating to it, is binding on the Bank Authority.

18. For the reasons stated above, the writ petition is allowed and the impugned order dated 15th October 2025 under Annexure-5 along with the attachments is set aside. Opposite Parties No.3 & 4 are directed to release the claim of settlement of late Rabindra Nath Behera in favour of the Petitioner within a period of two months from today, if no other legal impediment is there.

(B.P. Routray)
Judge

C.R.Biswal, A.R.-cum-Sr.Seretary